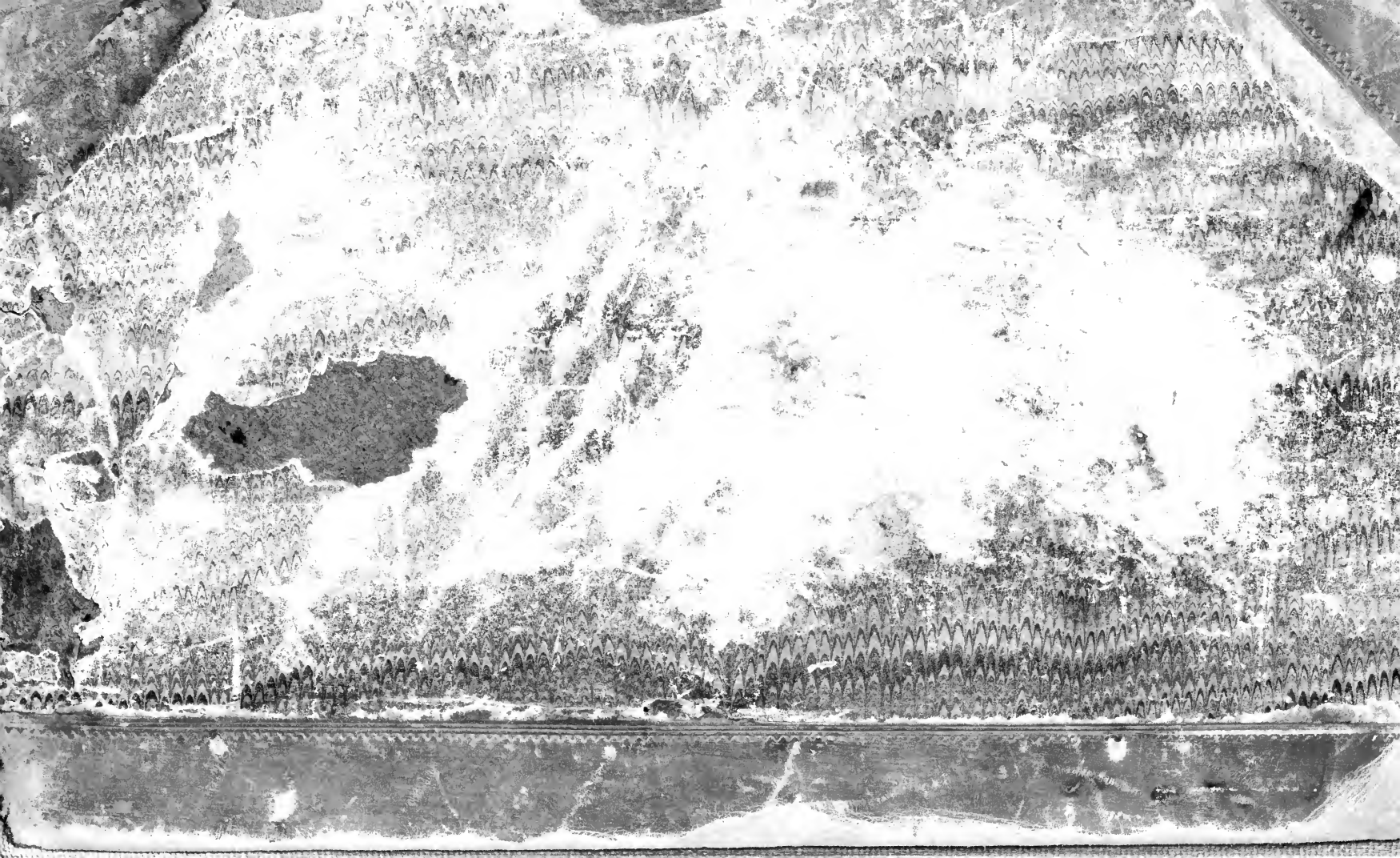

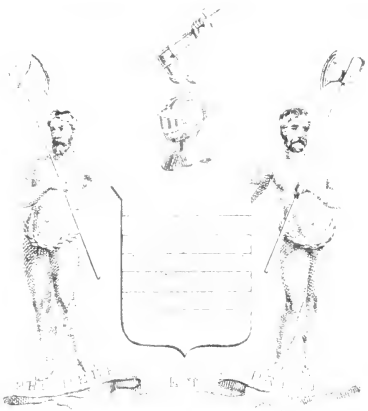

Henry H. Haight.

A

CONSTITUTIONAL VIEW

OF THE LATE

WAR BETWEEN THE STATES;

ITS

CAUSES, CHARACTER, CONDUCT AND RESULTS.

PRESENTED IN A

SERIES OF COLLOQUIES

AT LIBERTY HALL.

BY

ALEXANDER H. STEPHENS.

Times change and men often change with them, but principles never!

IN TWO VOLUMES.
VOL. II.

NATIONAL PUBLISHING COMPANY,
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DEDICATION.

TO

The Memory of those whose lives in the late War between the States were sacrificed, either in Battle, in Hospital, in Prison, or elsewhere—in defence of the Sovereign Right of Local Self-government, on the part of the Peoples of the several States of the Federal Union; and in defence of those Principles upon which that Union was established, and on which alone it, or any other Union of the States, can be [redacted] consistently with the preservation of Co[redacted] Liberty throughout the Country—this Volume [redacted] solemnly, and sacredly dedicated! While others [redacted] to-day, strewing flowers upon their graves, this oblation, with like purpose and kindred emotions, is thus contributed by the Author, to the same hallowed shrine!

Liberty Hall,
Crawfordville, Ga.,
26*th April*, 1870.

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INTRODUCTORY PREFACE.

In presenting to the Public the Second Volume of "A Constitutional View of the Late War between the States," it is proper to say, in the first place, that I have greatly regretted the delay which has attended its publication. This has been occasioned by a long serious bodily affliction, from which I have been in an almost helpless condition for more than twelve months. I have been enabled to complete the Work at last, only through the slow process attending the reliance upon others entirely in the manual execution.

The readers of the First Volume will recollect, that the actual conversations, of which the Colloquies are but an elaborate reproduction, took place between the parties in 1867. They therefore do not embrace any public events which have occurred subsequently to that period.

Since the Publication of the First Volume, several attacks have been made upon positions therein assumed. The most important of these which has come to my notice, was the one by Mr. Greeley, in the New York *Tribune*, during the last summer. As it is important in matters of this sort as well as others, that positions in the rear be made perfectly secure before further advances in front, it is also deemed quite proper that that attack shall be here noticed before the reader's attention is invited to the Colloquies which follow.

This attack of Mr. Greeley was answered at the time—17th of August, 1869—through the *Constitutionalist* newspaper of Augusta, Ga. But as many readers of the *Tribune*, who may be readers of this Work, have doubtless never seen the answer, and might not otherwise ever see it, it is deemed altogether

appropriate to give it a place here, that it may go with the "Colloquies" and constitute a part of the general discussion. What I then said in reply to him, I now repeat "*nunc pro tunc*," and in "*totidem verbis*," viz. :—

In this article, Mr. Greeley, after alluding to my work upon the "War between the States," and late letters in reply to Judge Nicholas upon the same subject, goes on to say :

"Mr. Stephens' theory is, that the Union was a mere league of Sovereign Powers and of course dissoluble at the pleasure of those Powers respectively—of a minority, or, in fact, of any one of them, so far as that one is concerned. And he quotes sundry conspicuous Republicans —among them, Abraham Lincoln, Benjamin F. Wade, and Horace Greeley—as having, at some time, favored this view.

"Mr. Stephens is utterly mistaken. Leaving others to speak for themselves, we can assure him that Horace Greeley never, at any moment of his life, imagined that a single State, or a dozen of States, could rightfully dissolve the Union. The doctrine of Horace Greeley, which Mr. Stephens has confounded with State Sovereignty, is that of *Popular* Sovereignty, or the right of a *people* to recast or modify their political institutions and relations—the right set forth by Thomas Jefferson in the Declaration of American Independence, as follows :

"'We hold these truths to be self-evident ; that all men are created equal ; that they are endowed by their Creator with certain inalienable rights ; that among these are life, liberty, and the pursuit of happiness ; that, to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed ; that, whenever any form of Government becomes destructive of these ends, it is the right of *the people* to alter or abolish it, and to institute a new Government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness.'

"This doctrine of Jefferson's we have ever received ; and we have held it precisely as it reads. The same is true, we presume, of Messrs. Lincoln, Wade, and other Republicans. Mr. Stephens may say it justifies the so-called Secession of the South ; we think differently. We hold that Secession was the work of a violent, subversive, bullying, terrorizing minority, overawing and stifling the voice of a decided majority of the Southern people. The facts which justify this conclusion are embodied in *The American Conflict*, more especially in vol. i, chap. xxii. According to Mr. Stephens' conception, a majority of the people of Delaware, consisting of less than 100,000 persons, might lawfully dissolve the Union, but the whole population of New York, south of the

highlands—at least 1,500,000 in number—could do nothing of the kind. Mr. Stephens's may possibly be the true doctrine, but it certainly never was ours, nor of any Republican so far as we know. The right we affirm is not based on the Federal Constitution, but is before and above any and all Constitutions."

I quote him in full on the points to be commented on, that your readers and the public may thoroughly understand them, and be able to judge fairly and justly between us, and come to a correct conclusion as to whether *I* or *he* was or is mistaken in the premises.

Now what is affirmed by me in the first volume of the "Constitutional View of the Late War between the States," and what Mr. Greeley, with other Republicans, is quoted therein to sustain, is this:

"Men of great ability of our own day—men who stand high in the Republican ranks at this time, who had and have no sympathy with the late Southern movement, are fully committed to the *rightfulness* of that movement. Mr. Lincoln himself was fully committed to it. Besides him, I refer you to but two others of this class, now prominent actors in public affairs. They are Senator Wade, of Ohio, at this time Vice President of the United States, and Mr. Greeley, of the New York *Tribune*, who is 'a power behind the throne greater than the throne itself.'"

Then after quoting Senator Wade, with comments on his utterances, I go on to quote from the New York *Tribune*, of the 9th of November, 1860, an article which is acknowledged by Mr. Greeley to be his, and published in his history of the war, the "American Conflict," page 359, vol. i, as follows

"The telegraph informs us that most of the Cotton States are meditating a withdrawal from the Union, because of Lincoln's election. Very well: they have a right to meditate, and meditation is a profitable employment of leisure. We have a chronic, invincible disbelief in Disunion as a remedy for either Northern or Southern grievances. We cannot see any necessary connection between the alleged disease and this ultra-heroic remedy; still, we say, if any one sees fit to meditate Disunion, let him do so unmolested. That was a base and hypocritic row that was once raised at Southern dictation, about the ears of John Quincy Adams, because he presented a petition for the dissolution of the Union. The petitioner had a right to make the request; it was the Member's duty to

present it. And now, if the Cotton States consider the value of the Union debatable, we maintain their perfect right to discuss it. Nay: we hold with Jefferson, to the unalienable right of Communities to alter or abolish forms of Government that have become oppressive or injurious; and, if *the Cotton States shall decide that they can do better out of the Union than in it, we insist on letting them go in peace. The right to secede may be a revolutionary one, but it exists nevertheless; and we do not see how one party can have a right to do what another party has a right to prevent. We must ever resist the asserted right of any State to remain in the Union, and nullify or defy the laws thereof; to withdraw from the Union is quite another matter.* And, whenever a considerable section of our Union shall deliberately resolve to go out, we shall resist all coercive measures designed to keep it in. We hope never to live in a Republic, whereof one section is pinned to the residue by bayonets.

"But, while we thus uphold the *practical liberty*, if not the abstract right of *Secession*, we must insist that the step be taken, if it ever shall be, with the deliberation and gravity befitting so momentous an issue. Let ample time be given for reflection; let the subject be fully canvassed before the people; and let a popular vote be taken in every case, before Secession is decreed. Let the people be told just why they are asked to break up the Confederation; let them have both sides of the question fully presented; let them reflect, deliberate, then vote; and let the act of Secession be the echo of an unmistakable popular fiat. A judgment thus rendered, a demand for Separation so backed, would either be acquiesced in without the effusion of blood, or those who rushed upon carnage to defy and defeat it, would place themselves clearly in the wrong."

I give above, this quotation in full, as I did in the Book referred to, that no injustice may be done to him by partial extracts.

What I quoted him to sustain, was, as clearly appears, the *rightfulness of Secession* in itself, and no particular *theory* of mine touching the principles upon which it was based. Does not the article from his own Paper and Book, above spread before your readers, fully sustain my affirmation for which the quotation was made? *Was I "utterly mistaken?"* Or did I in any way confound State Sovereignty with Popular Sovereignty? What difference Mr. Greeley sees between State Sovereignty and Popular Sovereignty I know not. By State Sovereignty I understand the Sovereignty of the people composing a State in an organized political Body. But what I affirmed, and quoted him to sustain, rested upon no distinction between these phrases.

It was simply as to the *Rightfulness* of the act in itself, on the part of the people of a State, without reference to the *source of the Right.* My comments on this question in the Book, page 518, are as follows. I give them in full also that it may be clearly seen that no injustice was done to him :

"What better argument could I make to show the rightfulness of Secession, if the Southern States, of their own good will and pleasure, chose to resort to it, even for no other cause than Mr. Lincoln's election, than is herein set forth in his own pointed, strong, and unmistakable language? It is true, he waives all questions of Compact between the States. He goes deeper into fundamental principles, and plants the right upon the eternal truths announced in the Declaration of Independence. That is bringing up principles, which I have not discussed, not because I do not endorse them as sound and correct, to the word and letter, but because it was not necessary for my purpose. Upon these immutable principles, the justifiableness of Georgia in her Secession Ordinance of the 19th of January, 1861, will stand clearly established for all time to come. For if, with less than one hundred thousand population, she was such a people in 1776 as had the unquestionable right to alter and change their form of Government as they pleased, how much more were they such a people, with more than ten times the number, in 1861? The same principle applies to all the States which quit the old and joined the new Confederation. Mr. Greeley here speaks of the Union as a *Confederation*, and not a *Nation.* This was, perhaps, the *unconscious* utterance of a *great truth* when the *true spirit* was moving him.

"The State of Georgia did not take this step, however, in withdrawing from the Confederation, without the most thorough discussion. It is true it was not a dispassionate discussion. Men seldom, if ever, enter into such discussions with perfect calmness, or even that degree of calmness with which all such subjects ought to be considered. But the subject was fully canvassed before the people. Both sides were strongly presented. In the very earnest remonstrance against this measure made by me, on the 14th of November, 1860, to which you have alluded, was an appeal equally earnest for just such a vote as he suggests in order that the action of the State on the subject might be 'the echo of an unmistakable popular fiat.' On the same occasion I did say, in substance, just what he had so aptly said before, that the people of Georgia, in their Sovereign capacity, had the right to secede if they chose to do so, and that in this event of their so determining to do, upon a mature consideration of the question, that I should bow in submission to the majesty of their will so expressed!

"This, when so said by me, is what it seems was 'the dead fly in the

ointment' of that speech, so sadly 'marring its general perfume.' This was 'the distinct avowal of the right of the State to overrule my personal convictions and plunge me,' as he says, 'into treason to the Nation.'

"Was not the same 'dead fly in the ointment' of his article of the 9th of November, only five days before? And if going with my State, in what he declared she had a *perfect right* to do, plunged me into *treason* to the *Nation*, is he not clearly an accessory before the fact, by a rule of construction not more strained than that laid down in the trial of State cases by many judges not quite so notoriously infamous as Jeffreys? By a rule not more strained than that which would make out treason in the act itself! But I do not admit the rule in its application either to the accessory or the principal."

So much for the allegation that *I* was *utterly mistaken!*

Now, let me turn upon Mr. Greeley and ask, how it is with him in the premises? Was *he* not "*utterly mistaken*" when he said so vauntingly for himself, in the article now under review, that "*Horace Greeley never at any moment of his life imagined that a single State or a dozen of States could rightly dissolve the Union!*"

Did he not expressly say, on the 9th of November, 1860, through the columns of the *Tribune*, that "*if the Cotton States shall decide that they can do better out of the Union than in it, we insist on letting them go in peace. The right to secede may be a revolutionary one, but it exists nevertheless*, and we do not see how one party can have *a right* to do what another party has a right to prevent. We must ever resist the asserted right of any State to remain in the Union, and nullify or defy the laws thereof; *to withdraw from the Union is quite another matter!*"

But, besides what I quoted him as saying, did he not, on the 17th day of December, 1860, three days before the Secession of South Carolina, in the *Tribune*, assert:

"*If it*" (the Declaration of Independence) "*justified the Secession from the British Empire of three millions of colonists in* 1776, *we do not see why it would not justify the Secession of five millions of Southrons from the Federal Union in* 1861. *If we are mistaken on this point, why does not some one attempt to show wherein and why?*"

Again: Did he not in the *Tribune*, on the 23d day of February, 1861, five days after the inauguration of President Davis at Montgomery, use this language:

"*We have repeatedly said, and we once more insist, that the great principle embodied by Jefferson in the Declaration of American Independence, that Governments derive their just powers from the consent of the governed, is sound and just; and that if the Slave States, the Cotton States, or the Gulf States only, choose to form an Independent Nation,* THEY HAVE A CLEAR MORAL RIGHT TO DO SO."

These quotations from the *Tribune* I see set forth by ex-President Buchanan, in his work entitled, "Buchanan's Administration," page 97. I take it for granted they are correct. Then how, in the face of all these proofs, can the *Tribune* now say, that "*Horace Greeley never, at any moment of his life, imagined, that a single State, or a dozen States, could rightfully dissolve the Union.*"

Is not this a full, and explicit acknowledgment of the *right* of a State to *withdraw or secede?* Did the Southern States ever attempt to dissolve the Union in any other way than by *peaceably seceding or withdrawing from it?* Mr. Greeley knows, and the world knows, that they did not.

One other remark upon this editorial now under consideration. In it Mr. Greeley says:

"According to Mr. Stephens' conception, a majority of the people of Delaware, consisting of less than 100,000 persons, might lawfully dissolve the Union, but the whole population of New York, south of the highlands—at least 1,500,000 in number—could do nothing of the kind. Mr. Stephens' may possibly be the true doctrine, but it certainly never was ours, nor of any Republican, so far as we know. The right, we affirm, is not based on the Federal Constitution, but is before and above any and all Constitutions."

Just so, let it be said to Mr. Greeley, with the doctrine advanced by me in the Book referred to! It is not based on the Federal Constitution, but upon the authority that made that Compact. It is based upon principles existing "before and above any and all Constitutions." It is based upon the Paramount Authority (call it Popular Sovereignty or State Sovereignty, or by any other name) by which all organized States or Peoples can *rightfully make or unmake State or Federal Constitutions* at their pleasure; subject only to the great moral law, which regulates and governs the actions and conduct of Nations!

My conception, however, involves no such nonsense as that exhibited in his statement of it, touching the relative populations of the whole State of Delaware, and a portion only (being a large minority, however,) of the population of the State of New York. Populations in this respect must be looked to, and considered, in their *organized* character. The doctrine advocated by me with all its corollaries rests upon the *fact* that Delaware, however small her population, is a perfectly organized State—is a Sovereign State—and as *such* is an integral Member of our Federal Republic, and that New York with her ever so many more people is no more. The doctrine is that ours is indeed a Federal Republic—constituted, not of *one people in mass*, as a single Republic is, but composed of a number of separate Republics.

In this Federal Republic, the little Republic of Delaware by the Constitution of the United States, which sets forth the terms of the Compact between these several Republics composing the Union, has just as much *political power* in the enactment of all Federal laws, as the great Republic of New York has, without any regard to their relative, respective populations. In the Congress of States, which is provided for by the Constitution to take charge of all Federal matters entrusted to its control, Delaware, to-day, with her little over *one hundred thousand* population, stands perfectly equal in *political* power to New York *with her nearly forty times that number!* Congress under our system means the same now it ever meant. It means the Meeting or Assemblage of the States composing the Union by their accredited Representatives in Grand Council. In this Grand Council or Congress of States, Delaware has as much political power as New York. It is true in one House of this Congress, her one member has but little showing against the thirty odd members of New York. But her *equality of power* is maintained in the other. Here this perfect equality of political power between all the States is as distinctly retained under the second Articles of Union as it was under the first. No law can be passed by the Congress, if a majority of the States, through their "Ambassadors" in the Senate, object.

It is on this principle, that the six New England States with

a fraction over three millions of population, under the census of 1860, have in the *last resort* in the Council Chambers of the Congress, *six times* as much power in determining all questions before them, as the State of New York, though New York alone has a population of over *half a million* more than all these other States together! It is upon this principle that these six States have as much power in the administration of the Government as the six States of New York, Pennsylvania, Virginia, Ohio, Indiana, and Illinois had with their aggregate population of *thirteen and a half millions in* 1860!

These are facts which neither Mr. Greeley nor anybody else can successfully controvert.

Ours, therefore, being a Federal Government, is and must be, as all other Federal Governments are, "a Government of States, and for States," with limited powers directed to specific objects; and not a Government *in any sense or view* for the masses of the people of the respective States in their *internal* and municipal affairs. This great *Sovereign* Power of local Self-government, for which Independence was declared and achieved, resides with the people of the respective States.

A ready and sufficient answer to Mr. Greeley's distorted "conception" about the political power of the comparative populations of Delaware and New York, may be given to him from his own doctrines. It is this: If a majority of the people of Delaware, after *due deliberation* and full consideration, have the same right, whether by virtue of State Sovereignty or Popular Sovereignty, to withdraw from the Union which they had to declare their Independence of Great Britain, *which he admits they have, it does not therefore follow that less than half the* population of the State of New York can, *with equal right*, carry that State out. *against the will of the majority*, though the *minority* in New York wishing to do so be *five hundred* or *five thousand times* greater in number than the *majority* in Delaware! He may, therefore, not be alarmed at any of the legitimate consequences of his own doctrines!

What he says about Secession having been carried in the Southern States by a violent, subversive, bullying, terrorizing, minority, overawing, and stifling a majority of the people of

these States, is nothing but bald and naked assertion, which cannot be maintained against the facts of history. The question was as thoroughly discussed as any ever was before the people. Conventions were regularly called by the duly constituted authorities of the States, and members duly elected thereto, according to law in all the States, which seceded before Mr. Lincoln's Proclamation of War. These elections were as orderly as elections usually are in any of the States on great occasions. In these Conventions, Ordinances of Secession were passed by decided majorities! It is true that a large minority in all these Conventions, save one, and in all these States, were opposed to Secession as a question of policy; very few in any of them questioned the Right, or doubted their duty to go with the majority. But after Mr. Lincoln's Proclamation of War—after his illegal and unconstitutional call for troops—after his suspension of the Writ of *Habeas Corpus*, *no people on earth were ever more unanimous* in any Cause, than were the people of the Southern States, in defence of what they deemed the great essential principles of American Free Institutions! There was not one in ten thousand of the people, in at least ten of the Southern States, whose heart and soul were not thoroughly enlisted in the Cause! Nor did any people on earth ever make greater or more heroic sacrifices for its success, during four long years of devastation, blood, and carnage!

A majority of the people overawed and terrorized by a minority! *Indeed!*

If so, what became of this majority when the Confederate Armies, which stood between them and their deliverers, were overpowered? Where is this majority now, even with the sweeping disfranchisement which silences so many of the overawing tyrants? Why has *it* not been permitted to exercise the *inalienable* right of Self-government, even with the reinforcement of the enfranchised Blacks? Why are so many of these States, till this day, held under Military rule, with their whole populations "pinned" to *very bad Government* by Federal bayonets, under the *pretext* of their *continued disloyalty?* This assertion as to the state of things in the beginning, is as utterly

groundless in fact, as it is utterly inconsistent with the gratuitous assumptions on which the present *pretext* is based!

Is it not amazing, Messrs. Editors, that Mr. Greeley in the face of the facts for the last four years, to say nothing of those of the war, when according to his own showing the Administration at Washington in *rushing* into it, were in "the wrong—" I say, to omit all mention of the *wrongs* of the war, its immense sacrifices of blood and treasure, is it not amazing in the highest degree, that Mr. Greeley, in the face of the facts of the last four years only, should now repeat to us the Principles of American Independence as his creed? Have not the Constitutions of ten States, as made and adopted by the People thereof, founded on such principles and organized in such form as seemed to them most likely to effect their safety and happiness, been swept from existence by military edict? Have not the People in these ten States, including the arbitrarily enfranchised *Blacks*, been denied the right to form new Constitutions "laying their foundations on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness?" Have they not been *required* and literally *compelled* to form such Constitutions as seemed most likely to effect the safety and security of the dominant faction at Washington?

Is this holding up to our gaze these immutable and ever-to be-reverenced Principles of the Declaration of Independence, at *this* time and under *the present* circumstances, intended only as *mockery* added to insult, injury, and outrage!

ALEXANDER H. STEPHENS.

Liberty Hall,
Crawfordville, Ga.,
5th April, 1870.

CONSTITUTIONAL VIEW OF THE WAR.

COLLOQUY XIII.

BRIEF RECAPITULATION OF THE ARGUMENT—SOVEREIGNTY AND PARAMOUNT AUTHORITY DISCUSSED BY MR. STEPHENS AND PROF. NORTON—SOVEREIGNTY NOT DIVISIBLE BUT SOVEREIGN POWERS ARE—THE WAR SPRUNG FROM A CONFLICT OF PRINCIPLES—SLAVERY OR LEGAL-SUBORDINATION OF THE BLACK RACE THE IMMEDIATE AND EXCITING QUESTION WHICH BROUGHT THE PRINCIPLES IN CONFLICT—SLAVERY AS IT EXISTED AT THE SOUTH CONSIDERED—WHICH SIDE INAUGURATED THE WAR DISCUSSED BY MR. STEPHENS AND JUDGE BYNUM—WAR NOT THE OBJECT OF THE CONFEDERATE AUTHORITIES—FALL OF FORT SUMTER—SOUTH CAROLINA AS A SOVEREIGN STATE HAD A RIGHT TO DEMAND ITS POSSESSION—BREACH OF FAITH BY NORTHERN CONFEDERATES—EVIDENCE DEMANDED BY MAJOR HEISTER—PROOFS ADDUCED—SOUTHERN STATES EVER TRUE TO THE CONSTITUTION—WHICH SIDE RESPONSIBLE FOR THE WAR DISCUSSED.

MR. STEPHENS. We have now, gentlemen, gone through with the preliminary questions; we have taken that historical review, which was necessary and essential for a correct understanding of the nature and character of the Government of the United States, from a violation of the organic principles of which, as I stated in the outset, the war had its origin. We have seen from this review that ours is a Federal Government. In other words, we have seen that it is a Government formed by a Convention, a *Fœdus*, or Compact between distinct, separate, and Sovereign States. We have seen that this Federal or Conventional Government, so formed, possesses inherently no power whatever. All its powers are held by delegation

only, and by delegation from separate States. These powers are all enumerated and all limited to specific objects in the Constitution. Even the highest Sovereign Power it is permitted to exercise—the war power, for instance—is held by it by delegation only. Sovereignty itself—the great source of all political power—under the system, still resides where it did before the Compact was entered into, that is, in the States severally, or with the people of the several States respectively. By the Compact, the Sovereign Powers to be exercised by the Federal Head were not surrendered by the States—were not alienated or parted with by them. They were delegated only. The States by voluntary engagements, agreed only to abstain from their exercise themselves, and to confer this exercise by delegation upon common agents under the Convention, for the better security of the great objects aimed at by the formation of the Compact, which was the regulation of their external and inter-State affairs.

Our system, taken altogether, we have seen, is a peculiar one. The world never saw its like before. It has no prototype in any of all the previous Confederations, or Federal Republics, of which we have any account. It is neither a "Staaten-bund" exactly, nor a "Bundesstaat," according to the classification of Federal Republics by the German Publicists. It differs from their "Staaten-bund" in this, that the powers to be exercised by the Federal Head are divided into three departments, the Legislative, Judicial, and Executive, with a perfectly organized machinery for the execution of these powers within its limited sphere, and for the specific objects named, upon citizens of the several States without the intermediate act or sanction of the several States. In the "Staaten-bund," or "States' Confederation," accord-

ing to their classification, the Federal Government can enact no laws which will operate upon the citizens of the several States composing it, until the States severally give them their sanction. Such was our Federal Union under the first Articles. But our present system, as we have seen, went a step further, and introduced a new principle in Confederations. While, therefore, our system differs specifically in this particular from their "Staaten-bund," or "States' Confederation," yet it agrees entirely with it in its essential *Generic* difference from their Bundesstaat, in this, that the States collectively constitute an international unit as regards third parties, but do not cease to be international units as regards each other.*

It differs further *Generically* from their "Bundesstaat," or "Federative State," or what may properly be called "an incorporate Union," in this, that no Sovereign Power whatever, under our system, is surrendered or alienated by the several States; it is only delegated. The difference between our system and their "Staaten-bund," is, however, only *specific*, as we see. It is not *Generic*. They are both essentially the same. Ours is a newly developed species of Government of their *Genus* "Staaten-bund." This specific difference is what struck De Tocqueville as "a wholly novel theory, which may be considered as a great discovery in modern political science," and for which there was as yet no specific name. His language, you recollect, is:

"This Constitution, which may at first be confounded with the Federal Constitutions which have preceded it, rests, in truth, upon a wholly novel theory, which may be considered as a great discovery in modern political science. In all the Confederations which preceded the American Constitution of 1789, the allied States, for a

* *Ante*, vol. i, p. 393.

common object, agreed to obey the injunctions of a Federal Government; but they reserved to themselves the right of ordaining and enforcing the execution of the laws of the Union. The American States, which combined in 1789, agreed, that the Federal Government should not only dictate, but should execute its own enactments. In both cases, the right is the same, but the exercise of the right is different; and this difference produced the most momentous consequences."*

Further on, he says: "The new word, which ought to express this novel thing, does not yet exist. The human understanding more easily invents new things than new words, and we are hence constrained to employ many improper and inadequate expressions."†

This new principle of so constituting a Federal Republic as to make us "one nation as to Foreign concerns, and to keep us distinct as to domestic ones," with a division of the delegated powers into Legislative, Judiciary, and Executive Departments, and with an organization and machinery in the Conventional Government, thus formed, for the full exercise of all its delegated and limited powers, similar to those of the separate States creating it, we have seen, was indicated as early as December 1786, by Mr. Jefferson in a letter to Mr. Madison. This was the grand principle finally carried out. It was a grand step in progress in the science of Government. This was what so signalized our career for sixty years, and this is the peculiar *specific* difference between our Federal Republic and all others of similar general type, to which Lord Brougham alludes when he says:

"It is not at all a refinement that a Federal Union should be formed; this is the natural result of men's

* *Ante*, vol. i, p. 481. † *Ante*, vol. i, p. 486.

joint operations in a very rude state of society. But the regulation of such a Union upon pre-established principles, the formation of a system of Government and legislation in which the different *subjects* shall be *not individuals* but *States*, the application of legislative principles to such a *body of States*, and the devising means for keeping its *integrity* as a *federacy*, while the rights and powers of the individual States are *maintained entire*, is the very greatest refinement in social policy to which any state of circumstances has ever given rise, or to which any age has ever given birth."*

From this exposition, we see clearly the proper solution of the vexed question, whether the United States constitute a Nation or not. We see clearly not only that they do constitute a Nation, but also what sort of a Nation it is. It is not a Nation of individuals, blended in a common mass, with a consolidated Sovereignty over the whole; but a Nation the constituent elements, or members of which, are separate and distinct political organizations, States, or Sovereignties. It is a "Confederated Republic,"† as Washington styled our present Union. This is the same as if he had styled it a Confederated Nation. It is, in truth, a Confederated Nation. That is, it is a Nation of States, or in other words, a Nation of Nations. In this sense, these States, thus united, do constitute a Nation, and a Nation of the highest and grandest type the world ever saw!

Professor Norton. Mr. Stephens, will you allow me to ask what you mean by Sovereignty, and ultimate Sovereignty, and Paramount authority, terms which you have frequently used; but I do not know if I get the exact ideas you intend to convey by them. It has oc-

* *Brougham's Political Philosophy*, vol. iii, p. 336.

† *Ante*, vol. i, p. 168.

curred to me as you have progressed in your argument, that a State or Nation might part absolutely with some of her Sovereign powers, and yet retain others, and that this was what our States really did in the formation of the present Constitution. May not the States be fully Sovereign for some purposes, but not for all? May they not be Sovereign over such subjects only as are reserved to them by the Constitution, and the Federal Government be absolutely Sovereign as to all others?

Mr. Stephens. I perceive your meaning. It involves the idea of a divisibility of Sovereignty itself. It is essential that we shall first clearly understand the real import of this word in its proper political sense. I will therefore answer you, first, by stating as distinctly as I can, what I mean by Sovereignty in this connection. It is a word the meaning of which I supposed was well enough understood for our purposes. It is true, we have no very clear or accurate definition of it, by any political writer or publicist, that I have seen. Most of them have given their ideas of it by explanations and descriptions.

By Sovereignty and Paramount authority I mean the same thing. If I were to undertake to express my ideas of it in regular formula, I should say that Sovereignty or Paramount authority, in a proper political sense, is that inherent, absolute power of self-determination, in every distinct political body, existing by virtue of its own social forces, which, in pursuit of the well-being of its own organism, within the limitations of natural justice, cannot be rightfully interfered with by any other similar body, without its consent. With this explanation, in answer to your view, I have only to add, that Sovereignty, as I understand it, is that innate attribute of the Political Body so possessing it, which corresponds with the *will* and power of self action in the personal body,

and by its very nature is indivisible; just as much so as the *Mind* is in the individual organism.

This is the doctrine clearly taught by all writers of note on the subject, in both ancient and modern times. Hence, no Political Body can be absolutely Sovereign for any purpose, and not Sovereign for all purposes which lie within the domain of Sovereignty itself. Bodies-Politic may, by delegation, exercise certain Sovereign powers for some purposes and not for all. This is the case with all Conventional States. We must, moreover, discriminate between the powers of Sovereignty and Sovereignty itself. Sovereign powers *are* divisible. The exercise of them in all good Governments has been and is entrusted by delegation to different hands; such as the Executive Power, the Legislative Power, the Judicial Power. These are all high Sovereign powers committed to separate and distinct hands. Sovereignty itself, however, from which they all emanate, remains meanwhile the same indivisible unit. This is the Trinity in Unity exhibited in all properly constituted Representative Governments. Nor is the delegation to another of the right to exercise a power of any kind, whether Sovereign or not, an alienation of it. The fact of its being delegated, shows that the source from which the delegation proceeds continues to exist.

In our system, or united systems, Sovereign powers are not only divided into the three great branches, as I have stated, both in the Federal Government and in the several State Governments; but they are also divided in like manner between these two systems of Governments. Some of the Sovereign powers are delegated to all the States to be exercised jointly by them in Congress assembled, as well as by special officers of the Federal Government; and some of them are delegated to the various

officers of the several State Governments. Those delegated to each, being delegated by the Sovereign power of the people of the several States separately; and divided similarly in each case. There is no alienation of any portion of Sovereignty itself in either case. This continues to reside with the people of the several States as separate, integral units. I have only further to add in answer to your inquiry, that by *ultimate* Sovereignty in this argument, I mean that original, inherent, innate and continually existing rightful Power, or *Will* of the several Bodies Politic, or States of our Union—that source and fountain of all political power—which is unimpaired by voluntarily assumed obligations; and which at any time, within the terms stated, can rightfully resume all its delegated powers—those to the Federal Government as well as those to the several State Governments.

These great and essential truths of our history, therefore, being thus forever established beyond question or doubt, we will now, if agreeable to you, proceed to consider the immediate and exciting question, which brought the organic principles of the Government into such terrible physical conflict in the inauguration of the war. This was, as stated in the outset, the question of negro Slavery, or more properly speaking that political and legal subordination of the black race to the white race, which existed in the Seceding States.*

I thus speak of Slavery as it existed with us, purposely. For, it is to be remembered in all our discussions on this subject, that what was called *Slavery* with us, was not Slavery in the usual sense of that word, as generally used and understood by the ancients, and as generally used and understood in many countries in the present age. It was with us a political Institution. It was,

* *Ante*, vol. i, p. 29.

indeed, nothing but that legal subordination of an Inferior race to a Superior one which was thought to be the best in the organization of society for the welfare politically, socially, morally and intellectually of both races. The slave, so-called, was not in law regarded entirely as a chattel, as has been erroneously represented. He was by no means subject to the absolute dominion of his master. He had important personal rights, secured by law. His service due according to law, it is true, was considered property, and so in all countries is considered the service of all persons, who according to law are bound to another or others for a term, however long or short. So is the legal right of parents to the service of their minor children in all the States now considered as property. A right or property that may be assigned, transferred or sold. Hamilton expressed the idea of this peculiar Institution, as it existed with us, clearly, when he said: "The Federal Constitution, therefore, decides with great propriety on the case of our slaves, when it views them in the mixed character of persons and of property. This is in fact their true character. It is the character bestowed on them by the laws under which they live."* They were so viewed and regarded by the Constitutions and laws of all the States. The relation of master and slave under the Institution, as before said, was but one of "reciprocal service and mutual bonds."† The view of them as property related to their services due according to law.

But not to digress. This matter of negro subordination, I repeat, was the exciting question in 1860. There were, it is true, many other questions involving the same principles of the Government, which had agitated the

* *The Federalist*, No. 53, *Dawson's Edition*, p. 379.
† *Ante*, vol. i, p. 539.

public mind almost from the time it went into operation, still exciting the public mind to a greater or less degree: but this question of the *status* of the Black race in the Southern States, was by far the most exciting and all-absorbing one, at that time, on both sides, and was the main proximate cause which brought those principles of the Government into active play, resulting in the conflict of arms. This relation of political and legal subordination of the Inferior to the Superior race, as it existed in 1860, in all the Seceding States, had at one time, be it constantly kept in mind, existed in all the States of the Union, and did so exist in all, save one, in 1787, when the present Articles of Union were entered into.

By these Articles this relation was fully recognized, as appears from the solemn covenant therein made, that fugitives from service, under this system, as it then thus existed, escaping from one State into another, should, upon claim, be delivered up to the party to whom the service was due. This was one of the stipulations of the Compact upon which the Union was formed, as we have seen, and of which Judge Story said, on an important occasion, in delivering an opinion from the Bench of the Supreme Court of the United States, "it cannot be doubted that it constituted a fundamental article, without the adoption of which the Union could not have been formed."*

These are all great facts never to be lost sight of in this investigation of the rightfulness of this most terrible war, and in determining correctly and justly upon which side the huge responsibility of its inauguration, and of the enormous wrongs, and most disastrous consequences attending its subsequent conduct, must, in the judgment of mankind, forever rest.

It is not at all germane to our purpose in this investigation, at this time, to inquire into the Right, or Wrong

* Prigg *v.* Pa., 16 *Peters's Reports*, p. 611.

of the Institution of Slavery itself, as it thus existed in what were then known as the Slave States. Neither is it in the line of my argument now, to treat of the defects, or abuses of the system. Nor is it at all necessary, or pertinent to my present object, to trace from its inception to its culmination, the history or progress of that movement against it, which was organized for the purpose of bringing the questions it involved into the arena of Federal Councils, and within the range of Federal action. Suffice it here barely to say, and assume as a fact what is known to us all so well, that, in 1860, a majority of the Northern States, having long previously of their own accord abolished this Institution, within their own limits respectively, had, also, by the action of their Legislatures, openly and avowedly violated that clause in the Constitution of the United States, which provided for the rendition of fugitives of this class from service.

To give a history of that movement to which I allude, to trace its progress from its origin, would require a volume of itself. A volume both interesting and instructive, might be devoted to it. This is what is known as the Abolition movement in this country, and this is what Mr. Greeley is pleased to style the "American Conflict." But from entering into an investigation of that sort, I now forbear. It is in no way pertinent or essential to my purpose. Whoever feels an interest in the subject, will see it treated fully, truthfully, and ably by the master hand of Mr. George Lunt, of Boston, in his history of the "Origin of the War."

Suffice it, therefore, for me, at present, on this subject, only to say, generally, that such a movement was started, such a conflict was begun at an early day after our present system of Government went into operation. As early as the 12th day of February, 1790, within twelve months

after Washington was inaugurated as President, a petition invoking the Federal authorities to take jurisdiction of this subject, with a view to the ultimate abolition of this Institution in the States respectively, was sent to Congress, headed by Dr. Franklin.* This movement, in its first step thus taken so early, was partially checked by the Resolution to which the House of Representatives came, after the most mature consideration of the petition and its objects. That Resolution declared: "That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States; it remaining with the several States alone to provide any regulations therein, which humanity and true policy may require."

This clear exposition of the nature of the Federal Government, and its utter want of power to take any action upon the subject, as sought for by the petitioners, checked, I say, for a time, this movement, or conflict so started and commenced. The conflict, however, was only partially checked; it went on until in 1860, when those who so entered into this movement standing forth as the Abolition or Anti-Slavery Party under the name of Republican, but which in truth was the party of Centralism and Consolidation, organized upon the principle of bringing the Federal Powers to bear upon this Institution in a way to secure its ultimate Abolition in all the States, succeeded in the election of the two highest officers of the Government, pledged to carry out their principles, and to carry them out in open disregard of the decision of the Supreme Court, which highest Judicial Tribunal under the Constitution, had by solemn adjudication denied the power of the Federal Government to take such action as this Party and its two highest officers

* *Annals of Congress*, vol. ii, p. 1239.

stood pledged to carry out. With all these questions, I repeat, I have nothing now to do, except to say that the conflict from its rise to its culmination, was not a conflict between the advocates and opponents of the Institution itself. It seems to have been Mr. Greeley's leading object, throughout his work, to give this idea of the nature of the conflict, as I stated in the beginning. This, however, was in no sense the fact of the case. The conflict, fierce and bitter as it was for seventy years, was a conflict between those who were for maintaining the Federal character of the Government, and those who were for centralizing all power in the Federal Head. This was the conflict. It was a conflict between the true supporters of the Federal Union of States established by the Constitution, and those whose object was to overthrow this Union of States, and by usurpations to erect a National Consolidation in its stead.

The same conflict arose upon divers other questions, also, at an early day. It exhibited itself in the discussions of the first Judiciary Act. In the financial measures submitted by Mr. Hamilton, the then Secretary of the Treasury. In the assumption of the State debts. In the first Apportionment Bill, which was vetoed on these grounds by Washington, in 1792, and much more formidably it exhibited itself in the passage of the Alien and Sedition Acts, in 1798, under the elder Adams. This Party, as we have seen, then assumed the popular name of Federal,* as it assumed the popular name of Republican in 1860. These latter measures of 1798 came near stirring up civil war, and would most probably have resulted in such a catastrophe, if the Party, so organized with such principles and objects, had not been utterly overthrown, and driven from power by the

* *Ante*, vol. i, p. 441.

advocates of our true Federal system of Government, under the lead of Mr. Jefferson, in 1800. It was after this complete defeat on these other questions, that the Centralists rallied upon this question of the *Status* of the Black race in the States, where it continued to exist, as the most promising one for them to agitate and unite the people of the Northern States upon, for the accomplishment of their sinister objects of National Centralization or Consolidation.

On this question, Mr. Greeley and other writers speak of only two Parties during the entire conflict. The Pro-Slavery party, and the Anti-Slavery or Liberty party. The truth is there never was in the United States, or in any one of them, an organized Pro-Slavery party. No such antagonism, as he represents, ever existed in the Federal Councils. The antagonism on this question, which was clearly exhibited in the beginning, as appears from the Resolution of the House of Representatives referred to, was an antagonism growing out of Constitutional principles, and not any sort of antagonism growing out of the principles involved in the right or wrong of negro Slavery, as it then existed in the several States of the Union. It was an antagonism growing out of principles lying at the foundation of the common Government of the States. Of those men, for instance, who voted for the Resolution referred to, in 1790, how many can be supposed to have been Pro-Slavery in their sentiments, or in favor of the Institution? Let us look into it. Here is the record of the vote.* Amongst the prominent supporters of the Resolution, and on the list of those who voted for it, is the name of Roger Sherman, of Connecticut. Here is Benjamin Huntington, also of the same State. From Massachusetts, we see the names of

* *Annals of Congress*, vol. ii, p. 1523.

Theodore Sedgwick, Elbridge Gerry, and Benjamin Goodhue. From New Hampshire, we see the name of Nicholas Gilman. From New Jersey, Elias Boudinot and Lambert Cadwallader. From Pennsylvania, Frederick A. Muhlenberg, Thomas Hartley, and Daniel Heister. These were all prominent men in the formation of the Constitution. All from the Northern States. The vote shows, that not only a majority of the members from the Northern States voted for the Resolution, but that a majority of those who did vote for it, were from the Northern States. Those from the South who voted against it, the debate shows so voted, because they did not think the petition should be considered, or acted upon at all, as it related to subjects not within their Constitutional jurisdiction.

But how many of this majority of the Northern members who voted for it, can be reasonably supposed to have been Pro-Slavery in sentiment? In their action in entertaining the petition, they intended only to show what they considered a due regard to the right of petition, and at the same time prove themselves true to the Constitution of their country. This the debate conclusively shows. So in all after times up to the election in 1860. Those who resisted the action of the Abolitionists did so, because it was based upon revolutionary principles—principles utterly at war with those upon which the Union was established. As a striking illustration of this, Mr. Jefferson himself is well-known to have been as much opposed to the Institution of Slavery, as it then existed in the United States, as any man in either of them; and yet he headed the great party in opposition to this mode of effecting the object of those who desired its Abolition, as he had led the same party to success over the Centralists on other questions, in 1800. He utterly denied that the Federal Government could right-

fully exercise any power with the view to the change of any of the Institutions of the States respectively.

The same is true of all the prominent leaders of this party, as well as the great mass of the people composing it, from the days of Jefferson to those of General Cass and Mr. Douglas. Mr. Pinkney and Mr. Clay, though Southern men as Mr. Jefferson was, were decidedly Anti-Slavery in their sentiments, and yet they ever acted with the party of Mr. Jefferson upon this question. Gen. Cass and Mr. Douglas were Northern men with sentiments equally averse to Slavery, and for the same reasons opposed the Abolition movement in the Federal Councils. Even Chief Justice Taney, who delivered the opinion of the Supreme Court in the case referred to, was by no means individually Pro-Slavery in his sentiments. His views upon the Institution are understood to have been very similar to those of Mr. Pinkney and Mr. Clay. Out of the million and half, and more, of men in the Northern States who voted against Mr. Lincoln, in 1860, perhaps not ten thousand could be said, with truth, to be in favor of the Institution, or would have lived in a State where it existed. It was a subject with which they were thoroughly convinced they had nothing to do, and could have nothing to do under the terms of the Union by which the States were confederated, except to carry out and faithfully perform all the obligations of the Constitutional Compact in regard to it. In opposing the "Liberty Party," so-called, they enlisted under no banner of Slavery of any sort, but only arrayed themselves against that organization, which had virtually hoisted the banner of Consolidation. The struggle or conflict, therefore, from its rise to its culmination, was between those who, in whatever State they lived, were for maintaining our Federal system as it was established, and

those who were for a consolidation of power in the Central Head.

But the great fact now to be considered in this investigation, is, that this Anti-Constitutional Party, in 1860, came into power upon this question in the Executive branch of the Federal Government.

This is the state of things which produced so much excitement and apprehension in the popular mind of the Southern States at that time. This Anti-Slavery Party had not only succeeded in getting a majority of the Northern States to openly violate their Constitutional faith in the avowed breach of the Compact, as stated; but had succeeded in electing a President and Vice-President pledged to principles which were not only at war with the domestic Institutions of the States of the South, but which must inevitably, if carried out, ultimately lead to the absorption of all power in the Central Government, and end sooner or later in Absolutism or Despotism. These were the principles then brought into conflict, which, as stated, resulted in the conflict of arms.

The Seceding States feeling no longer bound by a Compact which had been so openly violated, and a majority of their people being deeply impressed with the conviction that the whole frame-work of the Constitution would be overthrown by this Party which would soon have control of the Executive Department of the Government, determined to withdraw from the Union, for the very reasons which had induced them to enter it in the beginning. Seven of these States, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas, did withdraw. Conventions of their people, regularly called by the proper authorities in each of these States respectively—Conventions representing the Sovereignty of the States similar in all respects to those which by Ordinances had ratified the Con-

stitution of the United States—passed Ordinances resuming the Sovereign Powers therein delegated. These were the Secession Ordinances, which we may hereafter have occasion to look into. These Conventions also appointed Delegates, to meet in Montgomery, Alabama, on the 4th of February, 1861, with a view to form a new Confederation among themselves, upon the same essential basis of the Constitution of the United States.

It was not in opposition to the principles of that Government that they withdrew from it. They quit the Union to save the principles of the Constitution, and to perpetuate, on this Continent, the liberties which it was intended to secure and establish. Mr. Buchanan was then President of the United States. He held that the Federal Government had no power to coërce a Seceding State to remain in the Union, but, strangely enough, at the same time held, that no State could rightfully withdraw from the Union. Mr. Lincoln came into power on the 4th of March, 1861. He held that the Federal Government did possess the Constitutional Power to maintain the Union of States by force, and it was in the maintenance of these views, the war was inaugurated by him.

Judge Bynum. Do you mean to say, Mr. Stephens, that the war was inaugurated by Mr. Lincoln?

Mr. Stephens. Most assuredly I do.

Judge Bynum. Why, how in the world, can you do that in the face of the well-known facts of the case? Did not General Beauregard in command of the Confederate forces, so-called, at Charleston, South Carolina, fire upon Fort Sumter in that Harbor? Did he not compel Major Anderson, the United States officer in command of that Fort, to capitulate and surrender? Was it not this outrage upon the American flag that caused such deep and universal excitement and indig-

nation throughout the entire North? Was it not this that caused the great meetings in New York, Boston and every Northern city? Can you maintain in the face of these notorious facts, that the war was begun by Mr. Lincoln, or the Federal authorities? You rely mainly upon facts, as you say. Your whole argument professes to be based upon the facts of history. If there is any great fact that must go down to posterity forever, it is the fact that the Insurgents, or Confederates, if you please, begun this war. This is a fact, which, as you have said of other matters, "can never be erased or obliterated."

Mr. Stephens. Not quite so fast, Judge. My whole argument is based upon facts, and upon facts that can never be erased or obliterated. It is a fact that the *first gun* was fired by the Confederates. It is a fact that General Beauregard did, on the 12th of April, 1861, bombard Fort Sumter, before any blow had actually been struck by the Federal authorities. That is not disputed at all. That is a fact which I have no disposition to erase or obliterate in any way. That is a great truth which will live forever. But did the firing of the first gun, or the reduction of Fort Sumter inaugurate or begin the war? That is a question to be first solved, before we can be agreed upon the fact as to who *inaugurated* the war; and in solving this question, you must allow me to say that in personal or national conflicts, it is not he who strikes the first blow, or fires the first gun that inaugurates or begins the conflict. Hallam has well said that "the *aggressor* in a war (that is, he who begins it,) is not the *first* who *uses force*, but the first who renders force *necessary*."*

Which side, according to this high authority, (that

* *Hallam's Constitutional History of England*, vol. ii, p. 219.

only announces the common sentiments of mankind,) was the *aggressor* in this instance? Which side was it that provoked and rendered the first blow necessary? The true answer to that question will settle the fact as to which side began the war.

I maintain that it was inaugurated and begun, though no blow had been struck, when the hostile fleet, styled the "Relief Squadron," with eleven ships, carrying two hundred and eighty-five guns and two thousand four hundred men, was sent out from New York and Norfolk, with orders from the authorities at Washington, to reenforce Fort Sumter peaceably, if permitted—"but forcibly if they must."

The war was then and there inaugurated and begun by the authorities at Washington. General Beauregard did not open fire upon Fort Sumter until this fleet was, to his knowledge, very near the harbor of Charleston, and until he had inquired of Major Anderson, in command of the Fort, whether he would engage to take no part in the expected blow, then coming down upon him from the approaching fleet. Francis W. Pickens, Governor of South Carolina, and General Beauregard, had both been notified that the fleet was coming, and of its objects, by a messenger from the authorities at Washington. This notice, however, was not given until it was near its destination. When Major Anderson, therefore, would make no such promise, it became necessary for General Beauregard to strike the first blow, as he did; otherwise the forces under his command might have been exposed to two fires at the same time—one in front, and the other in the rear.

To understand this fully, let us see how matters stood in Charleston Harbor at the time.

The Confederate States, then seven in number, had, as

stated, all passed Ordinances of Secession. All of them, in regularly constituted Conventions, had withdrawn all their Sovereign powers previously delegated to the United States. They had formed a new Confederation, with a regularly constituted Government, at Montgomery, Alabama, as they had a perfect right to do, if our past conclusions were correct, and these you have not been able to assail. This new Confederation had sent a commission to the authorities at Washington, as we shall see, to settle all matters amicably and peacefully. War was by no means the wish or desire of the authorities at Montgomery. Very few of the public men in the Seceding States even expected war. All of them, it is true, held themselves in readiness for it, if it should be forced upon them against their wishes and most earnest protestations.

This is abundantly and conclusively apparent from the speeches and addresses of their leading public men at the time. It is apparent from the resolutions of the State Legislatures, and the State Conventions, before, and in their acts of Secession. It is apparent and manifest from their acts in their new Confederation at Montgomery. It is apparent from the inaugural address of President Davis. It is apparent from the appointment of commissioners to settle all matters involved in the separation from their former Confederates honorably, peaceably, amicably, and justly. It is apparent and manifest from every act that truly indicates the objects and motives of men, or from which their real aims can be justly arrived at. Peace not only with the States from which they had separated, but peace with all the world, was the strong desire of the Confederate States.

It was under these circumstances, that the Confederate commissioners were given to understand, that Fort Sumter would be peacefully evacuated. An assurance

to this effect was given, though in an informal manner, by Mr. Seward, the Secretary of State under Mr. Lincoln. This pledge was most strangely violated by sending the armed squadron, as stated, to re-enforce and provision the Fort. The information that this fleet had put to sea with such orders, reached General Beauregard, when it was already near the offing, as I have stated. He immediately communicated the fact, by telegraph, to the authorities at Montgomery. In reply, he received this order from the Secretary of War of the Confederate States Government:

"If you have no doubt of the authorized character of the agent who communicated to you the intention of the Washington Government to supply Fort Sumter by force, you will at once demand its evacuation; and if this is refused, proceed in such manner as you may determine, to reduce it."

Accordingly, on the 11th of April, General Beauregard made a demand on Major Anderson, in command of the Fort, for its evacuation.

In reply Major Anderson stated:

"I have the honor to acknowledge the receipt of your communication demanding the evacuation of this Fort, and to say in reply thereto, that it is a demand with which I regret that my sense of honor and my obligation to my Government prevent my compliance."

To this he added, verbally, to the messenger: "I will await the first shot, and, if you do not batter us to pieces, we will be starved out in a few days."

This written reply, as well as the verbal remark, were forthwith sent by General Beauregard to the Secretary of War at Montgomery, who immediately returned the following response:

"Do not desire needlessly to bombard Fort Sumter.

G. T. Beauregard

If Major Anderson will state the time at which, as indicated by himself, he will evacuate, and agree that, in the meantime, he will not use his guns against us, unless ours should be employed against Fort Sumter, you are authorized thus to avoid the effusion of blood. If this or its equivalent be refused, reduce the Fort, as your judgment decides most practicable."

This was communicated to Major Anderson. He refused to comply with the terms. He would not consent to any such arrangement.

Whereupon, General Beauregard opened fire on the Fort at 4.30, on the morning of the 12th of April. The fire was returned. The bombardment lasted for thirty-two hours, when Major Anderson agreed to capitulate. General Beauregard exhibited no less of the magnanimity of the true soldier in the terms of capitulation, than he had of high military skill and genius in forming his plans, and in their execution for the reduction of the Fort. The entire garrison numbering eighty in all, officers and men, was permitted to be marched out with their colors and music. They were permitted to salute their flag with fifty guns. All private as well as company property was also allowed to be taken by those to whom it belonged. These were the same terms that General Beauregard had offered on the 11th, before he opened fire. As Providence ordered it, not a life was lost in this most memorable and frightful combat. The firing on both sides, at some times, particularly at night, was represented by those who witnessed it, as both "grand and terrific."

This was the first blow. It is true, the first gun was fired on the Confederate side. That is fully admitted. But all the facts show that, if force was thus first used by them, it was so first used only, because it was

rendered necessary in self-defence on the part of those thus using it, and so rendered necessary by the opposite side. This first use of force, therefore, under the circumstances, cannot, in fact, be properly and justly considered as the beginning of the war.

What has been stated, also, shows how earnestly the authorities at Montgomery, had in every possible way, consistent with honor and safety, endeavored to avoid a collision of forces. The whole question of the right or wrong, therefore, in striking this first blow, as well as the right or wrong of the war, depends upon the Constitutional points we have been discussing. If the Seceding States were right on these points, then this first blow was perfectly justifiable, even if it had not been given, as it was, to avert one then impending over them.

Judge Bynum. Please allow me to interrupt you for a moment. The views you express seem to me not only novel, but altogether unsuited to the facts, even as you state them. Allow me to ask, if the Fort did not belong to the United States? Was it not the property of the United States? Were not the officers and men in it attached to the service of the United States? What right, therefore, had General Beauregard, or any body else, to attempt to prevent the United States Government from provisioning the garrison then holding it, and reenforcing it, if they thought proper? Was it not the duty of Mr. Lincoln to do it, as well as his right?

Mr. Stephens. Not if South Carolina had the Sovereign right to demand the possession of the Fort. Rights, whether civil, moral, or political, never conflict. If South Carolina had this Sovereign right to demand the possession of the place, which was within her jurisdiction, then Mr Lincoln could have had no right to con-

tinue to hold it against this demand ; nor was it his duty, in any sense, to attempt, even, to provision it by force, under the circumstances.

The Fort was within the jurisdiction of South Carolina. It was built specially for her protection, and belonged to her in part as well as to the other States jointly. On the 11th of January, Governor Pickens, in behalf of the Sovereign Rights of the State, demanded its possession of Major Anderson for the use of the State. On his refusal to deliver it up, the Governor immediately sent I. W. Hayne, the Attorney General of the State, to Washington, and made a like demand for its possession of Mr. Buchanan, the President, alleging that the possession of this Fort was necessary for the safety of the State for whose protection it had been erected. In this letter, Governor Pickens also stated, that a full valuation of the property would be accounted for, on settlement of the relations of South Carolina with the United States.

This whole question, relating to the right in this matter, and the side on which the right existed, depends, as I have said, upon the correctness of our conclusions on the points discussed. If South Carolina, after the resumption of her delegated powers, was a separate, Sovereign State (which is one of our established truths), then, of course, she had a perfect right to demand the possession of any landed property whatever, lying within the limits of her jurisdiction, if she deemed it of importance for her public use and benefit. This perfect right so to do, was subject to but one limitation, and that was the moral obligation to pay a fair and just compensation for the property so demanded for public use. There can be no question of the correctness of this principle. It is the foundation of the great right of Eminent domain, which ever accompanies Sovereignty. We have seen

that this right of Eminent domain was never parted with by her, even under the Constitution.* South Carolina, then, even before Secession, and while she held herself to be bound by the Constitution, had a perfect right to demand of the United States Government the possession of this identical property, on paying a just compensation for it, if she had deemed it essential for her public interests. This Fort never could have been erected on her soil without her consent, as we have seen.† The title, therefore, of the United States to the land on which Fort Sumter was built, was in no essential respect different from the title of any other land-holder in the State. The tenure by which the United States claimed and held this property, differed in no essential respect from the tenure by which every other land-owner held similar property in the State; nor was this property of the United States, so purchased and held under grant from South Carolina, any less subject to the right of Eminent domain on the part of the State, than any other lands lying within her limits. If this was so even before Secession, (and no one can successfully assail the position,) then how much more clearly this right (by virtue of the principle of Eminent domain,) to demand the possession of this property for public use, for *her own protection*, appears after she had expressly resumed the exercise of all of her Sovereign powers? This right to demand the possession of this Fort, therefore, being unquestionably perfect in her as a Sovereign State after Secession, whether it was before or not, she had transferred to the Confederate States. Hence, their right to demand the evacuation of Fort Sumter, was perfect, viewed either morally, or politically.

The Confederate States had offered to come to a fair and just settlement with the United States, as to the

* *Ante*, vol. i, pp. 82, 192, 493. † *Ante*, vol. i, p. 192.

value of this property, as well as all other public property belonging to all the States in common, at the time of their separation. This Fort, as well as all else that belonged to the United States, belonged in part to these seven Seceded States. They constituted seven of the United States, to which all this joint property belonged. All the Forts which lay within the limits of the Seceded States, had been turned over by these States, respectively, to the Confederacy, as we shall see. The Confederate States, therefore, through their authorities, had a right to demand, and take possession of all of these Forts, so lying within their limits, for their own public use, upon paying a just compensation for them to their former associates of the United States, who still adhered to that Union. These principles cannot be assailed. The offer so to pay whatever should be found to be due upon a general and just account, had been made. Mr. Lincoln, therefore, had no right under the circumstances, to hold any of these Forts by force, after the demand for the possession had been made; much less was it his duty either morally, or politically, when it was known that the attempt would inevitably lead to a war between the States. This is my answer to your property view.

Now, sir, I do stand upon facts, and these are the incontestable facts of this case, which will forever perpetuate the truth of my assertion, that upon the head of the Federal Government will forever rest the inauguration of this most terrible war which did ensue.

No part of its responsibility rests upon the Southern States. They were the aggressors in no instance. They were ever true to their plighted faith under the Constitution. No instance of a breach of its mutual covenants can be ever laid to their charge. The open and palpable breach was committed by a number of their Northern

Confederates. No one can deny this. Those States at the North, which were untrue to their Constitutional engagements, claimed powers not delegated, and elected a Chief Magistrate pledged to carry out principles openly in defiance of the decision of the highest Judicial Tribunal known to the Constitution.

Their policy tended inevitably to a Centralized Despotism. It was under these circumstances that Secession was resorted to, as before stated; and, then, the war was begun and waged by the North to prevent the exercise of this Right. All that the Southern States did, was in defence, even in their firing the first gun.

Major Heister. Do you say, Mr. Stephens, that the Southern States had never violated their Constitutional obligations, and that Northern States had openly repudiated theirs?

Mr. Stephens. I do.

Major Heister. How did they thus repudiate? What do you mean?

Mr. Stephens. They did what I say by passing State laws—"Personal Liberty Bills," so-called—which effectively prevented the execution of that clause of the Constitution which provided for the rendition of fugitives from service. Several of these States also refused to deliver fugitives from justice, when the crime charged was that of stealing or enticing away any person owing service to another. For, besides their personal liberty acts, which nullified, in the language of Mr. Webster, that provision of the Constitution for the rendition of slaves, the Governors of Maine, New York, and Ohio, had refused to deliver up fugitives from justice, who had been charged with a breach of the laws of the Southern States, in matters relating to the *status* of the Black race.

Major Heister. Where are those laws? Have you got them? I should like to see them.

Mr. Stephens. I have some of them, perhaps not all. But as to the fact, there can be no doubt. Here, for instance, is the law of Vermont upon the subject.

"Every person who may have been held as a slave, who shall come or who may be brought into this State, with the consent of his or her alleged master or mistress, or who *shall come* or be brought, or *shall be* in this State, *shall be free.*

"Every person who shall hold, or *attempt to hold*, in this State, in slavery, as a slave, any free person, in any form or for any time, *however short*, under the *pretence* that such person *is* or *has been* a slave, shall, on conviction thereof, be imprisoned in the State prison for a term not less than five years, nor more than twenty, and be fined not less than one thousand dollars, nor more than ten thousand dollars."

From this it clearly appears, that that State utterly refused to comply with her Constitutional obligations. She did more. She made it penal for any person to attempt to carry out this provision within her limits.

The acts of Massachusetts were not dissimilar, as, I suppose, Judge Bynum will admit. But it is useless to go through with them. I have a document here which renders all that unnecessary. It is the speech of Judge Chase before the Peace Congress, so-called, in February, 1861.

So anxious were the people of the South to continue the Union under the Constitution, so desirous were they to stand by and perpetuate the principles of the Constitution, that even after South Carolina seceded, Virginia, the mother of States and Statesmen, she that took the lead in the separation from Great Britain and in the for-

mation of our Federal Republic, as we have seen, made a great and strong effort still to save the Union by calling an informal Congress of the States to deliberate and see if no scheme could be devised to save the country from impending dangers and feuds. A number of States sent deputies to this Congress. Amongst these deputies was Judge Chase, then a distinguished leader of the Anti-Slavery Party, so-called, subsequently Mr. Lincoln's Secretary of Treasury, and now Chief Justice of the United States. In that Peace Congress, so assembled, Judge Chase, on the 6th of February, 1861, in all the candor of his nature, declared most emphatically to the Southern members, that the Northern States never would fulfil that part of their Constitutional obligations. His whole speech is exceedingly interesting as one of the "footprints" of the momentous events of that day. Let me call your special attention to these parts:

"The result of the national canvass which recently terminated in the election of Mr. Lincoln, has been spoken of by some as the effect of a sudden impulse, or of some irregular excitement of the popular mind; and it has been somewhat confidently asserted that, upon reflection and consideration, the hastily formed opinions which brought about that election will be changed. It has been said, also, that subordinate questions of local and temporary character have augmented the Republican vote, and secured a majority which could not have been obtained upon the national questions involved in the respective platforms of the parties which divide the country.

"I cannot take this view of the result of the Presidential election. I believe, and the belief amounts to absolute conviction, that the election must be regarded as a triumph of principles cherished in the hearts of the people of the Free States. These principles, it is true,

were originally asserted by a small party only. But, after years of discussion, they have, by their own value, their own intrinsic soundness, obtained the deliberate and unalterable sanction of the people's judgment.

"Chief among these principles is the Restriction of Slavery within State limits; *not* war upon Slavery within those limits, but fixed opposition to its extension beyond them. Mr. Lincoln was the candidate of the people opposed to the extension of Slavery. We have elected him. After many years of earnest advocacy and of severe trial, we have achieved the triumph of that principle. By a fair and unquestionable majority, we have secured that triumph. Do you think we, who represent this majority, will throw it away? Do you think the people would sustain us if we undertook to throw it away? I must speak to you plainly, gentlemen of the South. It is not in my heart to deceive you. I therefore tell you explicitly, that if we of the North and West would consent to throw away all that has been gained in the recent triumph of our principles, the people would not sustain us, and so the consent would avail you nothing. And I must tell you further, that under no inducements, whatever, will we consent to surrender a principle which we believe to be so sound and so important as that of restricting Slavery within State limits."

This part of the speech was in reference to the claim of power on the part of the Federal Government to prevent the people of the Southern States from going into the common Territories with their slaves, and which power the Supreme Court had decided the General Government had no right to exercise. He here deliberately asserted, that the Party which elected Mr. Lincoln would not regard this decision of the Supreme Court. But then he goes on to say:

"Aside from the Territorial question—the question of Slavery outside of Slave States—I know of but one serious difficulty. I refer to the question concerning fugitives from service. The clause in the Constitution concerning this class of persons is regarded by almost all men, North and South, as a stipulation for the surrender to their masters of slaves escaping into Free States. The people of the Free States, however, who believe that Slave-holding is wrong, cannot and will not aid in the reclamation, and the stipulation becomes, therefore, a dead letter. You complain of bad faith, and the complaint is retorted by denunciations of the cruelty which would drag back to bondage the poor slave who has escaped from it. You, thinking Slavery right, claim the fulfilment of the stipulation; we, thinking Slavery wrong, cannot fulfil the stipulation without consciousness of participation in wrong. Here is a real difficulty, but it seems to me not insuperable. It will not do for us to say to you, in justification of non-performance, 'the stipulation is immoral, and therefore we cannot execute it;' for you deny the immorality, and we cannot assume to judge for you. On the other hand, you ought not to exact from us the literal performance of the stipulation when you know that we cannot perform it without conscious culpability. A true solution of the difficulty seems to be attainable by regarding it as a simple case where a contract, from changed circumstances, cannot be fulfilled exactly as made. A court of equity in such a case decrees execution as near as may be. It requires the party who cannot perform to make compensation for non-performance. Why cannot the same principle be applied to the rendition of fugitives from service? We cannot surrender—but we can compensate. Why not then avoid all difficulties on all sides and show respec-

tively good faith and good-will by providing and accepting compensation where masters reclaim escaping servants and prove their right of reclamation under the Constitution? Instead of a judgment for rendition, let there be a judgment for compensation, determined by the true value of the services, and let the same judgment assure freedom to the fugitive. The cost to the National Treasury would be as nothing in comparison with the evils of discord and strife. All parties would be gainers."

Whatever may be thought of this as a proposed *compromise* to induce the Parties to remain in the Union, no one can doubt its *unequivocal declaration* that the Non-Slave-holding States *would not* comply with their acknowledged *obligations* under the Constitution. It was a confession of one high in authority that that part of the Constitution was *a dead letter*, and, of course, if the Southern States would not agree to his offer, they were absolved from all further obligation to the Compact. This is conclusive upon well settled principles of public law.

This declaration that the Northern States would not comply with their Constitutional obligations, bear in mind, was made by the Chancellor of the Exchequer, under Mr. Lincoln. He spoke for the President and his Party. He spoke for that Party which, after the Southern States had seceded, in the House, passed this Resolution:

"*Resolved*, That as our country, and the very existence of the best government ever instituted by man, are imperilled by the most causeless and wicked rebellion that the world has seen, and believing, as we do, that the only hope of saving this country and preserving this Government is by the power of the sword, we are for the most *vigorous prosecution of the war until the Constitution and laws shall be enforced and obeyed in all parts*

of the United States; and to that end we oppose any armistice, or intervention, or mediation, or proposition for peace from any quarter, so long as there shall be found a Rebel in arms against the Government; and we ignore all party names, lines, and issues, and recognize but two parties in this war—patriots and traitors."*

This Resolution passed the House, December 17, 1863, by a vote of ninety-four to sixty-five. The ninety-four votes all belonged to that party for which Judge Chase spoke.

Was there ever an instance in the history of the world of such inconsistency, or—no! I will withhold the word I was about to utter. But let me ask, if the Federal arms had been directed against those who *resisted* the *enforcement* of the *Constitution and the laws of the United States*, with the real purpose of preserving "the best Government ever instituted by man," was there a *single one* of those who voted for this Resolution, who would not justly have been the first subjects of slaughter? These are the men who still talk of "*loyal* States!" Who still have so much to say of "*loyal* men!" Was ever noble word, when properly applied, so prostituted, as this is in its present use by this class of boasting patriots?

The Southern States were ever *loyal* and *true* to the Constitution. This I maintain as a great truth for history The only *true loyalty* in this country is *fidelity* to the principles of the Constitution! The openly "*disloyal*," or those *avowedly untrue* to the Constitution, were those who instigated, inaugurated, and waged this most unrighteous war against their Confederate neighbors! If I express myself with too much fervor on this point, you will please excuse me. I do, however, but express the thorough convictions of my judgment.

* *McPherson's History of the Rebellion*, p. 298.

Major Heister. Judge Bynum, how is this? Is it true, as stated, that any of the Northern States did thus openly and avowedly refuse to comply with their Constitutional engagements, while the Southern States were always true to theirs? Is this correct? I often heard of "Personal Liberty Bills" at the North, but I thought they were intended only to secure the liberty of our own free Blacks against Kidnappers. I never supposed it was true, that the Northern States deliberately refused to obey or enforce that clause of the Constitution in relation to actual fugitives from service. I am utterly astonished at what Mr. Stephens has read from the law of Vermont, and from Judge Chase's speech in the Peace Congress. You are better posted than I am on these matters, but I feel assured that the people at the North, generally, did not look upon the questions, as he presents them; and it must be, that there is some answer to what he says and maintains with so much apparent confidence. Let us know how these things really are.

Judge Bynum. I have a great deal that I might say in reply to him. But I think it best, perhaps, in these conversations to forbear, as it might stir up ill-blood and do no good. We are Mr. Stephens's guests, and if I were to go into a full explanation of the matter, I might have to refer to questions that he would not like to hear, especially about the violations of Compacts.

Mr. Stephens. Have no uneasiness on that point. These conversations I wish to be perfectly free, full, and exhaustive. So long as they are conducted on the plan and within the bounds first stated, you are at liberty to speak your mind fully and freely. Have no fear of ruffling my temper in the least.

Professor Norton. Not even if he goes into the repeal of the Missouri Compromise, that time-honored Compact between the North and the South.

Mr. Stephens. None. Have no fears of the sort in relation to any subject.

Major Heister. But how do you know what he may say?

Mr. Stephens. I do not, of course, know what he will or may say, but I do know that there is nothing that he can say on any of these subjects, in accordance with truth and fact, which can ruffle me in the least. It is truth when told to one's disadvantage which generally ruffles temper the quickest. There is a great moral in the anecdote about Mr. Petigru,* so distinguished for his wit and learning, at which we laughed so heartily the other day, when talking upon another matter.

In this case, I know there is no truth, that can hurt, and as for bare epithets, or declamation, after I have heard with perfect equanimity all that Mr. Giddings, Mr. Lovejoy, and Mr. Sumner have said about "Slavery,"

* In speaking of Mr. Petigru's imperturbable temper his biographer says:

"At another time he was assailed in the court-yard with the most violent abuse by a turbulent fellow of the village, who lavished on him all the foul epithets and appellations he could remember or invent, of which rogue and scoundrel were among the most moderate. The assaulted party stood unmoved, with a half smile of amusement on his face. At last the noisy bully, having exhausted his ordinary vocabulary of abuse, bethought himself of a term of reproach which, at that day, comprised everything hateful—he called him a 'damned Federal.' The word was no sooner uttered than a blow, altogether unexpected by the brawler, laid him in the sand. He became as quiet as a lamb, and moved away without a comment. But an old gentleman present, Mr. William Hutson, one of the remains of the defunct Federal party, thought the proceeding a sort of imputation on his old creed. 'How is this,' he said to Petigru, 'you seem to think it a greater offence to be called a Federalist than to be called a rogue or rascal?' 'Certainly,' was the reply; 'I incur no injury from being abused as a rogue, for nobody believes the charge; but I may be thought a Federalist readily enough, and be proscribed accordingly, and so I knocked the man down by way of protest against all current misconstructions.'"—*Grayson's Memoir of James Louis Petigru*, p. 83.

"the Slave Power," the "Slavery Oligarchy," the "Slave Driver," etc., I can promise you, in advance, that nothing that our friend, the Judge, here can say upon these subjects, or any other within the range of our conversations will ruffle me in the least. I give him full latitude to speak with perfect freedom and liberty.

Major Heister. Well, Judge, let us hear from you. I am anxious to know what our defence against these statements of Mr. Stephens is; for he seems to me, to be candid with you, to be putting us clearly in the wrong.

Judge Bynum. Well, as the subject is a long one, and may lead us into new fields, perhaps we may as well adjourn it until to-morrow.

Mr. Stephens. This is quite agreeable to me. Meantime, Judge, my library is at your service, if you wish to hunt up any documents or other matters to sustain you. If you have any desire to indulge in the arguments *ad hominem*, you will find a volume of my speeches, compiled by Cleveland, containing all the speeches of importance I made while I was in Congress, and nearly all of importance I ever made. That, as well as anything else I can command, is at your service. If it is agreeable, we will now adjourn for the present, and the rest of us will take a drive to the old Homestead, my birth-place, about two miles off. This excursion will not only afford us some relaxation, but topics, perhaps, of a more pleasant character.

COLLOQUY XIV.

A NEW TURN IN THE DISCUSSION—NORTHERN STATES DEFENDED BY JUDGE BYNUM—SLAVERY WITH ITS AGGRESSIONS REVIEWED BY HIM—THREE-FIFTHS' CLAUSE IN THE CONSTITUTION—MISSOURI COMPACT—ITS REPEAL—ACQUISITION OF LOUISIANA, FLORIDA AND TEXAS—LAWS OF SOUTH CAROLINA IMPRISONING NORTHERN SEAMEN—TREATMENT OF MR. HOAR IN CHARLESTON—JUDGE CHASE'S PROPOSITION—SECESSION A CONSPIRACY TO OVERTHROW THE GOVERNMENT—CONCOCTED AT WASHINGTON—DEFENCE OF NORTHERN STATES REPLIED TO BY MR. STEPHENS AT LENGTH—LAWS OF SOUTH CAROLINA VINDICATED—THREE-FIFTHS' CLAUSE OF THE CONSTITUTION REVIEWED—CAUSES ASSIGNED BY CONVENTION OF SOUTH CAROLINA FOR SECEDING—CAUSES FOR SECESSION ASSIGNED BY MR. TOOMBS IN UNITED STATES SENATE.

Major Heister. Well, Judge Bynum, how it is with the others present, I do not know; but as for myself, I confess, I am rather impatient to hear what you have to say in defence of those Northern States, against which Mr. Stephens has brought so serious a charge. Is it true that any of them did so disregard their obligations under the Constitution, and prove themselves so faithless, to the Compact, as by their breach of it, to release the Seceding States from their obligations under it? This is about the substance of his position, as I understand it. How is the fact? What say you?

Judge Bynum. In reply to your question, as well as in reply to all that Mr. Stephens has said on this subject, I have a great deal to say: much more than can be said by me under present circumstances. As Mr. Stephens remarked in reference to himself, I can here repeat that a volume might be filled with what I could say upon the

subject; but to be as brief and pointed as possible on this occasion and in offering what I think will be quite sufficient for my present purpose, I will observe in the beginning, that the conflict upon the subject of "*Slavery so-called*," as he styles it, but what I call the conflict between the principles of human rights, and human bondage, between justice and wrong, commenced long anterior to the formation of the Constitution. It commenced in the Continental Congress. It showed itself at the time of the Declaration of Independence. This the history of that Instrument shows. Even then that spirit which was subsequently embodied in what has well been denominated the Slave Power, showed its Hydra head with many of its hideous features. But for its imperious arrogance and domineering insolence, Slavery then and there in accordance with the promptings of the Christian and Philanthropic principles of the age, would have been abolished throughout the whole country, and we never should have been cursed with it as we have been.

The same dictatorial spirit showed itself afterwards in the Confederation, when by the yielding of timid members of the North to its unjust demands it was again triumphant. I use strong language, but it is the language of truth, and I trust Mr. Stephens will bear it with patience, though he admits that the truth sometimes hurts most. This spirit showed itself again in the Convention that framed the Constitution. It there again triumphed most unfortunately in the same way. This never would have been the result but for the time-serving and truckling spirit of Northern men who in those days were but too willing to bow and yield to the dictation of what may be properly called the Slavery Oligarchy. This triumph was then secured by the threats of disunion, and by a compromise then made, the Slave Power, not then it is true confined to the South,

secured to itself that provision in the Constitution which gives a *three-fifths* representation in Congress to the Slave population. By this arrangement the man who owned five Slaves was endowed with as much political power as three free white men.

It was this undue Slave Power which enabled the Southern States to carry in after times the like triumph in 1820, in the conflict on the admission of the State of Missouri into the Union. By this undue power it was enabled to effect that Compromise. By the same undue power the annexation of Texas was carried in 1845. The Missouri Compromise was carried in 1820, by the threats of disunion, if these demands of the Slave Power were not complied with. It is true, there were men at the North who then stood upon principle and refused to bow the knee to this Baal of Iniquity. The conflict all the time was between the principles of Justice and Right, and the principles of Wrong and Oppression. These principles of right gradually triumphed in all the States north of Delaware, and this Institution so-called, which was a blot upon the American name, found a resting place alone in the Southern States. Here it fortified itself. As the "Man of Sin," as it has justly been called, it took its position in high places, and even desecrated the Temples of the Living God by preaching that it was right and sanctioned by His oracles in the very face and teachings of the Saviour of the World, whose whole moral system rested upon the eternal principle of Right—that all men should do unto others, as they would have others do unto themselves. When, in 1860, the advocates of universal freedom—those who stood on the immutable truths of the Declaration of American Independence, and maintained that all men are born free and equal—carried the election of the President and Vice President, it was, then, that this spirit seeing,

and feeling that its ultimate doom was approaching, attempted to carry out its original wicked design of forcing its principles over the whole Union, by tearing down the Government of our Fathers and establishing a Slavery Oligarchy over the whole country, "the corner-stone" of which was to be human bondage, and with this object the great conspiracy called Secession was concocted. This was but another name for an attempt to revolutionize the Government and to set up a Slavery Oligarchical dynasty in its stead.

Now as to the matter of the rendition of fugitive slaves under the Constitution, I freely admit that Judge Chase stated the case fairly, as quoted. Mr. Seward had announced the same thing in the Senate, March 11th, 1850. He then stated as quoted by Mr. Greeley:

"The law of nations disavows such Compacts; the law of nature, written on the hearts and consciences of freemen, repudiates them. I know that there are laws, of various sorts, which regulate the conduct of men. There are constitutions and statutes, codes mercantile and codes civil; but when we are legislating for States, especially when we are founding States, all these laws must be brought to the standard of the law of God, must be tried by that standard, and must stand or fall by it. To conclude on this point: we are not slaveholders. We cannot, in our judgment, be either true Christians or real freemen, if we impose on another a chain that we defy all human power to fasten on ourselves."*

The Northern mind was thoroughly and deeply impressed with the full consciousness that Slavery was a great crime in the sight of men as well as in the sight of God. It was the summation of all iniquity. They could

* *Greeley's American Conflict*, vol. i, p. 48.
App. Cong. Globe, vol. xxii, part 1, p. 263.

not and would not violate their consciences by aiding in the capture and return of fugitives from oppression. They did feel, as Mr. Seward said, that there was "a higher law" regulating human conduct, than any which time-serving politicians might presume to enact to effect their worldly advantages and that "as true Christians and real freemen they could not impose upon another a chain which they defied all human power to fasten on themselves." It was upon this "higher law" they stood. That law which was older than the Constitution!

And what had the South to complain of under Judge Chase's fair proposition? That was to pay to the owner the value of the slave in money. The entire North would have cheerfully complied with that. Was it not right and equitable and just? I can but believe that Mr. Stephens so considered it himself, as well as all fair-minded men both North and South. I also take this occasion to say that I do not believe that he had any sympathy with these Slavery Oligarchists in their purposes notwithstanding his "Corner-Stone" speech, for I well remember what he said on the annexation of Texas. His language was strong—truly patriotic, and made a deep impression upon my mind. He then declared that he was no defender of Slavery, that "liberty always had charms for him," and that he "would rejoice to see all of Adam's family in the possession of the rights set forth in the Declaration of American Independence." These sentiments have no affinity with those of the conspirators who concocted Secession.

But Mr. Stephens has said that the South had never broken the Constitution, that they were always true to their plighted faith, that no charge of infidelity or breach of faith could be brought against them from the beginning of the Government! Now, on the contrary, I think it can

be made clearly to appear that from the beginning this Slave Power by insinuating itself craftily with the interests of subservient allies of the North, just as it did when the Declaration of Independence was made, and in the Confederation, and in the formation of the Constitution, has all along looked to nothing but the perpetuation of its dominion.

Did not these States, controlled by this power, acquire Louisiana at a cost of $15,000,000, with the sole view of strengthening their interest, and without the least semblance of authority in the Constitution? Did they not get Florida, for the same purpose, at a cost of five million more? Did they not annex Texas with the same object, though that measure brought a war with the cost of near one hundred million of dollars, to say nothing of the lives sacrificed in the unholy strife? Did they not by their power, by their undue representation in the House and by their menaces and threats, carry their Compromise measures of 1850, with the sole object of strengthening their power, of extending their peculiar Institution? nay, more, did they not afterwards, in 1854, when strong enough, openly repudiate this Compromise, as well as the solemn Compact entered into on the admission of Missouri? Did they not then repeal the prohibition of Slavery over the whole North-Western Territory, which was the condition upon which Missouri was admitted; and by this act desecrate to human bondage soil, which had by this Compact been forever consecrated to human liberty? Was there no breach of faith here? Breach of faith indeed!

Did not South Carolina herself, openly and avowedly, as he says, fail to fulfil her obligations under the Constitution, when she passed a law to imprison, without charge of crime, free citizens of the North who might visit her ports, if they happened to be of the African race?

When Massachusetts, in 1844, sent down the venerable Samuel Hoar, as her agent to look into this matter, was he not driven from the State? Was not this a breach of faith? Those who live in glass houses should not be the first to throw stones. These are all facts which Mr. Stephens will hardly undertake to deny. So if the Northern States did fail on their part to degrade themselves by turning slave-catchers, they were justified in it by the previous bad faith of this State herself, which was the first to secede, and which, so far from having acted on the basis of what Mr. Stephens says, did nothing but carry out a long cherished design to overthrow the Government.

It was not the matter of the rendition of slaves, or the breach of the Constitutional Compact on the part of the Northern States in this particular, that caused South Carolina to secede. It was but the execution of a long cherished purpose. This is clear from the speeches of Mr. Rhett, Mr. Keitt, and others at the time. It was done, too, not by the mass of the people of that State. It was effected by the Slavery Oligarchy which had complete sway in the State. This, too, was the state of things generally in the South. All this about the breach of faith, is but an after-thought. The Slave Power by secret conspiracy usurped the liberties of the mass of the white people in the entire South. Their conspiracy was concocted at Washington. It was there conceived, perfected and thoroughly organized in secret conclave, on the night of the 5th of January, 1861. Mr. Davis was there chosen President of this new dynasty. This was all done by leading Southern Senators, who by usurpation took control of public affairs throughout the South, and presented the naked question to the American people of a Slavery Dynasty or the Constitution of our Fathers.

This was the conflict which commenced in the Continental Congress. Mr. Greeley, I think, was right, and he has given a truthful history of it from its beginning to its culmination. This is all I have to say at present, and I should not have spoken so freely and fully as I have on this occasion, but for Mr. Stephens's invitation, given before-hand, to speak as freely as I chose. What I have stated under the circumstances, I trust he will in no way consider personally offensive.

Mr. Stephens. Not in the least. A full, free, thorough and fair discussion is what I expect; and if you are through, let us now proceed calmly and dispassionately to consider each point in order. Declamation is often resorted to when argument fails. You admit, then, that Judge Chase did set forth the state of things correctly, as far as it related to the then dominant party at the North, that is, you admit, that they could not and would not violate their consciences in the matter of the fulfilment of their obligation under the Constitution referred to?

Judge Bynum. I do. But I insist that his offer was a fair one, and that South Carolina and the other Southern States had no just reason to complain of it. They had violated the Constitution in much more important particulars before, and I maintain that South Carolina was not governed by this at all. In my opinion, she did not care a button for that.

Mr. Stephens. We will dispose of one thing at a time. You do admit, then, that it is a fact that several of the Northern States did openly and intentionally fail to fulfil their clearly stipulated obligation under the Compact of Union?

Judge Bynum. Yes; I say I admit that with the other things I have said. They must both and all go together.

Mr. Stephens. No. They both and all ought not to

go together, and cannot all go together unless they are all equally true. The truth in each case must stand upon the nature of the proofs brought to sustain it. These must all be examined separately.

Judge Bynum. Well, then, do you question the facts of what I have said about South Carolina's breach of the Compact and the other instances of a breach of Compact by the other States?

Mr. Stephens. Most assuredly I do. I join issue with you on the whole and in detail.

Judge Bynum. Well, what have you to say against my statement taken in detail? Did not South Carolina openly and defiantly break the Constitution in the matter of the imprisonment of colored Northern seamen which clearly violated that clause in the Constitution which declares that "the citizens of each State shall be entitled to all the privileges and immunities of citizens of the several States;" and in the expulsion of Mr. Hoar, who was sent to Charleston to defend the rights of the colored citizens of Massachusetts who had been so outrageously wronged? Do you join issue with what Mr. Greeley says upon that point?

Mr. Stephens. I do most pointedly in the essential particulars.

But, first and foremost, let it be remembered that it is admitted that Northern States did openly and avowedly disregard their obligations under the Constitution in the matter stated by me. This we will, therefore, consider as an established fact. You admit its truth, but attempt to justify. We will now see how far the facts sustain you in this attempt.

The act of South Carolina referred to, which you seem to think so clearly violated the Constitution of the United States, was not passed "in the year 1835," as Mr. Greeley

says,* but on the 21st December, 1822.† At least an act containing all you complain of, was then passed by that State. It had, however, no such purpose or intent as you seem to think. This was not its professed object, nor was it at all in violation of the Constitution, according to a decision of the Supreme Court of the United States, as we shall see. It was passed soon after an attempted insurrection by the Blacks in Charleston. This attempted insurrection was in June 1822.‡ It was supposed to have been instigated by that class of persons against whom the law was enacted; and it was only intended to secure the domestic peace and tranquillity of the State against the future schemes and mischievous operations of such foreign emissaries, not from the Northern States exclusively, but from all other countries, against the safety and welfare of the State. This, the State had a perfect right to do under the Constitution, as I shall clearly show.

Here is the section of the act complained of §. It is the third section of an act passed 21st December, 1822, entitled "An Act for the better regulation and government of free negroes and persons of color, and for other purposes," and is in these words:

"*And be it further enacted by the authority aforesaid*, That if any vessel shall come into any port or harbor of this State, from any other State or foreign port, having on board any free negroes, or persons of color, as cooks, stewards, mariners, or in any other employment on board said vessel, such free negroes, or persons of color shall be liable to be seized and confined in gaol, until said vessel shall clear out and depart from this State; and that when said

* *American Conflict*, vol. i, page 179.
† *Niles's Register*, vol. xxiv, page 31.
‡ *Niles's Register*, vol. xxiii, page 10.
§ *Niles's Register*, vol. xxvii, page 261.

vessel is ready to sail, the captain of said vessel shall be bound to carry away the said free negro or person of color, and pay the expenses of his detention; and in case of his neglect or refusal so to do, he shall be liable to be indicted, and, on conviction thereof, shall be fined a sum not less than one thousand dollars, and imprisoned not less than two months; and such free negroes or persons of color shall be deemed and taken as absolute slaves, and sold in conformity to the provisions of the act passed on the twentieth day of December, one thousand eight hundred and twenty, aforesaid."

Judge Bynum. Yes, that is the law I complain of; and could anything be in plainer violation of any part of the Constitution, than it is in violation of that clause to which I have alluded?

Mr. Stephens. We will soon see. I do not think that it violated the Constitution at all, nor did the Legislature of South Carolina so think. It is true, there were differences of opinion upon the subject, at the time, by eminent jurists both in and out of the State. The only way to settle the point was by judicial decision. In this way it was settled by the courts in South Carolina. Suits were brought by persons coming under its operation, and the Constitutionality of the act was sustained.* But I do not rest, what I affirm of its Constitutionality, solely upon that adjudication. After that decision, the subject was brought to the attention of the Federal authorities at Washington, both by a memorial from the commanders of American vessels, complaining of wrongs suffered by seamen under their charge, and by the British Minister, in behalf of like wrongs suffered by colored seamen, subjects of his Majesty, the King of England. Let me get the letter of the British Minister to the Secretary of State

* *Niles's Register*, vol. xxiv, p. 31.

upon the subject. Here it is, dated Washington, February 15th, 1823.* In it he says:

"It is my duty to bring under your notice an act lately passed by the Legislature of South Carolina, which cannot remain in force without exposing the vessels of his Majesty's subjects, entering the ports of that State, in prosecution of their lawful commerce, more especially such as are engaged in the colonial trade, to the treatment of the most grievous and extraordinary description.

"The accompanying transcript of the third section of the act, to which I refer, will make you acquainted with the particular nature of the grievance attendant on the enforcement of the law in question. I am confident that a mere perusal of the enactment will suffice to engage your interference for the purpose of securing his Majesty's subjects, when trading with this country, from the effects of its execution.

"One vessel, under the British flag, has already experienced a most reprehensible act of authority under the operation of this law; and if I abstain, for the present, from laying before you the particulars of the transaction, it is only in the persuasion that ample redress has, by this time, been obtained on the spot, at the requisition of his Majesty's consul, at Charleston, and that the interference of the General Government, in compliance with the representation which I have now the honor to address to you, will be so effectual as to prevent the recurrence of any such outrage in future."

Let us now go on with the subject and see how it ended.

This letter of Mr. Canning, the British Minister, was submitted to the consideration of the Attorney-General by the Secretary of State, under instructions from the

* *Niles's Register*, vol. xxvii, p. 261.

President. Mr. Wirt, who, at that time, was the Attorney-General, gave it as his opinion that the act in question was in violation of the Constitution of the United States, but not upon the grounds you maintain. That clause of the Constitution, to which you refer, has no bearing upon the subject whatever, as we shall see. Mr. Wirt, however, held that it did violate that clause which gives Congress the power to regulate commerce as well as the clause relating to the Treaty power. His letter to the Secretary of State, giving this opinion, is dated the 8th of May, 1824, and in it he uses this language:*

"All foreign and domestic vessels, complying with the requisitions prescribed by Congress, have a right to enter any port of the United States, and a right to remain there unmolested, in vessel and crew, for the peaceful purposes of commerce. No State can interdict a vessel which is about to enter her ports, in conformity with the laws of the United States, nor impose any restraint or embarrassment on such vessel in consequence of her having entered in conformity with those laws. It seems very clear to me, that this section of the law of South Carolina is incompatible with the National Constitution, and the laws passed under it, and is therefore void. All nations in amity with the United States, have a right to enter the ports of the Union for the purpose of commerce, so long as, by the laws of the Union, commerce is permitted, and so far as it is permitted; and inasmuch as this section of the law of South Carolina is a restriction upon this commerce, it is incompatible with the rights of all nations which are in amity with the United States.

"There is another view of this subject. By the National Constitution, the power of making treaties with Foreign Nations, is given to the General Government,

* *Niles's Register*, vol. xxvii, p. 262.

and the same Constitution declares that the treaties so made shall constitute a part of the Supreme Law of the land. The National Government has exercised this power, also, of making treaties. We have treaties subsisting with various nations, by which the commerce of such nations, with the United States, is expressly authorized, without any restriction as to the color of the crews by which it shall be carried on. We have such a treaty with Great Britain, as to which nation this question has arisen. This act of South Carolina forbids, or what is the same thing, punishes, what this treaty authorizes.

"I am of the opinion, that the section of the law under consideration is void, for being against the Constitution, treaties and laws of the United States, and incompatible with the rights of all nations in amity with the United States."

This opinion of the Attorney-General, under the direction of the President of the United States, was communicated by the Secretary of State to the Governor of South Carolina, under date the 6th of July, 1824, with the expression of a hope, on the part of the President, that "the inconvenience complained of, would be remedied by the Legislature of the State of South Carolina itself."

The whole matter was subsequently submitted by the Governor to the Legislature, in a message, in which he put the right upon the grounds of "police regulations," and claimed that, "under the Constitution, South Carolina had the right to interdict the entrance of such persons into her ports, whose organization of mind, habits, and associations rendered them peculiarly calculated to disturb the *peace* and *tranquillity* of the State, in the same manner as she could prohibit those afflicted with infectious disease to touch her shores." "The necessity of self-preservation," said he, "was alone to be determined

by the power to be preserved; it, therefore, rested with those whose rights were to be affected to judge how long such laws should exist, as were enacted for the peace and security of the community."

The Legislature sustained the position of the Governor. This presented a *new view* of the subject; and so the matter rested for a time. If the British Government took any further action on the subject, I am not aware of it. No case was carried to the Supreme Court of the United States under this act. But a case involving the same principle, arising under a law of the State of New York, passed in 1824, was carried up to that court, and the decision in it fully sustained the position of the Governor and Legislature of South Carolina upon this subject. This is the decision to which I refer as settling the question, and from which I now read.*

"This case," said the judge who delivered the opinion of the court, "comes before this court upon a certificate of division of the Circuit Court of the United States for the Southern District of New York.

"It was an action of debt brought in that court by the plaintiff, to recover of the defendant, as consignee of the ship called the Emily, the amount of certain penalties imposed by a statute of New York, passed February 11th, 1824; entitled, An act concerning passengers in vessels coming to the port of New York.

"The statute, amongst other things, enacts, that every master or commander of any ship, or other vessel, arriving at the port of New York, from any country out of the United States, or from any other of the United States than the State of New York, shall, within twenty-four hours after the arrival of such ship or vessel in the said port, make a report in writing, on oath or affirmation, to

* *Peters's Reports*, vol. xi, p. 130.

the mayor of the city of New York, or, in case of his sickness, or absence, to the recorder of said city, of the name, place of birth, and last legal settlement, age and occupation, of every person who shall have been brought as a passenger in such ship or vessel, on her last voyage from any country out of the United States into the port of New York, or any of the United States, and from any of the United States other than the State of New York, to the city of New York, and of all passengers who shall have landed, or been suffered or permitted to land, from such ship, or vessel, at any place, during such her last voyage, or have been put on board, or suffered, or permitted to go on board of any other ship or vessel, with the intention of proceeding to the said city, under the penalty on such master or commander, and the owner or owners, consignee or consignees of such ship or vessel, severally and respectively, of seventy-five dollars for every person neglected to be reported as aforesaid, and for every person whose name, place of birth, and last legal settlement, age, and occupation, or either or any of such particulars, shall be falsely reported as aforesaid, to be sued for and recovered as therein provided."

From this statement of the case by the court, it clearly appears that the principle involved in the New York law was identical with the principle involved in the South Carolina law, so far as concerned the Constitutional power to pass it, and that is the point we are now upon. On this point, and in direct reply to Mr. Wirt's view, the court say:

"We shall not enter into any examination of the question, whether the power to regulate commerce, be or be not exclusive of the States, because the opinion which we have formed renders it unnecessary: in other words, we are of opinion that the act is *not a regulation of com-*

merce, but of police; and that being thus considered, it was passed in the exercise of a power which *rightfully belonged to the States.*

"That the State of New York possessed power to pass this law before the adoption of the Constitution of the United States, might probably be taken as a truism, without the necessity of proof. But as it may tend to present it in a clearer point of view, we will quote a few passages from a standard writer upon public law, showing the origin and character of this power.

"Vattel, book 2d, chap. 7th, sec. 94. 'The Sovereign may forbid the entrance of his Territory, either to foreigners in general, or in particular cases, or to certain persons, or for certain particular purposes, according as he may think it advantageous to the State.'

"Ibid. chap. 8, sec. 100. 'Since the lord of the Territory may, whenever he thinks proper, forbid its being entered, he has, no doubt, a power to annex what conditions he pleases, to the permission to enter.'"

We have seen that this Right of Eminent Domain here referred to still resides in the States under the Constitution.* But to proceed with the decision:

"The power then of New York to pass this law having undeniably existed at the formation of the Constitution, the simple inquiry is, whether by that instrument it was taken from the States, and granted to Congress; for if it were not, it yet remains with them.

"If, as we think, it be a regulation, not *of commerce, but police;* then it is not taken from the States. To decide this, let us examine its purpose, the end to be attained, and the means of its attainment.

"It is apparent, from the whole scope of the law, that the object of the Legislature was, to prevent New York

* *Ante*, vol. i, pp. 82, 192, 493; *et ante*, p. 42.

from being burdened by an influx of persons brought thither in ships, either from *foreign countries*, or *from any other* of *the States;* and for that purpose a report was required of the names, places of birth, etc., of all passengers, that the necessary steps might be taken by the city authorities, to prevent them from becoming chargeable as paupers.

"Now, we hold that both the end and the means here used, are within the competency of the States, etc. * * 'The Federalist, in the 45th number, speaking of this subject, says: the powers reserved to the several States, will extend to all the objects, which in the ordinary course of affairs, concern the lives, liberties, and properties of the people; and the internal order, improvement, and prosperity of the State.'

"And this Court, in the case of Gibbons *vs.* Ogden, 9 Wheat. 203, which will hereafter be more particularly noticed, in speaking of the inspection laws of the States, say: they form a portion of that immense mass of legislation which embraces everything within the Territory of a State, not surrendered to the General Government, all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, etc.

"Now, if the act in question be tried by reference to the delineation of power laid down in the preceding quotations, it seems to us that we are necessarily brought to the conclusion, that it falls within its limits. There is no aspect in which it can be viewed in which it transcends them. If we look at the place of its operation, we find it to be within the territory, and, therefore, within the jurisdiction of New York. If we look at the person on whom it operates, he is found within the same Terri-

tory and jurisdiction. If we look at the persons for whose benefit it was passed, they are the people of New York, for whose protection and welfare the Legislature of that State are *authorized* and *in duty bound* to provide.

"If we turn our attention to the purpose to be attained, it is to secure that very protection, and to provide for that very welfare. If we examine the means by which these ends are proposed to be accomplished, they bear a just, natural, and appropriate relation to those ends.

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"There is, then, no collision between the law in question, and the acts of Congress just commented on; and, therefore, if the State law were to be considered as partaking of the nature of a commercial regulation; it would stand the test of the most rigid scrutiny, if tried by the standard laid down in the reasoning of the court, quoted from the case of Gibbons against Ogden.

"*But we do not place our opinion on this ground.* We choose rather to plant ourselves on what we consider *impregnable positions.* They are these: That a State has the same undeniable and unlimited jurisdiction over all persons and things, within its territorial limits, as any foreign nation; where that jurisdiction is not surrendered or restrained by the Constitution of the United States. That, by virtue of this, it is not only the *right,* but *the bounden and solemn duty* of a State, to advance the *safety, happiness* and prosperity of its people, and to provide for *its general welfare,* by *any* and *every act of legislation,* which *it may deem* to be conducive to these ends; where the power over the particular subject, or the manner of its exercise is not surrendered or restrained, in the manner just stated. That all those powers which relate to merely municipal legislation, or what may, perhaps, more properly be called *internal police,* are not thus

surrendered or restrained; and that, consequently, in relation to these, the authority of a State is *complete, unqualified*, and *exclusive.*

"We are aware, that it is at all times difficult to define any subject with proper precision and accuracy; if this be so in general, it is emphatically so in relation to a subject so diversified and multifarious as the one which we are now considering.

"If we were to attempt it, we should say, that every law came within this description which concerned the *welfare of the whole people of a State*, or any individual within it; whether it related to their rights, or their duties; whether it respected them as men, or as citizens of the State; whether in their public or private relations; whether it related to the rights of persons, or of property, of the whole people of a State, or of any individual within it; and whose operation was within the territorial limits of the State, and upon the persons and things within its jurisdiction. But we will endeavor to illustrate our meaning rather by exemplification, than by definition. *No one will deny, that a State has a right to punish any individual found within its jurisdiction*, who shall have *committed an offence within its jurisdiction, against its criminal laws.* We speak not here of foreign ambassadors, as to whom the doctrines of public law apply. We suppose it to be equally clear, that a State has as much *right to guard*, by *anticipation*, against the commission of an offence against its laws, as to inflict punishment upon the offender *after* it shall have been committed. The *right* to *punish* or to *prevent* crime, does in no degree depend upon the *citizenship of the party* who is obnoxious to the law. The alien who shall just have set his foot upon the soil of the State, is just as subject to the operation of the law, as one who is a native

citizen. In this very case, if either the master, or one of the crew of the Emily, or one of the passengers who were landed, had, the next hour after they came on shore, committed an offence, or indicated a disposition to do so; he would have been subject to the criminal law of New York, either by punishment for the offence committed, or by *prevention* from its commission where *good ground for apprehension* was shown, by being required to enter into a recognizance with surety, either to keep the peace, or be of good behavior, as the case might be; and if he failed to give it, by liability to be *imprisoned* in the discretion of the competent authority.

* * * * * * * *

"We think it as competent and as necessary for a State to provide *precautionary measures* against the *moral* pestilence of paupers, vagabonds, and possibly *convicts;* as it is to guard against the physical pestilence, which may arise from unsound and infectious articles imported, or from a ship, the crew of which may be laboring under an infectious disease."*

This decision of the Supreme Court covered every principle of Constitutional power involved in the act of South Carolina as a police regulation of the State, and so fully and clearly sustained the position of the Governor and Legislature of that State in that view of it, that nothing further was done by the Federal Authorities upon the subject. You see it fully meets and completely answers your views as to the rights of the citizens of Massachusetts in South Carolina, under the Constitution. When they are in South Carolina, they are upon the same footing as the citizens of that State, so far as concerns the criminal law of the State; and that imprisonment may be as rightfully resorted to, to *prevent*

* *Peters's Reports*, vol. xi, p. 130, *et sequentes.*

the commission of crime, as to punish it after its commission.

But besides this, I refer you to what Justice McLean, who was well known to be no sympathizer with Slavery, said, in his separate opinion delivered from the Bench of the Supreme Court of the United States, in the case of Groves *vs.* Slaughter, as late as 1841. In that opinion, this eminent jurist said:

"Each State has a right—to guard its citizens against the inconvenience and dangers of a slave population. The right to exercise this power by a State is higher and deeper than the Constitution. The evil involves the prosperity, and may endanger the existence of a State. Its power to *guard against*, or to remedy the evil, rests upon the law of self-preservation; a law vital to every community, and especially to every Sovereign State."*

It very clearly appears from these decisions of the Supreme Court of the United States, that South Carolina acted strictly within her Constitutional rights, in the passage of the law in question. There was no violation of the Constitution by it, either intentionally or otherwise. This is not pretended to be the case in reference to those acts of the Legislatures of the Northern States to which I have referred. You admit that those States did intentionally and avowedly violate their obligations under the Constitution; while South Carolina not only did not avow, nor intend any such thing, but stands perfectly justified in all she did in this matter by the judgment of the highest judicial Tribunal of the land!

What becomes, now, of your plea of justification, so far as concerns this act of South Carolina? Not being sustained by the facts, it cannot be permitted to go with the confession of guilty, on the part of the Northern

* *Peters's Reports*, vol. xv, p. 508.

States referred to, even in mitigation of the great wrong established by that confession. Moreover, South Carolina did not object to a judicial judgment upon her acts. The mission of Mr. Hoar was not intended for the purpose of obtaining an adjudication by the Supreme Court of the United States on this law. He went down to South Carolina on a mission really of strife. It was to stir up ill blood. If any persons aggrieved under the operation of this act, or any other law of South Carolina, had been disposed to seek redress by suits at law, actions could have been brought, either in the State Courts or the Federal Courts, as well without his mission as with it. By the terms of this law, as appears in another part of it, a public registry was required to be made of all persons so put in custody or imprisoned, which was open to the inspection of any and every person.

Whether the action of the people of Charleston towards Mr. Hoar (which, by-the-by, was nothing but an urgent request by some of the most respectable citizens for him to leave, lest his presence on such a mission might excite a mob,) was politic or not, is not the question. The question we have in hand is, whether the act of the Legislature alluded to was, or was not Constitutional? We have seen that it was; and that the plighted faith of South Carolina was in no way sullied or tarnished by its adoption. So you will have to present some other, and very different instance, before you can make good your assault upon my position, that no State of the South was ever untrue to her plighted faith under the Constitution. I repeat, no instance of the kind can be named.

The proverb, about casting stones, is a very good one, when properly applied. In this instance, however, the whole force of its logic, as well as its rhetoric, recoils with

damaging effect upon him who uses it. These Northern States referred to, were the dwellers in glass houses, who charged the Southern States with violating the Constitution when they were the only violators of it themselves.

But, Judge Bynum asks if Judge Chase's proposition was not a fair and just one for the admitted breach of the Compact on their part; and even assumes to think that I could not but have so considered it, as well as all other fair-minded men everywhere. To this, it would be enough for me to say, that there was no *obligation* on the part of the Southern States to accept it, even if they had thought it fair and just. It was not in accordance with the provisions of the Compact. It could in effect be considered in no other light than a proposition to amend the Constitution in this particular. In this view, it was certainly a matter of discretion entirely with them, whether they would agree to it or not. In the exercise of this discretion, they did not agree to it. How far they were influenced by the consideration that a people, who would not stand to the terms of one Compact, might not stand to those of another, I do not know. It is quite sufficient that they did not agree to it, and they had a perfect right to refuse so to do.

How then stood the political as well as moral aspect of the question? Politically, this failure to perform their obligations under the existing Compact, as it was, on the part of the Northern States, according to the universal principles of public law, totally absolved their Southern Confederates from any further obligations under it. This principle of public law cannot be denied. If that Party, then controlling these derelict States, from an enlightenment of their consciences, had been brought to see that this Compact of their Fathers was founded in sin, or, in other words, if they had come to see that the Constitu-

tion, as it was made, and as it then stood, was but "a Covenant with Death and an Agreement with Hell," as many of the leading men of this party declared, and as nearly all really believed, not excepting even the Judge himself, (as we may legitimately infer from his remarks,) what, then, was their proper course as a truly moral and upright people? Was it not peacefully to withdraw from an alliance founded upon such "a summation of all iniquity," or at least to permit those peacefully to withdraw with whom they were bound in stipulations, which they confessed they could not in conscience perform? Ought they not to have agreed to separate in peace? If the Compact was in truth so founded in sin, in violation of the laws of God, it was utterly void from the beginning. No rights or obligations could arise under it on either side. The parties were remitted to their original positions. They stood towards each other just as they did before it was made. I fully agree to the doctrine of a higher law—that Supreme law of right, ordained by the Most High, which governs the moral universe, and to which all human laws, as well as Compacts, must conform.

But what sort of Christian consciences must an intelligent world think those people possessed, who could and did swear to support and defend a Compact at the same time they held it to be so great a sin in the sight of men and of God? Who refused to perform an acknowledged obligation, and yet in the face of this refusal, insisted upon holding on to all the advantages of the Compact, to them, even at the point of the bayonet? This seems to me to be a strange enlightenment of conscience! Such an enlightenment it seems to me could not have come from studying the precepts of Him who said, "as ye would that men should do to you, do ye also to them likewise." This does not imply, much less enjoin, that

there should be no distinctions in society, and no differences between the relations of the various members of it towards each other. It clearly means that all, of every class and condition in life, at all times and under all circumstances, should do unto others as they would have others do unto them, on a reversal of relative positions. In this sense, it is equally applicable to the high and the low, the rich and the poor, the judge and the convict, the ruler and the ruled, the parent and the child, the guardian and the ward, the teacher and the pupil, the employer and the laborer, the master and the slave!

This is the whole of it, and upon this view of this precept, however unholy the war with Mexico may have been, in the estimation of Judge Bynum, or any one else, he must permit me to say that this war, so waged under the circumstances as stated by himself, must, by all right-minded men, ever be considered infinitely more wicked, and much more horribly sinful, if the doctrines of Christ are to be taken as the standard.

But, besides this, I say to him that I did not consider Judge Chase's proposition either fair or just. There was no such change of circumstances, as he stated. The relations of the Parties to the Compact remained just as they were left when it was made; nor did he propose an *equitable* equivalent for its breach. The penalty for a failure to perform, was under his proposition, not to fall exclusively upon the delinquents. The money equivalent was to come out of the common Treasury, and to be equally contributed by the faithful and the faithless. It was, therefore, not just either to the Southern States, or those Northern States who were true to their engagements.

One digression I am here compelled to make in following Judge Bynum. He speaks of Slavery as it existed

with us, as a "sin in the sight of men and in the sight of God"—as the "summation of all iniquity!" I stated in the outset that the right or wrong of this Institution did not legitimately come within the purview of our present discussion. That related exclusively to the rightful powers of the Federal Government over it, to interfere with it in any way, except as is expressly provided in the Compact. But these remarks of his demand notice. They require a reply. In replying briefly as possible, but pointedly, I have to say I know of but one sure standard in determining what is, and what is not sin or sinful. That standard is the written law of God as prescribed in the Old and the New Testament. By that standard the relation of master and slave, even in a much more abject condition than existed with us, is not founded in sin. Abram, afterwards called Abraham, the father of the faithful, with whom the Divine Covenant was made for man's salvation and the redemption of the world from the dominion of sin, was a slave-holder. He was enjoined to impart the seal of this everlasting covenant not only to those who were born in his house; but to those who were "bought with his money." It was into his bosom, in Heaven, that the poor man, who died at the rich man's gate, was borne by angels, according to the Parable of the Saviour. Job certainly was one of the best men we read of in the Bible. He was a large slave-holder. So, too, were Isaac and Jacob and all the Patriarchs. The great moral law which defines sin, the Ten Commandments given to Moses on Mount Sinai, written on stone by the finger of God himself, expressly recognizes Slavery, and enjoins certain duties of masters towards their slaves. The chosen people of God, by the Levitical Law, proclaimed under divine sanction, were authorized to hold slaves—not of their own race—(of these they were to hold bondmen for

a term of years)—but of the Heathen around them—of these they were authorized to buy slaves "bondmen and bondwomen," for life, who were to be to them "an inheritance" and "possession forever."

Slavery existed when the gospel was preached by Christ and his Apostles, and where they preached it was all around them. And though the Scribes and Pharisees were denounced by Christ for their hypocrisy and robbing widows' houses and divers other sins, yet not a word did he utter, as far as we are informed, against slaveholding. On the contrary, he said he had not found so great *faith* in all Israel, as in the slave-holding Centurion! Was he truckling to a Slavery Oligarchy when he made this declaration? In no place in the New Testament is the relation of master and slave spoken of as sinful. Several of the Apostles alluded to it; but none of them, not one of them, condemned it as sinful in itself, or as violative of the laws of God, or even of Christian duty. They enjoin the relative duties of both masters and slaves. Paul sent a fugitive slave, Onesimus, back to Philemon his master. He did not consider it any violence to his conscience to do this, even when he was under no stipulated obligation to do it.

He frequently alludes to Slavery in his letters to the Churches, but in no case speaks of it as sinful. What he says in one of these epistles, I must read to you. It is the first five verses of chapter vi. of the First Epistle to Timothy:

1. "Let as many servants" (δουλοι, in the original, which according to Robinson's Greek and English Lexicon, which you can see, means slaves, or those bound to serve, and were the property of their masters,) "as are under the yoke count their own masters worthy of all honor, that the name of God and *his* doctrine be not blasphemed.

2. "And they that have believing masters," (according to the judge's idea, there could be no such thing as a Slave-holding believer, but so did not think Paul,) "let them not despise" (καταφρονειτωσαν, that is, as it might better be rendered, think slightly of, or neglect) "*them*, because they are brethren; but rather do *them* service, because they are faithful and beloved, partakers of the benefit. These things teach and exhort.

3. "If any man teach otherwise, and consent not to wholesome words, *even* the words of our Lord Jesus Christ, and to the doctrine which is according to godliness;

4. "He is proud, knowing nothing, but doting about questions and strifes of words, whereof cometh envy, strife, railings, evil surmisings,

5. "Perverse disputings of men of corrupt minds, and destitute of the truth, supposing that gain is godliness: from such withdraw thyself."

Can we suppose that Paul would have so written, if he had considered that there was anything morally wrong in the relation of master and slave, much less if he had looked upon it as the "summation of all iniquity;" and if our Ministers of the Gospel did continue to teach the same doctrine, to enjoin the same duties upon master and slave, can it be justly said that they thereby "desecrated the Temples of the Living God?" If they withdrew themselves from those who taught otherwise, and whose doctrines brought "envy, strife, railings," and finally war, did they not follow the advice of the great Apostle of the Gentiles, and likewise the words, as he affirms, of our Lord Jesus Christ, "that the name of God and *his* doctrine be not blasphemed?"

It is not, as I have said, within the purview of this discussion, to speak of the right or wrong of Slavery morally,

or the evils of the Institution politically, arising from an abuse of power under it, any more than it is to speak of the institution of marriage, or the relation of parent and child, as it is regulated in any State. These are matters which under the Federal system belong exclusively to the several States. What I have here said in reply to Judge Bynum, is therefore a digression. From this I will now return, with but one single additional remark upon what he has said on this point; and that is this: To maintain that Slavery is *in itself sinful*, in the face of all that is said and written in the Bible upon the subject, with so many sanctions of the relation by the Deity himself, does seem to me to be little short of blasphemous! It is a direct imputation upon the wisdom and justice, as well as the declared ordinances of God, as they are written in the inspired oracles, to say nothing of their manifestation in the universe around us.*

* James H. Hammond, of South Carolina, one of the most intellectual men this country ever produced, when Governor of his State, in 1844, in reply to a communication he received from the Free Church of Glasgow, Scotland, upon the subject of Slavery, amongst other things, said:

"Your memorial, like all that have been sent to me, denounces Slavery in the severest terms; as 'traversing every law of nature, and violating the most sacred domestic relations, and the primary rights of man.' You and your Presbytery are Christians. You profess to believe, and no doubt do believe, that the laws laid down in the Old and New Testaments for the government of man, in his moral, social and political relations, were all the direct revelation of God himself. Does it never occur to you, that in anathematizing Slavery, you deny this divine sanction of those laws, and repudiate both Christ and Moses; or charge God with downright crime, in regulating and perpetuating Slavery in the Old Testament, and the most criminal neglect, in not only not abolishing, but not even reprehending it, in the New? If these Testaments came from God, it is impossible that Slavery can 'traverse the laws of nature, or violate the primary rights of man.' What those laws and rights really are, mankind have not agreed. But they are clear to God; and it is blasphemous for any of His creatures to set up their notions of them in opposition to His immediate and acknowledged Revelation. Nor does *our* system of Slavery outrage the most sacred domestic relations.

To return, then, to other points presented by Judge Bynum.

In one thing he has done me full justice, and that was in his assumption, that I had no sympathy with any conspirators or conspiracy aiming at the overthrow of the Constitution of the United States, with the view of establishing a "Slavery Dynasty" in its stead. If any such body of men existed in the country, they certainly had no sympathy from me. Nay, more, if any such body was organized in Washington or elsewhere, or had any existence anywhere, it was wholly unknown to me. I think it had existence, if he will allow me respectfully to say so, only in his imagination, and that of others who have written fictions called histories. The only real conspiracy against the Constitution organized in Washington, as I understand it, was that of the seven Governors, from seven Northern States, who assembled there, and by their mischievous machinations caused Mr. Lincoln to change his purpose as to the evacuation of Fort Sumter. Caused him to fail to "keep faith as to Fort Sumter." This was the conspiracy which inaugurated the war. It was a conspiracy well typified by the Seven Headed monster Beast in the Apocalypse! The analogy I will not stop to trace, striking as it is, but will follow the Judge.

He quotes from my speech on the annexation of Texas. He did not, however, quote fully. In that speech I said, and said truly, that I was "no defender of Slavery in the *abstract*." I was speaking of it *politically* and not *morally*, and of Slavery in the *general sense* of

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Husbands and wives, parents and children, among our Slaves, are seldom separated, except from necessity or crime. The same reasons induce much more frequent separations among the white population in this, and, I imagine, in almost every other country."

See "*Speeches and Letters*" of Hon. J. H. Hammond, p. 107.

that term applied to men of the same race, and not as it existed in the States of this Union. This was true then, and now, and always with me. I said also on that occasion, in the next sentence, and now repeat, that "Liberty always had charms for me, and I would rejoice to see all the sons of Adam's family, in every land and clime, in the enjoyment of those rights which are set forth in our Declaration of Independence as 'natural and inalienable,' if a *stern necessity*, bearing the marks and impress of the hand of the Creator himself, did not, in some cases, interpose and prevent. Such is the case with the States where Slavery now exists."

Here is that speech. The Judge was as much at fault in his memory in regard to it, as he was in regard to the Union speech of 1860.

There is, moreover, nothing in the "Corner-Stone" speech, as he calls it, inconsistent with the sentiments delivered in the Texas speech. Here is the "Corner-Stone" speech, also. In it I said:

"Many Governments have been founded upon the principle of the subordination and serfdom of certain classes of the same race; such were, and are in violation of the laws of nature. Our system commits no such violation of nature's laws. With us, all of the white race, however high or low, rich or poor, are equal in the eye of the law. Not so with the negro. Subordination is his place. He, by nature, or by the curse against Canaan, is fitted for that condition which he occupies in our system. The architect, in the construction of buildings, lays the foundation with the proper material—the granite; then comes the brick or the marble. The substratum of our society is made of the material fitted by nature for it, and by experience we know that it is *best*, not only for the *Superior*, but for the *Inferior race*,

that it should be so. It is, indeed, in conformity with the ordinance of the Creator. It is not for us to inquire into the wisdom of his ordinances, or to question them. For his own purposes, he has made one race to differ from another, as he has made 'one star to differ from another star in glory.'

"The great objects of humanity are best attained when there is conformity to his laws and decrees, in the formation of Governments as well as in all things else. Our Confederacy is founded upon principles in strict conformity with these laws. This stone which was rejected by the first builders 'is become the chief of the corner'—the real 'corner-stone'—in our new edifice."

In the corner-stone metaphor, I did but repeat what Judge Baldwin of the Supreme Court of the United States, had said of the Federal Government itself, in the case of Johnson *vs.* Tompkins. In that case he declared that "the foundations of this Government are laid, and rest on the rights of property in slaves, and the whole fabric must fall by disturbing the corner-stone."*

It was disturbed, as we have seen, and the only intended difference between the old "edifice" and the "new," in this respect, was to fix this corner-stone more firmly in its proper place in the latter, than it had been in the former. This is the substance of that speech; and there is no conflict between the sentiments expressed in both upon the same subject matter.

So much for all these points, irrelevant as all of them, and *ad hominem* as some of them are, which have been presented by the Judge. I assure him, none of them announced any *truth* which hurts in the least, according to the Petigru rule. But what bearing have they upon the matter under immediate consideration?

* *Sectional Controversy*, by Wm. Chauncey Fowler, LL.D., p. 267.

How stands the issue between us as to the *character* of the *conflict* about Slavery? My position was that in the Federal Councils and before Federal Authorities it was not a conflict between the advocates of the system of Slavery, as it existed, and its opponents, as Mr. Greeley has treated it throughout; but that it was in all its stages and phases so far as Federal Politics were concerned, a conflict between those who claimed, and those who denied, that the Federal Authorities had any rightful power, under the Constitution, to take any action whatever upon it, with a view to its immediate or ultimate extinction, or its regulation in any way in contravention of the Rights of the States.

By Judge Bynum's reference to the Congress of the Colonies and what occurred upon drawing up the Declaration of their Independence, or subsequently, has he stated a single fact to unsettle or even jostle that position? Why was the Declaration finally made without any allusion to the subject? Was it not because it was a matter over which each Sovereign State was to exercise its own discretion as it ought to? Was not Mr. Jefferson, the draftsman of that instrument, as much opposed to Slavery as Mr. Adams, or Dr. Franklin, or Roger Sherman, or Robert R. Livingston, his colleagues on the committee, and all of whom, except himself, were Northern men? Did he who penned that soul-stirring defiance to British power "*truckle*" to the "insolent" demands of any miserable "*Slavery Oligarchy*," or did John Adams, Dr. Franklin, Roger Sherman, or Robert R. Livingston, to say nothing of John Hancock, and others who voted for it, as it stands, so "*truckle*?" Did the Supreme Court so truckle in declaring the Constitution to be as they did, in the case I have read? Especially did Justice McLean, well known to have been an opponent of Slavery, as I

have said, so truckle in delivering the opinion cited from him?

In a word, has the Judge ventured to deny a single fact, stated by me in our last Colloquy, in relation to the nature of this conflict, and the position of the great names mentioned upon it, from the time of its first introduction in Congress down to the election of Mr. Lincoln? He has not, and I am sure he will not. We are bound, therefore, to take it as a fact, admitted by silence, at least, that the conflict on this subject in the Federal Councils and before Federal Authorities, was not one between the "principles of human rights and human bondage" at all; but that it was a conflict between the advocates and supporters of a Federal Government, with limited and specific powers, on the one side, and those who favored Centralism and Consolidation on the other.

The States South were all on the side of the Constitution. They never invoked any stretch of Federal power to aid or protect that peculiar Institution, either in the States or Territories. Their position from the beginning to the end, upon the Territorial question, was "*non-intervention*," by Congress, either for or against the Institution. All they asked of Congress, in this particular, was simply not to be denied equal rights in settling and colonizing the common public domain, and that the people in these inchoate States might be permitted to act as they pleased upon the subject of the *status* of the Negro race amongst them, as upon all other subjects of internal policy, when they came to form their Constitutions for admission into the Union, as perfect States upon an equal footing with the original Parties, without dictation or control from the Federal Authorities, one way or the other. They claimed the same Sovereign Right of local Self-government on the part of these new States

which was the moving cause of the Declaration of Independence, and was the basis upon which our whole system of Government rested. This was their position on the admission of Missouri, and their position throughout. They never asked the Federal Government to extend, or strengthen their particular interest in any such way, as stated. No case of the kind can be named.

Major Heister. How about the acquisition of Louisiana and Florida, and the annexation of Texas?

Mr. Stephens. Louisiana cannot be said to have been acquired by the Southern States. It is true, that Mr. Jefferson, a Southern man, was the President under whose auspices the treaty for it was negotiated; and it is true, he doubted whether he was fully authorized, under the treaty-making power to enter into such a negotiation. The acquisition, however, was of so much importance, in his opinion, not for the advancement of the interest of the "Slave Power," however, but for the benefit and welfare of the great Northwest, as well as the Union generally, that he thought it best not to permit the occasion for its acquisition to pass, preferring to submit the question to Congress for an amendment of the Constitution, after the acquisition, if it should be thought to be necessary, than to let the then favorable opportunity pass, which might never again recur, without securing, when he could, the great public advantages of the acquisition. But the overwhelming opinion North and South, was that the treaty-making power was sufficient, that there was no violation of the Constitution in the acquisition, and this view of the case was afterwards fully sustained, by the Supreme Court, in the case of The American Insurance Company *vs.* Canter,* and subsequently re-affirmed in a great many cases.

* *Peters's Reports*, vol. i, p. 511.

So there was no breach of the Constitution in that matter, and especially none that can be properly laid to the charge of the Southern States, or the "Slave Power" *so-called*. For Mr. Jefferson under whose auspices, as President, the treaty was negotiated, was as much opposed to the Institution of Slavery, as it existed in the United States, as any man in the whole country; and, moreover, Northern States joined in carrying out the treaty and approved it as heartily as the Southern States did. So in the acquisition of Florida. The treaty with Spain by which that Territory was secured was negotiated by Mr. John Quincy Adams, who cannot be supposed to have been actuated by any undue desire to pander to the "Slave Power" in doing it, or to strengthen in any way the particular interests of the Southern States. This view of Judge Bynum about the acquisition of Louisiana, Florida and Texas, I cannot answer more pointedly than I did when the same view was presented in the House of Representatives by Mr. Campbell, of Ohio, in 1855. The answer then given him, I then thought, and still think, was conclusive upon the subject. What I then said to Mr. Campbell, I now repeat to Judge Bynum on that point:*

"To this I say, it was not the South alone that secured the acquisition of Louisiana. Nor was it alone for the benefit of the South. There were but twenty-three votes in this House against that acquisition. It was a national acquisition. Sustained by national men from all sections, there was hardly a show of opposition to it from any quarter. I should suppose that Ohio would be the last State in this Union to raise her voice against that measure, or hold that it was exclusively for the benefit of the South. What would have become of her

* *Cong. Globe, App.*, vol. xxxi, p. 103.

trade and commerce if Louisiana and the mouth of the Mississippi were still in the hands of Spain or France? If the fifteen millions of money, which we paid, be the grounds of the gentleman's objection, all that has been more than refunded by the sale of public lands embraced within the limits of that acquisition. These sales, up to this time, have amounted to $25,928,732.23, besides what is yet to be realized from the hundreds of thousands of square miles yet to be sold. So the fifteen millions was no bonus to the South, even if the South had carried the measure for their own benefit.

"Again, was the acquisition of that territory made to extend the southern area of the country? Let us examine this view of the subject. What extent of territory was comprised within the limits of Louisiana? It extended not only far up the Mississippi river, to Iowa and Minnesota, but westward to the Rocky Mountains, even, without now mooting the question whether Oregon was not then acquired. Grant, for the sake of this argument, that Oregon was not then acquired. The Territory of Louisiana stretched from the extreme south on the Gulf to the extreme north on parallel 49° of north latitude. All that immense domain, including Kansas and Nebraska, was part of it. Was all this Southern territory? The object of the gentleman from Ohio in alluding to this subject seemed to be to intimate that all this acquisition was for the South. But how is the fact? Let us look at it. By this acquisition, taking all the Indian Territory into account, the South acquired only 231,960 square miles, while the North got by it 667,599 square miles! Is this the way the South is to be taunted? When the very acquisition, held up as the taunt, brought more than double the extent of territory to the North than it did to the South!

"Again, in the acquisition of Florida, the gentleman from Ohio says, that the South carried that measure at a cost of $5,000,000. This is the tenor of his argument. Sir, this measure was not carried by the South, nor for the South exclusively. There was not even a division in this House on the question. As to the extent of the acquisition, if we did not get Oregon when we acquired Louisiana, we certainly acquired it when we purchased Florida. It was by the treaty then made that we got Spain's relinquishment to Oregon. The North, by this measure, got 308,052 square miles of territory, including the Territories of Oregon and Washington, while the South got only the State of Florida, 59,268 square miles. If the South carried this question by her votes, I ask, were those who gave the votes sectional in their policy? Did not the South, if that be the gentleman's argument, gain quite as much, nay, more, nay, double, nay, more than five times as much territory for the North in that acquisition, as she obtained for herself? Again, in the acquisition of Texas, considering the Mexican war as part of that proceeding, as the gentleman does, the South only secured 237,504 square miles, while the North secured 632,157 square miles, including California, New Mexico, and Utah."

In another part of the same speech I also said, what may here be very properly repeated; for it is true, that the Southern States never did appeal to the Federal Government for any aid or protection, or legislation which did not lie clearly within the stipulations of the Articles of Union. They not only did not violate any of these stipulations, but never looked to that Government for the exercise of any power with a view to the advancement of their material interests. What I then said upon that subject, and now repeat, is in these words:

"The gentleman says, in his speech, 'we are told that the South gets nothing, that the South asks nothing.' Now, sir, in my reply to the gentleman from Indiana, [Mr. Mace,] I spoke of the great fact, well known, living, and 'fixed fact,' that the industrial pursuits of the South do not, in the main, look for the protection or fostering care of the Government, and that the general industrial pursuits of the North do. I did not say that the South gets nothing, or that the South asks nothing. I said that the South asks but few favors; and I repeat it, sir. Nor am I to be answered by being told that General Jackson and Mr. Clay—Southern men—were in favor of fostering, as far as they could by proper legislation, the interests of the North. That does not disprove the fact which I uttered, that the South does not generally look to the Government for protection, and that the North does. Sir, it rather proves the opposite, and confirms my statement. Because I stated that the industrial pursuits of the North look to the Government for protection, is that statement disproved by the fact that Southern men, or even myself, have voted to favor those interests, as far as was consistent with public duty? So far from disproving, it tends rather to establish it. What I stated on this point was in reply to the gentleman from Indiana, whose tone of argument was, that the South carried measures promotive of their interest by bluster."

The truth is they asked nothing of the sort, except the performance, in good faith, of the clearly stipulated covenants of the Constitution by all the Parties to it. I was in Congress sixteen years, and never, during that whole period, asked the passage of any law for the particular interests of my constituents, except the establishment of Post Roads, and the making of the city of Augusta a Port of Delivery. I do not mean to say that the Legislatures

of the Southern States never passed any acts which were in violation of some of the provisions of the Constisution. Far from that. Many such acts were passed by them, as by Northern States, which were set aside and declared void by the Courts, either State or Federal. But what I do mean to affirm is, that no Southern State ever did, intentionally or otherwise, fail to perform her obligations to her Confederates under the Constitution, according to the letter and spirit of its stipulated covenants, and that they never asked of Congress any action, or invoked their powers upon any subject, which did not lie clearly within the provisions of the Articles of Union.

This, Major Heister, I think is quite enough to satisfy you and even the Judge himself, upon cool reflection, that there was no breach of the Constitution in the acquisition of Louisiana, Florida, or Texas, and if there was, the breach cannot properly be laid at the door of the Southern States, and, above all, that it was not made with a view of advancing *their* interests exclusively—much less was it carried by the undue power of the "three-fifths representation," to which he has alluded.

On this point of the "three-fifths" representation clause of the Constitution, I should have been amazed at what Judge Bynum said, if I had not so often heard the same thing stated by others of equally high position and equally distinguished for general intelligence: but he will allow me to say, most respectfully, that it is utterly without foundation, in fact. There is no clause in the Constitution, the history or effects of which seem to be so little understood by men of note and high standing, both at the North and South, as this. It is not among the *compromises*, so-called, of the Constitution at all. It was not carried by any bluster, insolence, or dictation, or even demand of Southern members in the Convention.

It did not emanate in that body from the Slavery interest, so-called, or any one connected with it, and its effects whether so designed or not, have been greatly to weaken and lessen the just powers in the Federal Government of these States, in which Slavery existed, instead of strengthening and enlarging them.

PROF. NORTON. I agree with you about the acquisition of Louisiana, Florida, and Texas as well as on the question of sin in the matter of Slavery. I never could concur with those who maintained that the relation of master and slave was sinful in itself, though great sins, I think, did grow out of it, or might have been traced to it, as their immediate cause.

MR. STEPHENS. The same may be said of every other relation of life.

PROF. NORTON. Well, we will not argue that question. What I was going to say is, that while I agree with you on the points stated, I think, on this "*three-fifths*" slave representation, you must be in error.

MR. STEPHENS. Not at all. The proposition in the Convention came from James Wilson, the distinguished member from Pennsylvania. It was offered at an early day in their proceedings, on the 11th of June. Here is the Journal.* It was offered in this way:

Mr. Rufus King, of Massachusetts, had submitted a Resolution that the vote in the House of Representatives ought not to be as it was under the Articles of Union as they then were: that is, that each State ought not, in that Branch of the Congress about to be established, to be entitled to an equal vote without regard to population, but that the votes in that Branch of the Congress ought to be according to some equitable ratio of Representation.

Whereupon, Mr. Wilson offered an amendment in these words:

* *Elliot's Debates*, vol. i, p. 168.

"In proportion to the whole number of white and other free citizens and inhabitants, of every age, sex, and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each State."

This was intended to include only "three-fifths" of the Negro population of the States, who were bound to service, not for a term, but for life; in other words, it was intended that *five* negro slaves should be counted as only *three*, in fixing a basis of *popular* representation in the lower House of the Congress. His amendment was immediately adopted, and it thus stands in the Constitution. Every State in the Convention voted for it, North and South, except New Jersey and Delaware. Here is the record of the vote.* It was not carried by any bluster, insolence, threats, or menaces on the part of Southern members, or any truckling on the part of Northern members.

To understand how this came about as it did, why the amendment was so offered as it was, and so readily and generally accepted as it was, and thus became engrafted in the Constitution, we shall have to go back to the proceedings of the Congress in forming the first Articles of Union, and their proceedings under those Articles.

This examination will make the whole matter perfectly clear, and utterly refute what the Judge and others have said about this clause in our present Compact of Union.

Bear in mind, then, if you please, that the same committee which was raised by Richard Henry Lee's resolution to draw up a Declaration of the Independence of the States, in June, 1776, were instructed also to

* *Elliot's Debates*, vol. i, p. 169.

report Articles of Union and Confederation between them.*

Bear in mind, also, that this committee did report Articles of Union between the States on the 12th of July, 1776.†

These Articles, then reported, contained this, amongst other clauses. I read from the Record made by Mr. Jefferson:

"ART. XI. All charges of war, and all other expenses that shall be incurred for the common defence, or general welfare, and allowed by the United States assembled, shall be defrayed out of a common treasury, which shall be supplied by the several colonies, in proportion to the number of inhabitants of every age, sex, and quality, except Indians not paying taxes, in each colony—a true account of which, distinguishing the white inhabitants, shall be triennially taken, and transmitted to the Assembly of the United States."‡

This proposition for levying the quotas of taxes, for the Federal Treasury, which each State was to bear in equal and just proportion, rested upon the then generally received opinion that *population* was the best and most reliable standard that could be resorted to in estimating the *capacity* of any people, community or State, to raise money for taxes. It was thought that the productive capacity of a people, in the accumulation of wealth, which was the proper subject of taxation, could be more nearly arrived at by estimating their numbers than in any other way. Hence numbers, or the relative entire population of the States respectively, was thought to be the best criterion for the levy of the *quotas* to be contributed by each for the common defence.

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* *Ante*, vol. i, p. 69. † i, p. 74.

‡ *Elliot's Debates*, vol. i, p. 70.

This is apparent from the discussion on this Article.

There were, then, not over two-thirds of the slaves in all the States at the South, if General Bloomfield's estimate furnished the Convention in 1787, as it appears on their Journal, was at all correct.* Two objections, however, were raised to the Article as reported. These objections were not confined to members from the Southern States. The first was that negro slaves were *property*, and as *population*, and not *property*, was to be the basis of taxation, this species of property should not enter at all in the count of numbers. The other was much better founded in reason and justice. That was, that the value of the labor of negroes was not equal to the value of the labor of white men. That the capacity of the negro to produce wealth, was greatly inferior to that of the white man; and hence in the count the negro element, in the population of the several States, should not be rated equal to the white element. Some contended that the ratio, in this respect, should be one white person to two negro Slaves. Mr. John Adams fully answers the first objection, and insisted that there was no merit in the second. Here is what he said on both :

"Mr. John Adams observed, that the *numbers* of people are taken, by this article, as an *index* of the *wealth* of the State, and not as *subjects* of taxation; that, as to this matter, it was of no consequence by what name you called your people, whether by that of *freemen* or of *slaves;* that, in some countries, the laboring poor are called *freemen*, in others they were called *slaves;* but that the difference as to the State was imaginary only. What matters it whether a landlord, employing ten laborers on his farm, give them annually as much money as will buy them the necessaries of life, or give them

* *Elliot's Debates*, vol. i, p. 194.

those necessaries at short hand? The ten laborers add as much *wealth* to the State, increase its exports as much, in the one case as the other. Certainly five hundred freemen produce no more *profits*, no greater *surplus* for the payment of taxes, than five hundred slaves. Therefore the State in which the laborers are called *freemen* should be taxed no more than that in which are those called *slaves*. Suppose, by an extraordinary operation of nature or of law, one half the laborers of a State could, in the course of one night, be transformed into slaves; would the State be made the poorer, or the less able to pay taxes? That the condition of the laboring poor in most countries—that of the fishermen, particularly, of the Northern States—is as abject as that of slaves. It is the number of laborers which produces the surplus for taxation; and numbers, therefore, indiscriminately, are the fair index to wealth; that it is the use of the word 'property' here, and its application to some of the people of the State, which produce the fallacy.

"That a slave may, indeed, from the *custom* of *speech*, be more properly called the wealth of his master, than the free laborer might be called the wealth of his employer; but as to the State, both were equally its wealth, and should therefore equally add to the quota of its tax."

The objection on the "*property*" view, after the conclusive speech of Mr. Adams on that point, seems to have been given up, but from a failure to agree upon the proper ratio between the relative capacities of the Negroes and Whites to produce wealth, the basis of population, as a standard for levying quotas on the States, in the first Articles of Union, was abandoned, and the value of lands in the several States was adopted in lieu, as we have seen.*

* *Ante*, vol. i, page 551.

But that was not found to work well. The subject was again revived in the Congress, and a proposition was made by that body on the 18th April, 1783, to amend the Constitution in this particular, and to go back upon population as the proper basis. It was then that this "three-fifths" clause was agreed upon as the proper ratio in this respect. The matter underwent a very full discussion. It was not characterized by Sectional lines, as we see from Mr. Madison's report. The whole debate was upon the isolated point, as to how the negroes should be *rated* in the count in reference exclusively to the *efficiency* of their labor, or their relative capacity to produce wealth. Here is what he says of the position of members upon it:*

"Mr. Wolcott was for rating them as four to three.

"Mr. Carroll as four to one.

"Mr. Williamson said, he was principled against Slavery; and that he thought slaves an encumbrance to society, instead of increasing its ability to pay taxes.

"Mr. Higginson, as four to three.

"Mr. Rutledge said, for the sake of the object, he would agree to rate slaves as two to one, but he sincerely thought three to one would be a juster proportion.

"Mr. Holten, as four to three.

"Mr. Osgood said, he did not go beyond four to three."

Now, in this discussion, we see Mr. Wolcott, from Connecticut, was for rating them as four to three. Mr. Higginson, the same. Mr. Holten and Mr. Osgood, from Massachusetts, the same. Mr. Rutledge, from South Carolina, contended that *three* to *one* was a proper basis, but he would agree to two to one. While Mr. Williamson, from North Carolina, stated that "he was principled

* *Elliot's Debates*, vol. v, p. 79.

against Slavery," and looked upon the Blacks as "an encumbrance to society, instead of increasing its ability to pay taxes."

The first vote was taken on rating the slaves at three to two. On this the States were equally divided—ten only voting. It was then that Mr. Madison (well known to have been himself against Slavery), said "that in order to give proof of the sincerity of his professions of liberality, he would propose that slaves should be rated as five to three." This was accepted by Mr. Wilson, and agreed to by a decided majority of the States—two only voting against it—Rhode Island and Connecticut. Massachusetts was divided on the question.

The debates on it, when and where it originated, and when it was agreed to by the States, show that there was nothing sectional in it. When agreed to it had no reference whatever to *representation*, nor any rule or *ratio* of representation in Congress, of either *persons* or *property*. The States all, then, had an *equal vote* in the Congress, without regard to the number or character of their respective populations. But this counting of five negro slaves as equal to three white persons, was agreed upon after mature consideration, and a thorough investigation of the subject for years, as a proper *basis* of *direct taxation*, when *population* was resorted to as the proper standard of fixing the *quotas* of the States respectively.

It was offered by Mr. Wilson in the Convention that framed the Constitution, and was adopted by that body, as we have seen, unquestionably upon the then universally admitted doctrine, that *representation* in Legislative Bodies and *direct taxation* should go together. It was with this view, and upon this principle solely, and with no view to a *property* representation at all, that it was incorporated, as it is, in the Constitution. The counter-

part of this provision, which followed, as a matter of course, from the principle on which it was adopted, is the 4th Clause of the 9th Section of the 1st Article of the Constitution, which declares that,

"No Capitation, or other direct, Tax shall be laid, unless in proportion to the Census or Enumeration hereinbefore directed to be taken."

And, as I have stated, whatever may have been the design when it was offered, the effect of this "*three-fifths*" clause was greatly to weaken instead of strengthening the political power of the States in which Slavery existed. For very soon, the number of slaves in the Southern States was considerably increased by accessions from the Northern States. The acts of these Northern States, to which the Judge has referred, abolishing the Institution within their limits, were generally prospective in their character. Under the operation of these acts, humane as they were, in his estimation, the slaves in these States, were to some extent, to what is not and never will be exactly known, brought South, and sold before the period fixed for their final emancipation. Less than half, it is believed by some, in point of fact, ever became free under these acts, however philanthropic, and however inspired by the "Christian principles of the age," they may be considered by him to have been. This is the way in which many of them, at least, found a resting-place in the more Southern States.

But besides this, and mainly, it must be borne in mind, that the system of *direct taxation*, which was looked to at the time, as the chief mode of raising the ordinary revenues of the Federal Government, was soon virtually abandoned; and the Southern States, in which the slaves had almost entirely "found a resting-place," under the Northern system of Abolition, lost their full and just

popular representation under it, without the compensating advantages contemplated at the time of its adoption, in the matter of the assessment of the taxes. The taxes were raised in another way, and by this clause these States were deprived of their equal and just voice in their imposition, though they had to pay their full part of them. Under the operation of other clauses of the Constitution, by *construction*, the *principle* intended to be carried out by the adoption of this clause, was not only ignored, but reversed. Taxation and Representation did not go together. For under the indirect mode of raising the revenues of the Federal Government, there is no reason in justice, or right, or any principles of political or moral equity, whatever, why the entire population of the Southern States, should not have been taken in the estimate for a basis of popular representation in the House of Representatives, as well as the entire population in the Northern States. Instead of counting only "three-fifths" of the Negro portion of their laboring population, the whole *five-fifths* should have been counted. The fact that they were called "property," made no difference in principle, whatever, as Mr. Adams clearly showed in the speech quoted from him. The "property" in them consisted in nothing but the *legal right* to their services for life.

This legal right, on the part of the owner, was truly called "property," but it in no respect differed in kind or species of property from the *legal right* of every employer, to the service of those who, by contract or law, are bound to service for any time shorter than that of life. This *legal right* to services so due for a term ever so short, is as much "*property*" in the one case as the other. It is a "property" that is maintained in all Courts, without reference to the length of the term for

which it is due. On this view, therefore, which is just and correct, there is no reason why all those persons in the Southern States, who were bound to service for life, "should not have been counted in a census for a basis of *popular* representation, as well as all minors, apprentices, or others," bound to service for a shorter term in all the States. The owner of five slaves at the South, therefore, was not endowed, under this clause of the Constitution, with as much political power as three white men at the North. The owner of five, or a hundred, or a thousand, was endowed with no political power under it. No more than the employer of five, or a hundred, or a thousand of operatives at the North.

What have you to say to this, Prof. Norton?

Prof. Norton. I have simply to candidly acknowledge, as I do, that I did not so understand the history or the effects of this clause in the Constitution. I have all my life been of the opinion, how I got it I do not know, that this three-fifths representation of the slaves of the South, was a property representation, and was a concession on the part of the North to demands of the South. It seems that I have been mistaken.

Mr. Stephens. And what have you to say, Judge Bynum?

Judge Bynum. I admit that I did not fully understand the history of the clause, but my opinion is not changed as to its effects. It did secure property representation to the slave-owners. I am astounded at your attempting to maintain that there was no difference between the relation of a free laborer of the North, towards his employer, and that of a slave at the South, towards his owner.

Mr. Stephens. You do not state me quite accurately. I did not say that there was no difference, whatever,

between these relations. What I maintained is, that there was no difference in the "property" view of them, so far as relates to this clause of the Constitution. The right to the service, or labor of the one, under contract, whether, for a short or long term, was as much "property" as the right to the service of the other, under law, though it was for life. The only difference, in this respect, (and that is what we are considering,) is that the labor of the one, was for a term only, and that of the other, was for life. The laborers in each case were equally recognized by the laws, North and South, as persons; and they were so equally recognized in the Constitution. In this respect there was no difference; and in this respect there is no reason why there should have been any difference in the count for arriving at an equal basis of popular representation.

The slave-owner was endowed with no political power by this clause, no more than the employer of other kinds of labor at the North. This was, and is, my position; and from all this it clearly appears, I think, that this "three-fifths" clause of the Constitution, was no "Slavery Oligarchical," or "aristocratic provision" of the Constitution, carried at the dictation of the Southern States, and for their especial benefit. On the contrary, it was a curtailment of their just powers, as the Government has been administered. But for it, the Southern States would have had six more members than they had under the first census. But for it, and the consequent want of her full and just power in Congress, at the time, the Alien and Sedition laws, might not, and, most probably, would not have been passed; and the other centralizing acts of the Government, passed during that decade, which have since been claimed as precedents might, and, most probably, never would have had existence. But for it, in 1820,

the Southern States would have had twelve more members in the House of Representatives, than they then had, and the Missouri *Restriction* of that year, which you call a Solemn Compact, would not have been carried as it was. Here I might properly reply to the points made on that subject, and show that the conflict on that measure, however portentous, was not a conflict, as I have before said, between the advocates and opponents of the Institution of Slavery, as it existed in the States, but a conflict, as all others of a like character, between those who defended the Federal principles of the Government, and those who were endeavoring to centralize its powers. It can be easily shown that, for these political ends, this subject of Slavery was then seized upon, by leaders defeated on other questions, as one which would be most likely to enlist the general sympathy of the people, and one on which, from conscientious scruples, they might more easily be led to disregard the obligations of Compacts.

But, at present, I wish to notice one or two other points presented by the Judge. These relate to the position of South Carolina on Secession, and the manner in which the "Conspiracy," as he calls it, was concocted by a "Slavery Oligarchy," and carried throughout the South by impositions and usurpations.

Now, first, as to whether South Carolina "cared a *button*" for the breach of faith on the part of Northern States, or not; let us see what she said of her own act, and upon what grounds she put her withdrawal from the Union. Whether Mr. Rhett, or Mr. Keitt, or others, made the speeches you refer to or not, I do not know. But South Carolina is by far the best and most authoritative exponent of her own acts. Here is her Ordinance of Secession, and the Declaration of her people in Convention,

giving to the world their reasons for it. This Convention was no "secret Junto" of Conspirators. It was a Convention legally called and legally elected, according to law, by the regularly constituted authorities of the State—chosen to consider and determine upon the Federal relations of the State. Here is what this body of men, so selected and so chosen, said of their own action and of their reasons for it. In this paper, after giving a history of the Union, and the nature of the Federal Government, setting forth, specifically, the two mutual Covenants of the States providing for the rendition of fugitives from service, and fugitives from crime, they based their acts solely and exclusively upon *breaches of faith* on the part of their Northern Confederates. Of these and other articles of the Constitution they say:

"We maintain that in every Compact between two or more parties, the obligation is mutual; that the failure of one of the contracting parties to perform a material part of the agreement, entirely releases the obligation of the other; and that where no arbiter is provided, each party is remitted to his own judgment to determine the fact of failure, with all its consequences."

Further, they say:

"The General Government, as the common agent, passed laws to carry into effect these stipulations of the States. For many years these laws were executed. But an increasing hostility on the part of the non-Slaveholding States to the Institution of Slavery has led to a disregard of their obligations, and the laws of the General Government have ceased to effect the objects of the Constitution. The States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Illinois, Indiana, Michigan, Wisconsin and Iowa, have enacted laws which either nullify

the acts of Congress or render useless any attempt to execute them. In many of these States the fugitive is discharged from the service or labor claimed, and in none of them has the State Government complied with the stipulation made in the Constitution. The State of New Jersey, at an early day, passed a law in conformity with her Constitutional obligation; but the current of Anti-Slavery feeling has led her more recently to enact laws which render inoperative the remedies provided by her own law and by the laws of Congress. In the State of New York, even the right of transit for a Slave has been denied by her tribunals; and the States of Ohio and Iowa have refused to surrender to justice fugitives charged with murder, and with inciting servile insurrection in the State of Virginia. Thus the Constitutional Compact has been deliberately broken and disregarded by these non-Slaveholding States, and the consequence follows that South Carolina is released from her obligation."*

This is quite enough to show the grounds upon which South Carolina based her action in her Ordinance of Secession. That was entitled, "An Ordinance to dissolve the Union between the State of South Carolina and other States, united with her under the Compact, entitled, 'The Constitution of the United States of America,'" and is in these words:

"We, the People of the State of South Carolina, in Convention assembled, do declare and ordain, and it is hereby declared and ordained,

"That the Ordinance adopted by us, in Convention, on the twenty-third day of May, in the year of our Lord one thousand seven hundred and eighty-eight, whereby the Constitution of the United States of America was ratified,

* For this Declaration of Causes in full see Appendix A.

and also, all Acts and parts of Acts of the General Assembly of this State, ratifying Amendments of the said Constitution, are hereby repealed; and that the Union now subsisting between South Carolina and other States, under the name of 'The United States of America,' is hereby dissolved."

Now, as further evidence of the reasons and motives by which the extremest men of the South were governed, in advising the people of their States, respectively, to secede, I call your special attention to the speech made by Mr. Toombs, of Georgia, in the Senate of the United States, on the 7th of January, 1861, more than two weeks after South Carolina had passed her Ordinance, and two days after, you say, the conspiracy, of which he was a prominent member, was organized in Washington, with a view to overthrow the Federal Government, and to establish, in its stead, a Slavery Oligarchy. Let us look into this speech. I will read such portions only as present its substance upon the points we have under immediate consideration. In speaking of the action of the people of South Carolina, and the Secessionists of the South generally, in this assemblage of the Ambassadors of the States, on that occasion, he said:

"Inasmuch, sir, as I have labored earnestly, honestly, sincerely with these men to avert this necessity, so long as I deemed it possible, and inasmuch as I heartily approve their present conduct of resistance, I deem it my duty to state their case to the Senate, to the country, and to the civilized world.

"Senators, my countrymen have demanded no new Government, they have demanded no new Constitution. Look to their records at home and here, from the beginning of this strife until its consummation in the disruption of the Union, and they have not demanded a single

thing, except that you shall abide by the Constitution of the United States; that Constitutional rights shall be respected, and that justice shall be done. Sirs, they have stood by your Constitution; they have stood by all its requirements; they have performed all of its duties unselfishly, uncalculatingly, disinterestedly, until a Party sprang up in this Country which endangered their social system—a Party which they arraign, and which they charge before the American people and all mankind with having made proclamation of outlawry against thousands of millions of their property in the Territories of the United States; with having aided and abetted insurrection from within and invasion from without, with the view of subverting their Institutions, and desolating their homes and their firesides. I shall proceed to vindicate the justice of their demands, the patriotism of their conduct. I will show the injustice which they suffer, and the rightfulness of their resistance.

"The discontented States of this Union have demanded nothing but clear, distinct, unequivocal, well-acknowledged Constitutional rights—rights affirmed by the highest judicial Tribunals of their Country; rights older than the Constitution; rights which are planted upon the immutable principles of natural justice; rights which have been affirmed by the good and the wise of all countries and of all centuries. We demand no power to injure any man. We demand no right to injure our Confederate States. We demand no right to interfere with their Institutions, either by word or deed. We have no right to disturb their peace, their tranquillity, their security. We have demanded of them simply, solely—nothing else—to give us equality, security, and tranquillity. Give us these, and peace restores itself.

"I will now read my own demands, acting under my

own convictions. They are considered the demands of an extremist. I believe that is the appellation these traitors employ. I accept their reproach rather than their principles. Accepting their designation of treason and rebellion, there stands before them as good a traitor and as good a rebel as ever descended from Revolutionary loins.

"What do these Rebels demand?

"First. 'That the people of the United States shall have an equal right to emigrate and settle in the present, or any future acquired Territories, with whatever property they may possess, (including slaves,) and be securely protected in its peaceable enjoyment until such Territory may be admitted as a State into the Union, with or without Slavery, as she may determine, on an equality with all existing States.' That is our territorial demand. We have fought for this Territory when blood was its price. We have paid for it when gold was its price. We have not proposed to exclude you, though you have contributed very little of either blood or money. I refer especially to New England. We demand only to go into those Territories upon terms of equality with you, as equals in this great Confederacy, to enjoy the common property of the whole Union, and receive the protection of the common Government until the Territory is capable of coming into the Union as a Sovereign State, when it may fix its own institutions to suit itself.

"The second proposition is: 'that property in slaves shall be entitled to the same protection from the Government of the United States, in all of its department, everywhere, which the Constitution confers the power upon it to extend to any other property, provided nothing herein contained shall be construed to limit or restrain the right now belonging to every State to pro-

hibit, abolish, or establish and protect Slavery within its limits.' We demand of the common Government to use its granted powers to protect our property as well as yours. Ought it not to do so? You say no. Every one of you upon the committee said no. Your senators say no. Your House of Representatives say no. Throughout the length and breadth of your conspiracy against the Constitution, there is but one shout of no! This recognition of this right is the price of my allegiance. Withhold it, and you do not get my obedience.

"We demand in the next place, 'that persons committing crimes against slave property in one State, and fleeing to another, shall be delivered up in the same manner as persons committing crimes against other property, and that the laws of the State from which such persons flee shall be the test of criminality.' That is another one of the demands of an extremist and rebel. The Constitution of the United States, Article iv., Section 2, says:

"'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.' But some of the non-Slaveholding States, treacherous to their oaths and Compacts, have steadily refused, if the criminal only stole a Negro, and that Negro was a slave, to deliver him up. It was refused twice on the requisition of my own State as long as twenty-two years ago. It was refused by Kent and Fairfield, Governors of Maine, and representing, I believe, each of the then Federal Parties. We appealed to fraternity, but we submitted, and this Constitutional right has been, practically, a dead letter from that day to this.

"The next case came up between us and the State of New York, when the present senior Senator (Mr. Seward) was the Governor of that State; and he refused it. Why? He said it was not *against* the laws of New York to steal a Negro, and therefore he would not comply with the demand. He made a similar refusal to Virginia. Yet these are our Confederates—these are our sister States. There is the bargain; there is the Compact. You have sworn to it. Both these Governors swore to it. The Senator from New York swore to it. The Governor of Ohio swore to it when he was inaugurated. You cannot bind them by oaths. Yet they talk to us of treason. It is natural we should want this provision of the Constitution carried out. By the text and letter of the Constitution, you agreed to give them up. You have sworn to do it, and you have broken your oaths!

"The next stipulation is, that fugitive slaves shall be surrendered. Here is the Constitution:

"'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.'

"This language is plain, and everybody understood it the same way for the first forty years of our Government. In 1793, in Washington's time, an act was passed to carry out this provision. It was adopted unanimously in the Senate of the United States, and nearly so in the House of Representatives. Nobody, then, had invented pretexts to show that the Constitution did not mean a Negro slave. It was clear; it was plain. Not only the Federal Courts, but all the local Courts in all the States, decided that this was a Constitutional obligation.

"How is it now? I have heretofore shown that this plain Constitutional provision has been violated by specific acts in thirteen of these States.

"The next demand made on behalf of the South is, 'that Congress shall pass efficient laws for the punishment of all persons, in any of the States, who shall, in any manner, aid and abet invasion or insurrection in any other State, or commit any other act against the laws of nations tending to disturb the tranquillity of the people or Government of any other State.'

"That is a very plain principle. The Constitution of the United States now requires, and gives Congress express power, to define and punish piracies and felonies committed on the high seas, and offences against the laws of nations. When the honorable and distinguished Senator from Illinois, (Mr. Douglas,) last year, introduced a bill for the purpose of punishing people thus offending under that clause of the Constitution, Mr. Lincoln, in his speech at New York, which I have before me, declared that it was a "Sedition Bill;" his press and party hooted at it. So far from recognizing the bill as intended to carry out the Constitution of the United States, it received their jeers and gibes. The Republicans of Massachusetts elected the admirer and eulogist of John Brown's courage, as their Governor, and we may suppose he will throw no impediments in the way of John Brown's successors.

"We demand these five propositions. Are they not right? Are they not just? Take them in detail, and show that they are not warranted by the Constitution, by the safety of our people, by the principles of eternal justice. We will pause, and consider them; but mark me, we will not let you decide the questions for us.

But we are told by well meaning but simple minded

people that admit your wrongs, your remedies are not justifiable. Senators, I have little care to dispute remedies with you, unless you propose to redress my wrongs. If you propose that in good faith, I will listen with respectful deference; but when the objectors to my remedies propose no adequate ones of their own, I know what they mean by the objection. They mean Submission. But, still, I will as yet argue it with them.

"These thirteen Colonies originally had no Bond of Union whatever—no more than Jamaica and Australia have to-day. They were wholly separate Communities, independent of each other, and dependent on the Crown of Great Britain. All the Union between them that was ever made is in writing. They made two written Compacts. One was known as the Articles of Confederation, which declared that the Union thereby formed should be perpetual—an argument very much relied upon by 'the friends of the Union,' now. Those Articles of Confederation, in terms, declared that they should be perpetual. I believe that expression is used in our last treaty with Billy Bowlegs, the Chief of the Seminoles. I know it is a phrase used in treaties with all nations, civilized and savage. Those that are not declared eternal are the exceptions; but usually treaties profess to be for 'perpetual friendship and amity,' according to their terms. So was that treaty between the States. After awhile, though, the politicians said it did not work well. It carried us through the Revolution. The difficulty was, that after the war there were troubles about the regulation of commerce, about navigation, but above all, about financial matters. The Government had no means of getting at the pockets of the people; and but for that one difficulty, this present Government would never have been made. The country is deluded with the nonsense that this Bond

of Union was cemented by the blood of brave men in the Revolution. Sir, it is false. It never cost a drop of blood. A large portion of the best men of the Revolution voted against it. It was carried in the Convention of Virginia by but ten majority, and among its opponents were Monroe and Henry, and other men who had fought the war, who recorded their judgment that it was not a good Bond; and I am satisfied to-day that they were the wiser men. Some of the bravest, and the boldest and the best men of the Revolution, who fought from its beginning to its end, were opposed to the plan of Union. Are we to be deterred by the cry that we are laying our unhallowed hands on this holy altar? Sir, I have no hesitation in saying that a very large portion of the people of Georgia, whom I represent, prefer to remain in this Union with their Constitutional rights—I would say ninety per cent. of them—believing it to be a good Government. I think it had but little to do with their prosperity beyond securing their peace with other nations, and that boon has been paid for at a price that no freeman ought to submit to. These are my opinions; they have been announced to my constituents, and I announce them here. Had I lived in that day, I should have voted with the minority in Virginia, with Monroe, Henry, and the illustrious patriots who composed the seventy-nine votes [in the Virginia Convention] against the adoption of the present plan of government. In my opinion, if they had prevailed, to-day the men of the South would have the greatest and most powerful nation of the earth. Let this judgment stand for future ages.

"Senators, the Constitution is a Compact. It contains all our obligations and duties of the Federal Government. I am content, and have ever been content, to sustain it. While I doubt its perfection; while I do not believe it

was a good Compact; and while I never saw the day that I would have voted for it as a proposition *de novo;* I have given to it, and intend to give to it, unfaltering support and allegiance; but I choose to put that allegiance on the true ground, not on the false idea that anybody's blood was shed for it. I say, that the Constitution is the whole Compact. All the obligations, all the chains that fetter the limbs of my people, are nominated in the Bond, and they wisely excluded any conclusion against them, by declaring that the powers not delegated by the Constitution to the United States, or forbidden by it to the States, belonged to the States respectively or the people. Now I will try it by that standard; I will subject it to that test. The law of nature, the law of justice would say—and it is so expounded by the publicists—that equal rights in the common property shall be enjoyed. Even in a monarchy, the King cannot prevent the subjects from enjoying equality in the disposition of the public property. Even in a despotic Government this principle is recognized. It was the blood and the money of the whole people (says the learned Grotius, and say all the publicists) which acquired the public property, and therefore it is not the property of the Sovereign. This right of equality being, then, according to justice and natural equity, a right belonging to all States, when did we give it up? You say Congress has a right to pass rules and regulations concerning the Territory and other property of the United States. Very well. Does that exclude those whose blood and money paid for it. Does 'dispose of' mean to rob the rightful owners.

"But, you say, try the right. I agree. But how? By our judgment? No; not until the last resort. What then; by yours? No; not until the same time. How then try it? The South has always said by the Supreme

Court. But that is in our favor, and Lincoln says he will not stand that judgment. Then each must judge for himself of the mode and manner of redress. But you deny us that privilege, and finally reduce us to accepting your judgment. We decline it. You say you will enforce it by executing laws; that means, your judgment of what the laws ought to be. The Senator from Kentucky comes to your aid, and says he can find no Constitutional Right of Secession. Perhaps not; but the Constitution is not the place to look for State Rights. If that right belongs to independent States, and they did not cede it to the Federal Government, it is reserved to the States, or to the people. Ask your new Commentator where he gets your right to judge for us. Is it in the Bond?

"The Supreme Court has decided that, by the Constitution, we have a right to go to the Territories, and be protected there, with our property. You say, we cannot decide the Compact for ourselves. Well, can the Supreme Court decide it for us? Mr. Lincoln says he does not care what the Supreme Court decides, he will turn us out anyhow. He says this in his debate with the honorable Senator from Illinois (Mr. Douglas). I have it before me. He said he would vote against the decision of the Supreme Court. Then you do not accept that arbiter. You will not take my construction; you will not take the Supreme Court as an arbiter; you will not take the practice of the Government; you will not take the treaties under Jefferson and Madison; you will not take the opinion of Madison upon the very question of prohibition, in 1820. What, then, will you take? You will take nothing but your own judgment; that is, you will not only judge for yourselves, not only discard the Court, discard our construction, discard the practice of the

Government, but you will drive us out, simply because you will it. Your party says that you will not take the decision of the Supreme Court. You said so at Chicago; you said so in committee; every man of you in both Houses says so. What are you going to do? You say we shall submit to your construction. We shall do it, if you can make us; but not otherwise, or in any other manner. That is settled.

"You have no warrant in the Constitution for this declaration of outlawry. The Court says you have no right to make it. The treaty says you shall not do it. The Treaty of 1803 declares that the property of the people shall be protected by the Government until they are admitted into the Union as a State. That treaty covers Kansas and Nebraska. The law passed in 1804, or 1805, under Mr. Jefferson, protects property in slaves in that very Territory. In 1820, when the question of Prohibition came up, Mr. Madison declared it was not warranted by the Constitution, and Jefferson denounced its abettors as enemies of the human race. Here is the Court; here are our fathers; here is contemporaneous exposition for fifty years, all asserting our right. The Republican Party says, 'We care not for your precedents, or practices; we have progressive Politics as well as a progressive Religion.'

"But, no matter what may be our grievances, the honorable Senator from Kentucky, (Mr. Crittenden,) says we cannot secede. Well, what can we do? We cannot revolutionize; he will say that is treason. What can we do? Submit? They say they are the strongest, and they will hang us. Very well, I suppose we are to be thankful for that boon. We will take that risk. We will stand by the right; we will take the Constitution; we will defend it by the sword with the halter around

our necks! Will that satisfy the honorable Senator from Kentucky? You cannot intimidate my constituents by talking to them about treason. They are ready to fight for the right with the rope around their necks!

"But, although I insist upon this perfect equality in the Territories, yet, when it was proposed, as I understand the Senator from Kentucky now proposes, that the line of 36° 30′ shall be extended, acknowledging and protecting our property on the south side of that line, for the sake of peace—permanent peace—I said to the Committee of Thirteen, and I say here, that with other satisfactory provisions, I would accept it.

"Yet, not only did your committee refuse that, but my distinguished friend from Mississippi, (Mr. Davis,)—another moderate gentleman like myself—proposed simply to get a recognition that we had the right to our own: that man could have property in man; and it met with the unanimous refusal even of the most moderate, Union-saving, compromising portion of the Republican Party. They do not intend to acknowledge it.

"Very well; you not only want to break down our Constitutional Rights; you not only want to upturn our social system; your people not only steal our slaves and make them freemen to vote against us; but you seek to bring an Inferior race in a condition of equality, socially and politically, with our own people. Well, sir, the question of Slavery moves not the people of Georgia, *one-half* as much as the fact that you *insult* their *rights* as a Community. You Abolitionists are right when you say, that there are thousands and tens of thousands of men in Georgia, and all over the South, who do not own slaves. A very large portion of the people of Georgia own none of them. In the mountains, there are comparatively but

few of them; but no part of our people are more loyal to their race and country, than our bold and brave mountain population; and every flash of the electric wires brings me cheering news from our mountain tops, and our valleys, that these Sons of Georgia are excelled by none of their countrymen in loyalty to the rights, the honor, and the glory of the Commonwealth. They say, and well say, this is our question; we want no Negro equality, no Negro citizenship; we want no mongrel race to degrade our own; and as one man, they would meet you upon the border with the sword in one hand, and the torch in the other. We will tell you when we choose to abolish this thing; it must be done under our direction, and according to our will; our own, our native land, shall determine this question, and not the Abolitionists of the North. That is the spirit of our freemen.

"I have already adverted to the proposition in regard to giving up criminals who are charged with stealing Negroes, and I have referred to the cases of Maine, New York, and Ohio. I come now to the last specification—the requirement that laws should be passed punishing all who aid and abet insurrection. These are offences recognized by the laws of Nations, as inimical to all society; and I will read the opinions of an eminent Publicist, when I get to that point. I said that you had aided and abetted insurrection. John Brown certainly invaded Virginia. John Brown's sympathizers, I presume, are not Democrats. Two of the accomplices of John Brown fled—one to Ohio, one to Iowa. The Governors of both States refused to give up the fugitives from justice. The Party maintained them. I am aware that, in both cases, pretexts were gotten up, to cover the shame of the transaction. I am going to show you that their pretexts were hollow, unsubstantial, not only against Constitutional

law, but against the law of Nations. I will show you that it was their duty to seize them under the law of Nations, and bring them to their Confederate States, or even to a friendly State. The first authority I will read, is Vattel on the Law of Nations. If there had been any well-founded ground, if the papers had been defective, if the case had been defectively stated, what was the general duty of a friendly State without any Constitutional obligations? This general principle is, that one State *is* bound to restrain its citizens from doing anything tending to create disturbance in another State; to ferment disorders; to corrupt its citizens, or to alienate its allies.

"Vattel says, page 162:

"'And since the latter (the Sovereign) ought not to suffer his subjects to molest the subjects of another State, or to do them an injury, much less to give open, audacious offence to Foreign powers, he ought to compel the transgressors to make reparation for the damage or injury, if possible, or to inflict on him an exemplary punishment; or finally, according to the nature and circumstances of the case, to deliver him up to the offended State, to be there brought to justice. This is pretty generally observed with respect to great crimes, which are equally contrary to the laws and safety of all Nations. Assassins, incendiaries, and robbers, are seized everywhere at the desire of the Sovereign in whose Territories the crime was committed, and are delivered up to his justice. The matter is carried still further in States that are more closely connected by friendship and good neighborhood. Even in cases of ordinary transgressions, which are only subjects of civil prosecution, either with a view to the recovery of damages, or the infliction of a slight civil punishment, the subjects of two neighboring States

are reciprocally obliged to appear before the magistrate of the place where they are accused of having failed in their duty. Upon a requisition of that magistrate, called letter rogatory, they are summoned in due form by their own magistrates, and obliged to appear. An admirable institution, by means of which many neighboring States live together in peace, and seem to form only one Republic! This is in force through all Switzerland. As soon as the letters rogatory are issued in form, the superior of the accused is bound to enforce them. It belongs not to him to examine whether the accusation be true or false; he is to presume on the justice of his neighbor, and not to suffer any doubts on his own part to impair an Institution so well calculated to preserve harmony and good understanding between the States.'

"That is the law of nations, as declared by one of its ablest expounders; but, besides, we have this principle embodied in the Constitution. We have there the obligation to deliver up fugitives from justice; and though it is in the Constitution: though it is sanctioned, as I said, by all ages and all centuries, by the wise and the good everywhere, our Confederate States are seeking false pretexts to evade a plain, social duty, in which are involved the peace and security of all society. If we had no Constitution, this obligation would devolve upon friendly States. If there were no Constitution, we ought to demand it. But, instead of giving us this protection, we are met with reproaches, reviling, tricks, and treachery, to conceal and protect incendiaries and murderers.

"This man, Brown, and his accomplices, had sympathizers. Who were they? One of them, as I have before said, who was, according to his public speeches, a defender and laudator of John Brown, is Governor of Massachusetts. Other officials of that State applauded Brown's

heroism, magnified his courage, and, no doubt, lamented his ill success. Throughout the whole North, public meetings, immense gatherings, triumphal processions, the honors of the hero and conqueror, were awarded to this incendiary and assassin. They did not condemn the traitor; think you, they abhorred the treason?

"Yet, I repeat, when a distinguished Senator from a non-Slaveholding State (Mr. Douglas) proposed to punish such attempts at invasion and insurrection, Lincoln and his Party come before the world and say, 'Here is a Sedition Law.' To carry out the Constitution, to protect States from invasion, and suppress insurrection, to comply with the laws of the United States, is a 'Sedition Law,' and the Chief of this Party treats it with contempt; yet, under the very same clause of the Constitution which warranted this important bill, you derive your power to punish offences against the laws of nations. Under this warrant you have tried and punished our citizens for meditating the invasion of foreign States; you have stopped illegal expeditions; you have denounced our citizens as pirates, and commended them to the bloody vengeance of a merciless enemy.

"Under this principle alone you protect our weaker neighbors of Cuba, Honduras, and Nicaragua. By this alone are we empowered and bound to prevent our people from conspiring together, giving aid, giving money, or arms, to fit out expeditions against any foreign nation. Foreign nations get the benefit of this protection; but we are worse off in the Union than if we were out of it. Out of it, we should have the protection of the Neutrality laws. Now you can come among us; raids may be made; you may put the incendiary's torch to our dwellings, as you did last summer, for hundreds of miles on the frontiers of Texas; you may do what John Brown did, and

when the miscreants escape to your States you will not punish them; you will not deliver them up. Therefore, we stand defenceless. We must cut loose from the accursed 'body of this death,' even to get the benefit of the law of nations.

"You will not regard Confederate obligations; you will not regard Constitutional obligations; you will not regard your oaths. What, then, am I to do? Am I a freeman? Is my State a free State? We are freemen. We have rights; I have stated them. We have wrongs; I have recounted them. I have demonstrated that the party now coming into power has declared us outlaws, and is determined to exclude thousands of millions of our property from the common Territories; that it has declared us under the ban of the Union, and out of the protection of the laws of the United States everywhere. They have refused to protect us from invasion and insurrection by the Federal Power, and the Constitution denies to us in the Union the right either to raise fleets or armies for our defence. All these charges I have proven by the record; and I put them before the civilized world, and demand the judgment of to-day, of to-morrow, of distant ages, and of Heaven itself, upon the justice of these causes. I am content, whatever it be, to peril all in so noble, so holy a cause. We have appealed, time and time again, for these Constitutional rights. You have refused them. We appeal again. *Restore us these rights as we had them, as your Court adjudges them to be,* just as our people have said they are; *redress these flagrant wrongs,* seen of all men, and *it will restore fraternity,* and *peace,* and *unity,* to all of us. Refuse them, and what then? We shall then ask you, 'Let us depart in peace.' Refuse that, and you present us war. We accept it; and, inscribing upon our banners the glorious

words, 'Liberty and Equality,' we will trust to the blood of the brave, and the God of Battles, for security and tranquillity."

Prof. Norton. That was a strong speech.

Major Heister. Yes. It strikes me as a speech of great power.

Mr. Stephens. Indeed it was. In the history of this war it will take a place, side by side, with that of Pericles addressed to the Athenian Council, just before the outbreak of the Peloponnesian War, though not analogous, so far as concerns the parties addressed. Its greatest power, however, consisted in the unquestionable facts, upon which it rested.

Judge Bynum. How you can say this of it, I cannot understand. Even the grand flourish at the conclusion, about "Liberty and Equality," seems to me but a mockery of everything like fact, when we know that what he meant was, not the advancement of Liberty at all, but the perpetuation of Slavery. This was his whole object, as well as that of his coadjutors.

Mr. Stephens. His object and theirs was the perpetuation of that liberty and equality which was established by the Constitution of the United States. This you must admit. It was the same liberty and equality that the men of 1776 had perilled their lives, their honor, and all that they held sacred, to establish. The speech shows clearly who were the *real conspirators* against our form of Government, as established by the Fathers. It shows that the "*naked question*," presented by him and the other leading men from the South at Washington, at that time, was not, as you maintained, to overthrow that Government and to establish a "Slavery Oligarchy" in its stead. On the contrary, it puts beyond all question the fact, that the leading men of the South, whom you

styled conspirators, even the extremest of them, for no man was more extreme, as all will readily grant, not even Mr. Yancey, of Alabama, or Mr. Rhett, of South Carolina, than Mr. Toombs was, *aimed at nothing, and desired nothing, but the maintenance, in good faith, of the Constitution, with all its guarantees as they stood!* They wanted and desired nothing but that Constitutional liberty and equality which the Fathers had established! They wanted no *new Constitution*, nor any *new* "Slavery Dynasty!" That is the question!

In this speech, Mr. Toombs said, and said truly, that *ninety* out of *every hundred* of the people of Georgia, were *devoted* to the Union, under the Constitution, as it then stood! Though he thought it not a good one, yet they did, and he was willing, in good faith, to stand to it, if the other Parties to it would. He said then, after South Carolina had seceded, that if the Northern States would comply with their obligations under the Constitution, that it would restore Fraternity and Unity! He said, truly, that the non-slaveholders of Georgia were as much opposed to the policy of the Abolition Party, to carry out their designs of Negro equality as the slaveholders were. They were as truly "*loyal*" to the Constitution, as it stood in this particular, as any class in the Commonwealth, and were as ready to defend the principles of that Constitution, by defending the Sovereign Right of Secession, even "with the rope around their necks," as their slaveholding neighbors. Indeed, I think he might have gone further, and have said, with truth, that they were even readier; for, in this State, I believe a majority of the slaveholders were against the policy of Secession, at the time. They were generally what were called Conservatives, and a large portion of them, if not a majority, voted the Bell-Everett ticket in the Presidential election. My

opinion is, that a majority of them, in this State, voted against Secession Delegates to the Convention which was called in this State. How this matter really was, there is no way to determine, that is, on which side a majority of this class was on that question; but it is well known that a large portion of the most active opponents of that measure, were amongst the largest slaveholders of the State. This I state in reply to the Judge's idea, that it was a movement gotten up by what he calls a Slavery Oligarchy, at the South. The truth is, no such Oligarchy existed.

But mark you, when and where this speech was made.

It was on the 7th of January, 1861, in the Senate of the United States, two days after, you say, the conspirators aiming at the overthrow of the Government had organized in secret junto at Washington! Is anything wanting more thoroughly to refute that idea than this speech? It clearly shows that on the 7th January, 1861, after South Carolina had seceded, as we have seen—after the conspiracy had entered into a regular organization, with a usurpation of all power over Southern public affairs, according to this fabulous account of it, that Mr. Toombs, and even Mr. Davis, who was the selected chief, were willing to settle the whole controversy, if any assurance would be given by the leading men of the Party coming into power on the 4th of the ensuing March, that the clearly stipulated guarantees of the Constitution would be carried out in good faith by them? This assurance it is well known was not given. It was refused to be given. This is a correct version of that matter. The whole story of any such conspiracy, and the election of Mr. Davis as President of a new Dynasty, is altogether fabulous.

After this refusal, if the Senators—the Ambassadors of

the Southern States at Washington—did assemble together in that city, and did resolve jointly upon such action as they thought best for the people of their States, respectively, to adopt in their State Conventions, then called by the regularly constituted authorities, in this emergency; and if, after this meeting and consultation, Mr. Toombs, one of them, did go into the Senate, and there deliver this manifesto, and make another appeal for the Union, even after the advice was given, who can justly maintain that they, in the performance of this high duty, were a set of secret conspirators or anything like it? It is notorious that they did so meet, so consult, and so advise. But their meeting was no secret. Nothing was more generally known in Washington. It was announced in the newspapers of the day.

But it is utterly untrue, as I am informed, and have good reasons to believe, that there was any usurpation of power by them, or any attempt or object on their part, to do anything but advise such course as they thought best for the people of the Southern States, in which Conventions were then called, to pursue in the crisis then impending, if no assurance should be given, that the Constitution would be maintained. There was no such thing as an election of a Chief Commander of any military forces, or any usurpation of power, whatever. The Sovereign people of these States were left to their own free will to adopt the policy they advised, or reject it as they pleased. The sum and substance of the advice was embodied in this speech. Their wrongs demanded redress, and if it were not granted, that they should "depart in peace," and form a new Confederation amongst themselves. The redress was not given, and these States did depart in peace. They all passed Ordinances of Secession as South Carolina had done, and in Convention at Mont-

gomery, formed a new Confederation. This is a correct version of the matter.

But we have talked long enough on the subject for one sitting. Perhaps too long, and, if agreeable, I will postpone what I have to say further in reply to Judge Bynum on the Missouri question and his other instances of breach of Compact. These points made by him remain to be noticed. We will, if you please, return to them after a little rest and refreshment.

MAJOR HEISTER. I have no objections to that, especially the refreshments; and I know you must be tired, and stand in need of something a little stronger than water.

PROF. NORTON. I am not so sure of that. I rather think that both he and the Judge need a little cooling down, particularly upon the subjects of sin, conscience and oaths.

MR. STEPHENS. Well, Judge, what say you to an iced lemonade for us, while the Major and the Professor indulge in something stronger, if they prefer?

JUDGE BYNUM. Just as you say, but I must confess, notwithstanding the Professor's remark, that if something a little stronger should be put into mine "*unbeknownst* to me," as Mr. Lincoln's anecdote about the Temperance lecturer has it, "I guess it wouldn't hurt me much."*

MR. STEPHENS. Well, have it as you like. So we suspend for the present.

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* *Post*, p. 634.

COLLOQUY XV.

REPLY OF MR. STEPHENS TO JUDGE BYNUM CONTINUED—MISSOURI COMPROMISE, SO-CALLED, CONSIDERED—MR. BUCHANAN'S STATEMENT IN REFERENCE TO, REVIEWED—MR. CLAY'S POSITION IN REFERENCE TO, STATED—NEVER REGARDED AS A COMPACT BY THE CENTRALISTS—MISSOURI WAS NOT ADMITTED UNDER IT—THE PRINCIPLE ON WHICH IT WAS BASED UTTERLY REPUDIATED BY EVERY NORTHERN STATE—MANY INTERESTING FACTS CONNECTED WITH IT EXHIBITED.

MR. STEPHENS. We will now take up the Missouri Compromise, and see how far your position, on that subject, Judge, is sustained by the facts of the case: in other words, we will see whether there was any "breach of faith," or of "Compact," on the part of the South, in regard to that measure, or in regard to the Compromise Measures of 1850, which you spoke of in the same connection; and in regard to which you also alleged breach of faith on the part of the "Slave Power," so-called. I shall consider both these matters together; for the subjects are both intimately connected, and there can be no correct understanding of the latter, without a clear and full understanding of the former.

MAJOR HEISTER. These are points I am now particularly anxious to hear from you upon. For, to be candid with you, I must say that I have always thought that the South, for the first time, became the aggressor in the repeal of the Missouri Compromise. I agree entirely with what Mr. Buchanan says upon that subject. I mean what he says upon the subject in his work, entitled, "Buchanan's Administration." Have you seen this work?

Mr. Stephens. Yes; I have seen it, and have it in the library. Let me get it. Here it is; and I was very much struck, as well as greatly surprised, at what the Ex-President wrote upon both of these measures. I read, first, from page 24, where he speaks of the Compromise of 1850:

"The Compromise of 1850 ought never to have been disturbed by Congress. After long years of agitation and alarm, the country, under *its influence*, had enjoyed a season of comparative repose, inspiring the people with bright hopes for the future.

"But how short-lived and delusive was this calm! The very Congress which had commenced so auspiciously, by repealing the Missouri Compromise before the end of its first session, re-opened the floodgates of sectional strife, which, it was fondly imagined, had been closed forever. This has ever since gone on increasing in violence and malignity, until it has involved the country in the greatest and most sanguinary civil war recorded in history."

Then after speaking of what he calls the repeal of the Missouri Compromise in 1854, which he maintains re-opened the floodgates of sectional strife that had been closed by the Compromise of 1850, he uses this language on page 28:

"After a careful review of the history of the Anti-Slavery Party, from its origin, the candid inquirer must admit that up till this period, [that is 1854,] it had acted on the *aggressive* against the South. From the beginning it had kept the citizens of the slaveholding States in constant irritation, as well as serious apprehension for their domestic peace and security. They were the *assailed* Party, and had been far more sinned *against* than sinning. It is true, they had denounced their assailants with extreme rancor and many threats; but had done nothing

more. In sustaining the repeal of the Missouri Compromise, however, the Senators and Representatives of the Southern States became the *aggressors* themselves, and thereby placed the country in an alarming and dangerous condition from which it has never since been rescued ?"

Upon the Missouri Compromise itself, he speaks thus on page 25 :

"The Missouri Compromise finally passed Congress by large majorities. On a test question in the Senate on the 2d March, 1820, the vote in its favor was twenty-seven against fifteen ; and in the House, on the same day, it was one hundred and thirty-four against forty-two. Its wisdom and policy were recognized by Congress, a quarter of a century afterwards, in March, 1845, when Texas, being a Slave State, was annexed to the Union. Acting on the presumption that several new States might be formed out of her territory, one of the express conditions of her annexation was, that in such of these States as might lie north of the Missouri Compromise line, Slavery shall be prohibited.

"The Missouri Compromise had remained inviolate for more than thirty-four years before its repeal. It was a Covenant of peace between the free and the slaveholding States. Its authors were the wise and conservative statesmen of a former generation. Although it had not silenced Anti-Slavery discussion in other forms, yet it soon tranquillized the excitement which for some months previous to its passage had convulsed the country in regard to Slavery in the Territories. It is true that the power of a future Congress to repeal any of the Acts of its predecessors, under which no private rights had been vested, cannot be denied, still the Missouri Compromise, being in the nature of a Solemn Compact be-

tween conflicting parties, whose object was to ward off great dangers from the Union, ought never to have been repealed by Congress.

"The question of its Constitutionality ought to have been left to the decision of the Supreme Court, without any legislative intervention. Had this been done, and the Court had decided it to be a violation of the Constitution, in a case arising before them in the regular course of judicial proceedings, the decision would have passed off in comparative silence, and produced no dangerous excitement among the people."

Major Heister. Yes, these are the parts to which I refer.

Judge Bynum. They are certainly very high Democratic authority to sustain me in all that I said upon these points. It also fully sustains all that Mr. Sumner, Mr. Chase, and Mr. Seward, and the whole class of Restrictionists said in 1854.

Mr. Stephens. That is very true, but we shall soon see whether even this authority, however high, be it Democratic or of whatever character, can avail anything against the great indisputable facts of the case. The authority of names as well as theories, must yield to facts in history.

I have said I was surprised at what Mr. Buchanan wrote on the subject. I repeat, I am exceedingly surprised at it, not only because it is so utterly unsustained by the facts, but so directly inconsistent with what he affirmed in his letter, accepting the nomination of the Democratic Party, for the Presidency, in 1856. Here is that letter, dated June 16, 1856; and in it he used this language in reference to the action of Congress in 1854, which, as he says, repealed the Missouri Compromise, and opened afresh the agitation of the Slavery ques-

tion, and in which the South was, for the first time, the aggressor. Hear what he said on this subject in 1856:

"The agitation of the question of domestic Slavery has too long distracted and divided the people of this Union, and alienated their affections from each other. This agitation has assumed many forms since its commencement, but it now seems to be directed chiefly to the Territories; and judging from its present character, I think we may safely anticipate that it is rapidly approaching a 'finality.' The *recent legislation* of Congress respecting domestic Slavery, derived, as it has been, from the original and pure fountain of legitimate political power, the will of the majority, promises, ere long, to allay the dangerous excitement. *This legislation* is founded upon *principles* as *ancient* as *free Government itself*, and in accordance with them, has *simply declared* that the people of a Territory, like those of a State, shall decide for themselves, whether Slavery shall or shall not exist within their limits."

This was the truth of the case, as we shall see; and I cannot well see how he could have expressed himself, as he did in his book, in 1865, on the same subject, without a total forgetfulness, not only of the real facts of the case, but of what he had himself expressly stated, when he was before the people of the States, as a candidate for the Presidency. But let that pass.

I shall now first take up the Missouri Compromise, so-called, and then the Compromise of 1850; and show that if there was anything like a "Solemn Compact," or "covenant" of any sort, between the States, in either, that there was no breach of faith on the part of the Southern States, in relation to either.

The history of the first of these measures, so little understood, and so greatly misrepresented, briefly stated, is this:

In 1818, at the Second Session of the Fifteenth Congress,* an application was made by the people of the Territory of Missouri to be admitted into the Union as a State. The Territory of Missouri, as is well known, was embraced in the Louisiana cession by France, in 1803. In Article III, of the Treaty by which that whole acquisition was made, it was stipulated in behalf of the inhabitants then residing within its limits, that,

"The inhabitants of the ceded Territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the meantime they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."†

Negro slaves were then held as property in this Territory, and were embraced in the Treaty as other property.

Now, in pursuance of this stipulation, as well as in pursuance of the general principles and authority of the Constitution of the United States, the application of the people of Missouri for admission into the Union as a State, was made in the usual way in 1818, as I have remarked. The bill for this purpose came up for action in the House of Representatives on the 13th day of February, 1819. To that bill Mr. Tallmadge, of New York, moved an amendment in these words:

"*And provided*, That the further introduction of Slavery or involuntary servitude be prohibited, except for the punishment of crimes, whereof the party shall have been fully convicted; and that all children born within the said State, after the admission thereof into

* *Annals of Congress*, 15*th Congress*, 2*d Session*, p. 418.

† *U. S. Statutes at Large*, vol. viii, p. 202.

the Union, shall be free at the age of twenty-five years."*

This amendment presented an issue, mark you, not between the advocates and opponents of Slavery, as it then existed in the States, but an issue between the advocates and opponents of principles lying at the foundation of the Federal system. It presented the question of the power of the Federal Government to impose the restriction, as well as the question of the power of Congress to violate a treaty stipulation: the debate and votes upon it show that the members of the House, North and South, took their position upon it, in this view of the subject.

The vote in committee on agreeing to it, was seventy-nine for, and sixty-seven against it.† On the report of the Committee in the House, the question was divided. On the first branch, the vote, by ayes and noes, was eighty-seven for it, seventy-six against it.‡ On the second branch, the vote was eighty-two for it, and seventy-eight against it!

Mr. Storrs, of New York, who was opposed to the restriction, but no advocate of Slavery, then moved to amend the bill, by striking out so much as says, "that the new State shall be admitted on an *equal footing* with the original States;" for the very clear reason, that if the bill should pass, and the State be admitted under the restriction, she would not be a State in the Union on an "equal footing" with the original States. This motion, however, did not prevail, and the bill passed the House with this restriction.

When it went to the Senate, the first branch of the restric-

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* *Annals of Congress*, 15*th Congress*, 2*nd Session*, p. 1170.
† *Annals of Congress*, 15*th Congress*, 2*nd Session*, p 1193.
‡ *Annals of Congress*, 15*th Congress*, 2*nd Session*, p. 1214.

tion was stricken out, by a vote of twenty-two to strike it out, against sixteen to retain it; and on the second branch of the restriction, the vote to strike it out was thirty-one, while only seven voted to retain it.*

The House adhered to the restriction, and the Senate would not recede from their action upon it; so Missouri failed to be admitted at that session of Congress.

The application was renewed on the 9th of December, 1819, on the opening of the First Session of the Sixteenth Congress. A bill, in the usual form, for the admission of the State of Missouri on an equal footing with the original States, was again reported.†

To this bill the same restriction, in effect, though not in the same words, was renewed by Mr. Taylor, of New York.‡ This gave rise to a renewal of the conflict of the session before, with increased spirit and vigor. Never had a discussion so thoroughly shaken the very foundations of the Government, from its beginning, as this did! The conflict, fierce and angry as it was, was a conflict, however, between principles. It was one growing out of the different views of members and Senators, as to the legitimate power of the Federal Government over the subject matter of debate. The South, to a man, held, without any regard to the right or wrong of Slavery, or the policy, or impolicy, of the Institution, that Congress had no power to interfere with it, in the manner sought, either one way or the other. Several gentlemen of the North took the same ground. It would be interesting to review these debates, as from these alone we can thoroughly understand the true nature of the conflict. I can only glance at them, and thus present a few samples, which will sufficiently characterize the whole for present

* *Annals of Congress*, 15*th Congress*, 2*d Session*, p. 273.

† *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 711.

‡ See *Amendment*, *Annals of Congress*, 16*th Cong.*, 1*st Sess.*, p. 1558.

purposes. First, then, let me ask your attention to what Mr. Holmes, from your own State, Judge, said upon this occasion:

"Mr. Holmes, of Massachusetts, rose, and spoke as follows: Mr. Chairman, when a man is fallen into distress, his neighbors surround him to offer relief. Some, by an attempt at condolence, increase the grief which they would assuage; others, by administering remedies, inflame the disorder; while others, affecting all the solicitude of both, actually wish him dead. It is so with Liberty. Always in danger—often in distress—she not only suffers from open and secret foes, but officious and unskilful friends. And among the thousands and millions that throng her Temples, from curiosity, fashion, or policy, how few—very few—there are, who are her sincere, faithful, and intelligent worshippers!

"Among these few, I trust, are to be found all the advocates for restriction in this House. And I readily admit, that most of those out of doors, whose zeal is excited on this occasion, are of the same description. But, is it not probable that there are some *jugglers behind* the *screen*, who are playing a *deeper game*—who are combining to rally under *this standard*, as the *last resort*, the forlorn hope of an expiring party?

"But, while we admit this in behalf of the respectable gentlemen who advocate the restriction of Slavery in Missouri, we ask, may we demand of them the same liberality? *We are not the advocates or the abettors of Slavery.* For one, sir, I would rejoice if there was not a slave on earth. Liberty is the object of my love—my adoration. I would extend its blessings to every human being. But, though my feelings are strong for the abolition of Slavery, they are yet stronger for *the Constitution of my country.* And, if I am reduced to the sad alternative, to tolerate the holding of Slaves in Missouri, or violate the Consti-

tution of my country, I will not admit a doubt to cloud my choice. Sir, of what benefit would be Abolition, if at a sacrifice of your Constitution? Where would be the guaranty of the Liberty which you grant? Liberty has a temple here, and it is the only one which remains. Destroy this, and she must flee—she must retire among the brutes of the wilderness—to mourn and lament the misery and folly of man. * * *

"Let us then proceed, with that candor and caution which the subject demands, to examine the nature of this power, and ascertain whether it is given in the Constitution of the United States.

"The extraordinary doctrines which have been advanced, on this subject, in and out of doors, render it necessary to be exceedingly particular, and carefully to examine the ground as we advance. An American politician would scarcely have deemed it necessary to prove, at this day, that to regulate the relation between the different members of a community, is an attribute of Sovereign Power. That I may not be mistaken, I will inform the Committee what I intend by *Sovereign Power*, and the sense in which I purpose to use it in this discussion. It is the power of making and executing laws, to regulate the conduct and condition of men. It is, more or less, absolute, as it is limited and defined, or, unlimited and undefined. In the origin of Government, if we can conceive such a period, the rights vested in the Sovereign, by the community, necessarily included the power to determine the mutual dependence of the several members. The community had a right to control and establish it themselves, or delegate it to the Sovereign. In either way they could establish a difference of dependence of one man upon another. The nearer equal this dependence, however, the more perfect the Govern-

ment. Yet, Sovereign Power can establish such a dependence as that of the slave on his master. * *

"Then, did the Revolution alter the relation? We have been made to understand, from very respectable authority, that the Declaration of Independence proclaimed freedom to every slave in the United States! It seems, then, that all the slaves have been free, in fact, for more than forty years, and they do not know it. And we are gravely legislating to perform that which was most effectually performed in 1776. Why attempt to do what is already done? Why create all this excitement if we have no slaves? Humanity might, perhaps, require that we should pass a Declaratory Act, to give notice to two millions of people, that, by applying to the Supreme Court, they can be relieved from their thraldom. * *

"Mr. Chairman, I should not have noticed this strange and ridiculous vision, that the Declaration of Independence was a decree of universal emancipation, had it not issued, from respectable sources, and been seriously enforced upon the credulity of the public. * *

"At the Revolution, the rights of the Crown vested in the States, and they succeeded to all the Sovereign Power, which, until then, belonged to the Provinces and the Mother Country. There was no suspension or death of political power. Property was retained by the owner, laws continued to have force, and Sovereign Power was transferred to the States and vested temporarily in their Legislatures, until a more permanent Government could be established, originating from, and effected by this temporary power. The doctrine that the Revolution is not the origin, but the perfection of the State Governments, and that the States are the successors, as well, of the Crown, as the Colonies, has been so long and so well

established, that it is considered the foundation, not only of Political Power, but of private right. This Political Power existing, and having been exercised up to the Revolution, was not thereby extinguished. This, also, agrees with fact. Those States which were disposed to liberate their slaves, did not consider it as already effected by the Revolution, but found it necessary to do it by some Constitutional or Legislative Act. Consequently, this Political or Sovereign Power, existed after the Revolution. And, as there was no diminution of Sovereign Power, from that time, up to the adoption of the Federal Constitution, it existed up to that time. Did the Constitution of itself take it from the States? There is no such prohibition upon the States, either express, or implied. Moreover, the Constitution recognizes and confirms the right. The third Section, of the fourth Article, inhibits a State from protecting or liberating fugitive slaves from other States, and compels it to deliver them up. The Constitution, so far from destroying, establishes this power in a State."*

I wish I could read more of this very able and truly patriotic speech. But what I have read shows the nature of the conflict, fully and clearly: and it also shows that there was no *truckling* to the "Slave Power" on the part of Northern members who opposed the restriction; but a stern devotion to the Constitution of their country. Mr. Baldwin, of Pennsylvania, and Mr. Meigs, of New York, took the same position as that taken by Mr. Holmes, though their speeches are not reported in full.

Now, then, let us sample Southern sentiment in the same debate. Here, in passing, I see the speech of Mr. Reid, of Georgia. In it, upon the subject of Slavery, he said:

"I would hail that day as the most glorious in its

* *Annals of Congress, 16th Congress, 1st Session*, p. 966.

dawning, which should behold, with safety to themselves and our citizens, the Black population of the United States placed upon the high eminence of equal rights, and clothed in the privileges and immunities of American citizens! But this is a dream of philanthropy which can never be fulfilled; and whoever shall act in this country upon such wild theories, shall cease to be a benefactor, and become a destroyer of the human family."*

He opposed the restriction, however, as others did, mainly upon Constitutional grounds. This his speech abundantly shows.

Here are a few sentences from the speech of Mr. Barbour, of Virginia, which may be taken as a fair specimen of the tenor of the whole of what he said:

"Are we now called to decide, as an abstract question, whether Slavery is or is not justifiable? No, sir, that question had been long settled, before the formation of our Constitution: Slavery existed in many of the States at that period; its existence and its continuance were recognized by that Instrument; the States surrendered to the Federal Government no power over the subject, except after a given period, to prohibit the importation of Slaves from abroad. I tell gentlemen, then, that this is neither the time nor the occasion for the discussion of the abstract justice or injustice of Slavery. If we were called upon in our respective State Legislatures to decide upon its continuance or abolition; or if we were now in Convention for the purpose of forming a new Federal Constitution—in either of these cases their arguments of that kind would have some application. But who are we, and what are our functions? We are the creatures of the Constitution, not its creators; we are called here to execute, not to make one. Let gentlemen, then remember

* *Annals of Congress*, 16*th Congress*, 1*st Session*, *p.* 1025.

that it is not sufficient for them to show that Slavery cannot be justified in itself; that it is, if you please, a moral and political evil; they will yet fail to maintain their ground, unless they can also show that the Constitution gives us power over it."*

Mr. Smyth, of Virginia, used the following language:

"By treaty we are bound to admit Missouri in the Union; * * to guaranty to her a Republican form of Government, (that is, a government by and for the people themselves, not a government imposed on them, nor a Patrimonial Government;) and to leave her all power not delegated by the Constitution to the United States, nor prohibited by it to the States. Treaties are in part the Supreme law of the land, and paramount to the Constitution of any State; yet you propose to violate the treaty with France by the means of a State Constitution, which is of inferior obligation to a treaty. * * *

"Will you be unjust, false, and perfidious, because you are powerful? Would it be honorable to violate a treaty because those who claim the benefits of its provisions are our own citizens? * * * By your Constitution, a treaty is the Supreme law of the land, and paramount to the Constitution which you propose to force Missouri to adopt. You may, indeed, repeal the treaty by an Act of Congress; but the effect of a measure of that kind should be well considered. And you must repeal the treaty directly or by implication before the proposed measure can have the desired effect; for the treaty, until it is repealed, is paramount to the imposed Constitution; and the Judges would sustain it."†

This is enough from the House speeches. I ask attention to one specimen only from the Senate. That is

* *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 1219.

† *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 1006.

from the speech of the great William Pinkney, of Maryland, who was well known to have been against Slavery:

"'New States *may* be admitted by the Congress into this Union?' It is objected that the word 'may' imports power, not obligation—a right to decide—a discretion to grant or refuse.

"To this it might be answered that *power* is *duty*, on many occasions. But let it be conceded that it is discretionary. What consequence follows? A power to refuse, in a case like this, does not necessarily involve a power to exact terms. You must look to the *result*, which is the declared object of the power. Whether you will arrive at it or not may depend on your will; but you cannot compromise with the result intended and professed.

"What, then, is the professed result? To admit a State into this Union.

"What is that Union? A Confederation of States equal in Sovereignty, capable of everything which the Constitution does not forbid, or authorize Congress to forbid. It is an equal Union between parties equally Sovereign. They were Sovereign, independently of the Union. The object of the Union was common protection for the exercise of already existing Sovereignty. * * By acceding to it, the new State is placed on the same footing with the original States. It accedes for the same purpose, that is, protection for its unsurrendered Sovereignty. If it comes in shorn of its beams—crippled and disparaged beyond the original States, it is not into the original Union that it comes. For it is a different sort of Union. The first was Union *inter pares:* This is a Union between *disparates*, between giants and a dwarf, between power and feebleness, between full proportioned Sovereignties, and a miserable image of power—a thing which that very Union has shrunk and shrivelled from

its just size, instead of preserving it in its true dimensions.

"It is into 'this Union,' that is, the Union of the Federal Constitution, that you are to admit, or refuse to admit. You can admit into no other. You cannot make the Union, as to the new State, what it is not as to the old; for then it is not *this Union* that you open for the entrance of a new Party."*

So much for samples of the speeches in the debate on the question. As additional strong proof on the same line, establishing beyond doubt the nature of the conflict, as well as the objects of the leaders of the Restrictionists, who had espoused this question with so much apparent zeal, I will ask your indulgence while I read something Mr. Jefferson said of both. Here is a letter he wrote to Mr. Pinkney, from whose speech I have just read. In this letter, Mr. Jefferson said:

"The Missouri question is a mere party trick. The leaders of Federalism—(he here uses Federalism in the sense in which it was used in 1798 and '99)†—defeated in their schemes of obtaining power by rallying partisans to the principle of Monarchism, a principle of personal, not of local division, have changed their tack, and thrown out another barrel to the whale. They are taking advantage of the virtuous feelings of the people to effect a division of parties by a geographical line; they expect that this will ensure them, on local principles, the majority they could never obtain on principles of Federalism; but they are still putting their shoulder to the wrong wheel; they are wasting jeremiades on the miseries of Slavery, as if we were advocates for it."‡

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* *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 397.

† *Ante*, vol. i, p. 441.

‡ *Jefferson's Complete Works*, vol. vii, p. 180.

Here is another letter Mr. Jefferson wrote to Mr. Holmes, from whose speech I also read. In this he says:

"I thank you, dear sir, for the copy you have been so kind as to send me of the letter to your constituents on the Missouri question. It is a perfect justification to them. I had for a long time ceased to read newspapers, or pay any attention to public affairs, confident they were in good hands, and content to be a passenger in our bark to the shore from which I am not distant. But this momentous question, like a fire bell in the night, awakened me and filled me with terror. I considered it at once as the knell of the Union. It is hushed, indeed, for the moment. But this is a reprieve only, not a final sentence. A geographical line, coinciding with a marked principle, moral and political, once conceived and held up to the angry passions of men, will never be obliterated; and every new irritation will mark it deeper and deeper. I can say, with conscious truth, that there is not a man on earth who would sacrifice more than I would to relieve us from this heavy reproach, in any *practicable* way. The cession of that kind of property, for so it is misnamed, is a bagatelle which would not cost me a second thought, if, in that way, a general emancipation and *expatriation* could be effected; and, gradually, and with due sacrifices, I think it might be. But as it is, we have the wolf by the ears, and we can neither hold him, nor safely let him go. Justice is in one scale, and self-preservation in the other. Of one thing I am certain, that as the passage of slaves from one State to another, would not make a slave of a single human being who would not be so without it, so their diffusion over a greater surface would make them individually happier, and proportionally facilitate the accomplishment of their

emancipation, by dividing the burthen on a greater number of coadjutors. An abstinence, too, from this act of power, would remove the jealousy excited by the undertaking of Congress to regulate the condition of the different descriptions of men composing a State. This certainly is the exclusive right of every State, which nothing in the Constitution has taken from them and given to the General Government. Could Congress, for example, say, that the non-freemen of Connecticut shall be freemen, or that they shall not emigrate into any other State?

"I regret that I am now to die in the belief, that the useless sacrifice of themselves by the generation of 1776, to acquire self-government and happiness to their country, is to be thrown away by the unwise and unworthy passions of their sons, and that my only consolation is to be, that I live not to weep over it. If they would but dispassionately weigh the blessings they will throw away, against an abstract principle, more likely to be effected by Union than by scission, they would pause before they would perpetrate this act of suicide on themselves, and of treason against the hopes of the world. To yourself, as the faithful advocate of the Union, I tender the offering of my high esteem and respect."*

Then, here is another letter he wrote to Mr. Madison, in which he says:

"I am indebted to you for your two letters of February 7th and 19th. The Missouri question, by a geographical line of division, is the most portentous one I ever contemplated. * * * * is ready to risk the Union for any chance of restoring his party to power, and wriggling himself to the head of it; nor is * * * * without his hopes, nor scrupulous as to the means of fulfilling them."

* *Jefferson's Complete Works*, vol. vii, p. 159.

These evidences, without resorting to more, show fully and conclusively, that the conflict in this Missouri Controversy, was not one between the advocates and opponents of Slavery, but between the advocates and opponents of our true Federal system under the Constitution.

But I must proceed with the narrative. On the 18th of February, the House received from the Senate the bill for the admission of the State of Maine, which the House had passed on the 3d of January previous.* When this House Bill was before the Senate, a motion was made, and carried in that body, to tack on to it a bill for the like admission of Missouri. To this proposition *Mr. Thomas, of Illinois*, moved the following amendment:

"*And be it further enacted*, That in all that Territory ceded by France to the United States, under the name of Louisiana, which lies North of thirty-six degrees and thirty minutes north latitude, excepting only such part thereof as is included within the limits of the State contemplated by this act, Slavery and involuntary servitude, otherwise than in the punishment of Crimes whereof the party shall have been duly convicted, shall be, and is hereby forever prohibited: *Provided always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any State or Territory of the United States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service, as aforesaid."†

This was the *Missouri Compromise*, so-called. It did not come from the South. It was not moved by any member, or Senator from the South. Even Mr. Clay, whose name has been so erroneously connected with it, had nothing to do with its origination. It was proposed,

* *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 849.

† *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 427.

as I have stated, by Mr. Thomas, a Senator from Illinois, as an additional section to the bill providing for the admission of Maine and Missouri, without any restriction on either, as all the other new States had been admitted. It related to matter entirely extraneous to the bill, and passed the Senate the 17th day of February, by a vote of thirty-four to ten.* Of the ten noes, every one was from the South, except two. Noble and Taylor, Senators from Indiana, voted against it.

Now, let us see what reception it met with in the House, where, on a test question, Mr. Buchanan says it passed by one hundred and thirty-four against forty-two! A greater historical error on an important matter was hardly ever committed. This House Bill for the admission of Maine, which had passed that body on the 3d of January, and which, as stated, was sent back to them with these Senate amendments, (first, the admission of Missouri, and secondly, the Slavery restriction outside of the State,) was taken up in the House on the 19th day of February, and its consideration was then postponed until a future day.† Meantime, the House went on discussing their own separate bill for the admission of Missouri. Before coming to any final vote upon that, they again, on the 22d of February, resumed the consideration of the Maine Bill, with the Senate amendments, and disagreed to both of them by separate votes: to this Thomas Provision, they disagreed by a vote of one hundred and fifty-nine to eighteen!‡ They then took up and went on with their own bill for the admission of Missouri, with the Restriction on the State in it. On the 28th of February, the House received a message from the Senate, that they insisted on their amendments to the Maine

* *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 428.

† *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 1410.

‡ *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 1457.

Bill. The message was taken up, and after *insisting* on their *disagreement* to this Thomas Provision by a vote of one hundred and sixty to fourteen,* the House went on, still, with their own separate bill as to Missouri.

The Senate asked a Committee of Conference on the disagreeing votes of the two Houses on the Maine Bill. This was granted by the House, 29th February, and Messrs. Holmes, of Massachusetts, Taylor, of New York, Lowndes, of South Carolina, Parker, of Massachusetts, and Kinsey, of New Jersey, were appointed as the House Committee,† every man of them from the Northern States except Mr. Lowndes. After this, the House still went on with their own Missouri Bill, and on the *same day* adopted the Restriction of Mr. Taylor, by a vote of ninety-four to eighty-six; and with this Restriction the Bill passed the House the *next* day, March 1st, by the vote of ninety-one to eighty-two! It so went to the Senate. On the 2d of March, Mr. Holmes, from the Conference Committee on the part of the House, on the Maine Bill, reported. The Report was, that the Senate should *recede* from its Amendments to the Maine Bill, and that *both* Houses should pass the *House* Bill for the admission of *Missouri*, by striking out the House *Restriction* of Slavery on the State, and *substituting*, in lieu of it, the Thomas Provision, imposing a restriction on territory outside of the State, as we have seen. This was the *Compromise*, so-called.‡ A similar report was made to the Senate, on the 3d of March, and was agreed to without a count.§ But, in the House, on agreeing to this Report, the question was first taken on striking out the Slavery *Restriction on the State*, as it then stood in the House Bill, for the admission of Missouri. This was

* *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 1554.
† *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 1558.
‡ *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 1576.
§ *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 472.

the *test* vote in that body, and on this vote the ayes and noes, as they appear upon the record now open for inspection, stand, for it, ninety, and against it, eighty-seven.* This is far from being as Mr. Buchanan says—one hundred and thirty-four in favor of the Compromise, with only forty-two against it! Of the ninety votes in favor of striking out the Restriction on the State, only fourteen were from the non-slaveholding States. These are Messrs. Hill, Holmes, Mason, and Shaw, of Massachusetts; Foot and Stevens, of Connecticut; Eddy, of Rhode Island; Meigs and Storrs, of New York; Baldwin and Fullerton, of Pennsylvania; Bloomfield, Kinsey, and Smith, of New Jersey. The question, then, came up on concurring with the Senate in the insertion of the Thomas Amendment, which provided for the exclusion of Slavery from all the Louisiana Cession outside of Missouri, and north of 36° 30′ north latitude.

This is the question on which the vote stood one hundred and thirty-four to forty-two. It is readily understood. Nearly all those who could not get the Restriction on the State, very willingly took this Territorial Restriction, as the next best thing for the accomplishment of their general objects, without the slightest abandonment of their most determined purpose to accomplish these objects, whenever a case should again arise in which they could effect them. This vote of one hundred and thirty-four to forty-two was, in no sense, a *test* vote upon the admission of Missouri without the State Restriction, in consideration of the Territorial Restriction. If the question could then have come up for the admission of Missouri, under the bill, as it then stood amended, the vote would very certainly have been just as it was upon the motion to strike out the Restriction upon the State; for all knew per-

* *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 1586.

fectly well what would be the result of that vote. There was, however, no vote, and could be none, under the Rules, on the direct question of the admission of the State, by the Bill as it was then amended. It passed from the control of the House, and became a law, so far as they were concerned, by the vote agreeing to the amendment. The real test vote, therefore, was on striking out the State Restriction.

Nearly all the forty-two noes against concurring with the Senate amendment, as to this Territorial Restriction, were from the South. They voted against it, because they believed it to be equally as unconstitutional as the restriction attempted to be put upon the State. They believed that Congress had no more power to control this Institution in the Territories, than they had to control it in the States. It is true, that a large number of Southern members, a small majority of them, did vote for it as a settlement of the Territorial controversy, upon the principle of a division of the public domain between the Sections. In this view they accepted it, agreed to it, and voted for it, under the circumstances, as a *compromise* on that question. This very clearly appears from the speech of Mr. Kinsey, of New Jersey, one of the House Committee of Conference. In this, addressing himself to the northern side of the House, he said :

"Do our Southern brethren demand an equal division of this wide-spread, fertile region; this common property, purchased with the common funds of the Nation? No; they have agreed to fix an irrevocable boundary, beyond which Slavery shall never pass; thereby surrendering to the claims of humanity and the non-slaveholding States, to the enterprising agriculturist of the North, the Middle and Eastern States, nine-tenths of the country in question. In rejecting so reasonable a proposition, we must

have strong and powerful reasons to justify our refusal; and notwithstanding you may plead your conscientious scruples, be it remembered, you must shortly account to that august and stern tribunal—impartial history and the strict scrutiny of public opinion. Can you plead conscience in bar to such a Compromise? If so, how reconcile votes you have, on similar questions, already given?

"When Mississippi, at the last Session, was received into the Union, your votes made Slavery interminable.

* * * * * *

"I much fear, notwithstanding all your solemn asseverations, a scrutinizing public will assign other views, other motives; and what more probable than that unhallowed one of political ascendency? And it is to be feared that a lurking ambition, the bane of all government, has had too great an influence in this debate. If so, it is time now to pause before we pass the Rubicon: to hesitate before it is too late to retract. In persisting in our Restriction on Missouri, are we dealing to our brethren of the South, the same measures we would be willing they should mete to us? When, with magnanimity unparalleled, they have conceded to us nine-tenths of this great common property, can we wish to deprive them of the remainder? And whilst gentlemen, on the part of the majority, arrogate to themselves a greater portion of moral refinement, it would be highly honorable to exhibit greater manifestations of liberality in sentiment."*

With this view, looking to it as a *divison of the public domain* between the Sections, these members did regard this settlement so made as a compromise on the question.

Prof. Norton. How they could vote for what they deemed an unconstitutional measure, with any such view, I cannot perceive.

* *Annals of Congress*, 16*th Congress*, 1*st Session*, p. 1579.

Mr. Stephens. That is another matter. We will take that up hereafter, if it shall be thought necessary.* I am now upon what was the understanding of the nature and effect of the Compromise, at the time, and what I wish to impress upon your minds, at this point, is, that the only conceivable parties to this understanding, agreement, or compact, or covenant, in relation to this division of the public domain, between the Sections, viewed in that light, were the Restrictionist, or Centralist Party, on the one side, and the State Rights, or State Sovereignty Party on the other. Did, then, the Restrictionist

* The Author's views on this question will be seen in the following extract from a debate in the House of Representatives, 17th of January, 1856 :

"Mr. Zollicoffer. If Congress has the power to exclude Slavery from one half of the Territory, has it not power to exclude it from all the Territory ?

"Mr. Stephens. No, sir. That is the point. It would be unjust ; and for that very reason no such power of general exclusion could be properly exercised. The Government of the United States, under the operation of the Revenue Laws, and not within the purview or contemplation of any of the delegated powers of the Government, acquired a surplus revenue. It was never contemplated, by the Constitution, that such a fund should be amassed. A distribution of the fund fairly and justly between all the States, I hold, was perfectly Constitutional. But suppose the North had said, 'Here is a case outside of the Constitution. There is not a word in that instrument on the subject. The fund has been unexpectedly acquired under the operation of the Government ; but it shall not be divided among all the States equally ; it shall be taken exclusively by those where Slavery does not exist ; that no slaveholding State shall touch a dollar of it.' Would that have been Constitutional ?

"This is an apt case in point of illustration, for the Constitution is silent on the subject. It was never contemplated, by that Instrument, that a surplus fund should be accumulated ; but such a fund did accumulate, and may again. The power of distribution was a resulting power, and, when fairly and justly exercised, was Constitutional. I do not now discuss the expediency of the distribution, but the Constitutionality of it. I do not doubt that it was Constitutional if the distribution was fair and just, but it would have been nothing short of usurpation for the North to have taken the whole of it. That is my answer, and

Party so regard it at that time, or ever afterwards? I affirm that they did not! These Annals of Congress, from which I have just read, show that they utterly ignored and repudiated it, at the very next Session of Congress. Missouri was denied Representation in the Senate, and in the House, as a State in the Union, under the provisions of this bill, so passed, based upon this agreement and understanding. Her vote for President and Vice President, which had been cast at the election, held in the following fall, was not allowed to be counted.*

On the resolution of Mr. Lowndes, of South Carolina, offered in the House, on the 13th of December, 1820, recognizing Missouri as a State in the Union, under her Constitution, adopted in pursuance of the Act of Congress, so passed at the Session before, the vote was seventy-nine for it and ninety-three against it! Here is the record.† Of these ninety-three votes against it, *seventy-two* are the identical men who voted against striking out the State Restriction on the *test* vote in the House, as before stated, on the recommendation of the Committee of Conference, on the 2d of March, at the last Session; and *sixty-seven* of them are the identical men who voted, immediately afterward, (2d of March, 1820,) for the insertion

so with the Territories. Here was an acquisition of public domain, which the Constitution never looked to or provided for, made by the common treasure, by the common blood of Northern men and Southern men—men from all sections contributed in acquiring it. In some States Slavery existed, in others it did not; and was it not right that the people of all the States should have an equal enjoyment of, or a just and fair participation in, this public domain? Just as in the case of the surplus fund; when that fund came to be divided, it would have been monstrous, and unjust, and violative of the Constitution—of its spirit, if not of its letter—if the distribution had not been an equal and a fair one."—*Appendix, Congressional Globe, 1st Session, 34th Congress*, p. 57.

* *Annals of Congress, 16th Congress, 2d Session*, p. 1154.

† *Annals of Congress, 16th Congress, 2d Session*, p. 669.

of the Territorial Restriction, which was carried by one hundred and thirty-four to forty-two, which Mr. Buchanan has styled, a Test Vote on the Missouri Compromise! If they had entered into any such covenant, as he says, that Missouri should be admitted without the State Restriction, in consideration of the Territorial Restriction adopted in lieu of it, why did they not abide by it? If there was any breach of "Compact" in this case, who made it? Was the Compromise of 2d of March, 1820, held inviolate by the Restrictionists for twelve months much less for thirty years? If so, why was not Missouri recognized as a member of the Union under it? The pretext of this refusal so to recognize her, was, that the Constitution of Missouri, as formed, directed the Legislature to pass laws to prevent free negroes and mulattoes from going to or settling in the State. It was pretended, that this was in violation of the Constitution of the United States. It was, however, nothing but a pretext; for if the State Constitution contained anything inconsistent with the Constitution of the United States, it was, of course, inoperative, void, and of no effect. This, therefore, was a proper matter for the Courts to determine. But the same Party persistently refused to acknowledge Missouri as a State in the Union. She was, in point of fact, never admitted at all under the Missouri Compromise, so-called.

The conflict was even fiercer at this Session than at the last. It was, at this stage of the proceedings, that Mr. Clay threw himself in the breach, and exerted his transcendent powers in efforts of conciliation and harmony. He moved, on the 2d of February, that a Committee of thirteen be appointed to report such action as was proper to be taken in view of the situation. The Committee consisted of himself as Chairman, Messrs.

Eustis, of Massachusetts, Smith, of Maryland, Seargeant, of Pennsylvania, Lowndes, of South Carolina, Ford, of New York, Archer, of Virginia, Hackley, of New York, S. Moore, of Pennsylvania, Cobb, of Georgia, Tomlinson, of Connecticut, Butler, of New York, and Campbell, of Ohio.*

Mr. Clay, as Chairman of this Committee, reported on the 10th of February. Here is the report and the vote upon it.† The report, in substance, was, that Missouri should be recognized as a State, in the Union, upon the "fundamental condition," that her Legislature should pass no law in violation of the rights of citizens of other States, and that the Legislature should, also, by proper act, give its assent to this "fundamental condition" before the fourth Monday in November, next ensuing; and that the President of the United States, upon the receipt of this assent of the Legislature, should announce the fact by proclamation, and then the State was to be considered in the Union. In other words, this Committee reported that Missouri should be admitted into the Union on an equal footing with the original States, upon the "fundamental condition," that the State Government, in all its Departments, should be subject to the Constitution of the United States, as all the other State Governments were! What more could the other "Conflicting Party" have asked, if they had agreed to the Compromise on the question of Congressional Restriction. This Resolution was rejected by a vote of eighty for it, and eighty-three against it.‡ This shows what was the real objection to the admission of Missouri, at that time, and that the Restrictionists had not agreed to the Compromise, and did not intend to abide by it.

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* *Annals of Congress*, 16*th Congress*, 2*d Session* p. 1027.
† *Annals of Congress*, 16*th Congress*, 2*d Session* p. 1115.
‡ *Annals of Congress*, 16*th Congress*, 2*d Session* p. 1116.

The parties, in the main, continued to stand as they stood in the beginning, and as they stood at the Session before. The passions on both sides waxed warmer as the conflict was prolonged. The excitement became intense, as the debates show. The strife was really between Centralism and Confederation. The rejection of Mr. Clay's resolution was reconsidered the next day; but, when it was again put on its passage, it was again lost, by a vote of eighty-two to eighty-eight.* Discordant opinions now prevailed as to what was the real *status* of the people of Missouri in their relations to the Federal Government. Some held that they were still in a Territorial condition, subject to Federal authority, while others maintained that they constituted an independent State out of the Union.

Mr. Clay, undaunted by his previous failure, again came to the rescue. On the 22d of February, he moved that a grand joint Committee, consisting of members of the House and Senate, should be raised, to propose suitable action for the alarming crisis. The Committee, on the part of the House, was to consist of twenty-three members. These were to be elected by the House. This was agreed to.† The Senate concurred. The Committee was raised.

Mr. Clay was Chairman of the Grand Committee on the part of the House, and made the Report from it on the 26th of February. It was a Joint Resolution, substantially the same as that reported by him before, from the Committee of Thirteen. Here it is:

"*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That Missouri shall be admitted into this Union on an

* *Annals of Congress*, 16*th Congress*, 2*d Session*, p. 1146.

† *Annals of Congress*, 16*th Congress*, 2*d Session*, p. 1219.

equal footing with the Original States, in all respects whatever, upon the fundamental condition, that the fourth clause of the twenty-sixth section of the third Article of the Constitution, submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed, in conformity thereto, by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: *Provided*, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said Act; upon the receipt whereof, the President, by proclamation, shall announce the fact: whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete."*

This Resolution passed the House the same day, by a vote of eighty-seven to eighty-one.† It was sent to the Senate, and passed that body the next day, by a vote of twenty-six to fifteen;‡ and was approved by the President on the 2d of March, 1821.§ The Legislature of Missouri readily passed the indicated Act on the 26th of June thereafter, and on the tenth day of August, 1821, the President issued his Proclamation accordingly, declaring the admission of Missouri into the Union as being complete.‖

* *Annals of Congress*, 16*th Congress*, 2*d Session*, p. 1228.
† *Annals of Congress*, 16*th Congress*, 2*d Session*, p. 1239.
‡ *Annals of Congress*, 16*th Congress*, 2*d Session*, p. 388.
§ *U. S. Statutes at Large*, vol. iii, p. 645.
‖ *Niles's Register*, vol. xx, pp. 388-9.

This is the real Compromise, if it can be considered in that light at all, under which Missouri entered the Union as a State. It was on the fundamental condition that as a member of the Union, she should be subject to the Constitution as all the other States were. This is the substance of it, and this is the only Compromise, on the subject, in which Mr. Clay took any prominent part. It has no direct connection whatever with the exclusion of Slavery from any portion of the public domain. Of the eighty-seven votes for this Resolution, every one was from the Southern States, except seventeen. These seventeen were Messrs. Hill and Shaw, of Massachusetts; Eddy, of Rhode Island; Stevens, of Connecticut; Ford, Guyon, Hackley, Meigs, and Storrs, of New York; Baldwin, Moore, Rogers, and Udree, of Pennsylvania; Bateman, Bloomfield, Smith and Southard, of New Jersey; only three more in all from the entire North than had voted against the State Restriction on the 2d of March the year before.

This is a correct account of the Missouri Compromise, so-called, up to the recognition of that State as a member of the Union. We see that it was utterly *repudiated* by a large majority of the members of the House from every Northern State, except Rhode Island and New Jersey, even before the consummation of that admission. What weight has Mr. Buchanan's bare assertion "that its wisdom and policy" had been "recognized by Congress," and had "remained inviolate" for more than thirty years, against the unassailable and enduring facts of history here presented? Did the adoption of the Thomas Provision for the exclusion of Slavery from all the Louisiana Cession outside of Missouri, and north of 36° 30′ north latitude, on the 2d of March, 1820, and the passage of the Act for the admission of Missouri with that provision in

it, quiet, or tranquillize the agitation of the Slavery question in Congress, for a day or a moment, much less for thirty years? Was not the conflict over the recognition of Missouri as a State in the Union, with a Constitution tolerating Slavery, just as fierce in 1821, as it had been in 1820, if not fiercer, notwithstanding the Act of Congress providing for her admission, with this extra territorial exclusion in it, instead of the State Restriction, which had been passed, as we have seen? Most assuredly it was!

"A Solemn Compact between the conflicting Parties," Mr. Buchanan calls it! When and where did the Restrictionists or Centralists—they certainly were one of the conflicting Parties, in his view—ever so regard it? Besides the votes of their Senators and Members in the House, as we have seen, did not a number of the Northern States, in which this Party had got into power, by their leaders seizing upon this question, immediately in their character as States, enter their most solemn protest against any such construction of the Act of Congress referred to? Here are the Resolutions of the Legislatures of two of these States, New York* and Vermont,† to say nothing of others, sent up to the very next Session of Congress, in direct renunciation of any such agreement or Compact. Is any fact in our history more notorious than that the Restrictionists and Centralists resorted to every epithet in the vocabulary of detraction and abuse, in their attempts to bring odium upon the names and memories of the fourteen men of the North, who voted to strike out the State Restriction, on the 2d of March, 1820; and the seventeen who voted in favor of Mr. Clay's Resolution, in 1821, for their action on these measures, from the day the votes were given down to the proposed legislation referred

* *Annals of Congress*, 16*th Congress*, 2*d Session*, p. 23.

† *Annals of Congress*, 16*th Congress*, 2*d Session*, p. 78.

to by Mr. Buchanan, in 1854? This brings me to the consideration of that measure, but before taking it up, I must trace further the history of this "Missouri line," and the Compromise of 1850. In the subsequent history of this question is to be found not only the reason, but the complete justification of the legislation of 1854, as I shall show. From this it will clearly appear, that this legislation was founded upon no breach of faith or "of Compact," on the part of the Southern States, but, as Mr. Buchanan himself said, in his letter of acceptance referred to, "upon principles as ancient as free Government itself!"

Then, let us proceed with the narrative. The next time this question arose in Congress, was on the admission of Arkansas into the Union, in 1836. This State was formed out of a part of the Louisiana purchase, south of 36° 30′ north latitude. By the terms of the Missouri Compromise, or Compact, as it has been called, she was to come in as a slave State, if her people in their Constitution so provided. Did the North then so recognize and act upon these terms? Did Northern members then raise no objection to the admission of Arkansas, because of her Constitution tolerating Slavery? Was this Compact then recognized, or adhered to, by that Party which had so persistently resisted the admission of Missouri for the same reason? In the House of Representatives, on the 13th of June, 1836, when the bill for the admission of Arkansas was before that body, Mr. John Quincy Adams, who was then the leader of the Abolition agitators in Congress, and who had, for years, presented there, the question of Slavery generally, as it existed in the District of Columbia and in the States, by petition, and in every conceivable form, for the purpose of excitement and irritation, offered the following amendment:

"And nothing in this act shall be construed as an assent by Congress, *to the article in the Constitution of the said State, in relation to Slavery, or the emancipation of slaves*," etc.*

This amendment was cut off by the previous question, so that no direct vote was taken upon it, but when he presented it in Committee of the Whole, he said he wished it to be *inserted* in the bill in *italics*, which showed the spirit with which it was proposed, and that he did not look upon the division of the public domain between the sections on the line of 36° 30′ as a "Compact" binding upon him or his Party. The same is shown by his vote, and that of every other Abolitionist in the House, against the admission of Arkansas as a slave State; though she was south of the Missouri Compromise line. If Arkansas came into the Union, therefore, without any restriction as to Slavery, it was not because the Abolition agitators recognized and acquiesced in the obligation of this Compact, but because of the very large majority of the Jefferson State Sovereignty Party then in Congress.

So of Texas in 1845. The same Party was then largely in the majority, and this line was extended by the members of it, to this new acquisition; but not with the consent, or agreement of "the other conflicting Party." They resisted it with strong and bitter opposition, as the debates conclusively show.† In the settlement of the question as to Texas, it was provided that Slavery should be forever excluded north of 36° 30′, and that south of that line, the people forming Constitutions for new States, might tolerate Slavery, as it existed in other States, or not, as they pleased. The South did not ask for anything more, than that the people of the new

* *Congressional Globe*, 24*th Congress*, 1*st Session*, pages 434, 442.

† *Congressional Globe*, 28*th Congress*, 2*d Session*, p. 193, *et ante*.

States might regulate their domestic affairs in this particular, and all others, as they might in Sovereign Conventions determine for themselves, without any dictation or control from Congress, one way or the other.

Soon after this, on the 12th of May, 1846, the country became involved in the Mexican war. It was apparent, at an early day, that the administration of Mr. Polk, who was then President, looked to a large acquisition of additional Territory as one of the results of that war. This gave new and increased interest to the question of Slavery in the public domain, and on the admission of new States into the Union. On the 8th of August, 1846, Mr. David Wilmot, of Pennsylvania, offered in the House his celebrated "*Proviso*," for the exclusion of Slavery from all the public domain, which might be thus acquired without any recognition of the principle of division.* Mr. Wilmot had, before this time, acted with the Anti-Restrictionists, or State Sovereignty Party, on this question. He had voted with them in the Texas settlement; and his "Proviso," coming from the quarter it did, struck the House, especially the Southern members of it, with very great surprise; but not greater than the result of the vote which was taken upon it. A very large majority of both of the then nominal Political Parties at the North, Whig and Democratic, voted for it. This measure, or Proviso, failed that Session, in the Senate, but the vote referred to, and the discussion in and out of Congress, upon the subject, awakened serious apprehensions and disquietude throughout the entire Southern States. Early, at the next Session, on the 15th of January, when the bill for organizing a Territorial Government for Oregon was up for consideration in the House, Mr. Burt, of South Carolina, deemed it a proper

* *Congressional Globe*, 29*th Congress*, 1*st Session*, p. 1214.

occasion to test the sentiments of Northern members, upon the principle of a division of the public domain, on the line designated in the Act of March, 1820. He therefore moved an amendment to that clause of the Oregon Bill, which excluded Slavery from that Territory, in the following words:

"Inasmuch as the whole of said Territory, lies north of 36° 30′ north latitude, known as the line of the Missouri Compromise."

The object of this amendment was to put a direct test to the Representatives of the Northern States, whether they intended to recognize the principle upon which the controversy on the subject of Slavery, in the public domain, was disposed of in 1820, or not. Northern members understood the object of the mover, as well as the question involved in the amendment, clearly; and they met it promptly. Their response was that they did not. Here is the vote upon this question.* There were in the House then, eighty-two votes for Mr. Burt's amendment, and one hundred and thirteen against it. Of these noes every man was from the North. Every Southern man in the House voted for it. And of the eighty-two who voted to adhere to the principle of the adjustment made in 1820, there were but six from the entire North. They were Clinton L. Hastings, of Iowa; Francis A. Cunningham and Isaac Parrish, of Ohio; Charles J. Ingersoll, of Pennsylvania; and Robert Smith and Stephen A. Douglas, of Illinois. This bill for the organization of a Territorial Government, for Oregon, failed that Session in the Senate.

Mr. Calhoun had in the meantime, 19th February, 1847, introduced a series of Resolutions in the Senate upon this subject, which were denounced at the time as

* *Congressional Globe*, 29*th Congress*, 2*d Session*, p. 187.

factious abstractions and firebrands, intended to inflame sectional excitement, and to produce disunion. They, however, set forth with great clearness and power what was the general view of the people of the Southern States, in relation to the matter embraced in them. No action was had on them, then or afterwards; but they deserve special notice in this connection, and were in these words:

"*Resolved*, That the Territories of the United States belong to the several States composing this Union, and are held by them as their joint and common property.

"*Resolved*, That Congress, as the joint agent and representative of the States of this Union, has no right to make any law, or do any act whatever, that shall directly, or by its effects, make any discrimination between the States of this Union, by which any of them shall be deprived of its full and equal right in any territory of the United States, acquired or to be acquired.

"*Resolved*, That the enactment of any law which should directly, or by its effects, deprive the citizens of any of the States of this Union from emigrating, with their property, into any of the Territories of the United States, will make such discrimination, and would, therefore, be a violation of the Constitution, and the rights of the States from which such citizens emigrated, and in derogation of that perfect equality which belongs to them as members of this Union, and would tend directly to subvert the Union itself.

"*Resolved*, That it is a fundamental principle in our political creed, that a people, in forming a Constitution, have the unconditional right to form and adopt the Government which they may think best calculated to secure their liberty, prosperity, and happiness; and that, in

conformity thereto, no other condition is imposed by the Federal Constitution on a State, in order to be admitted into this Union, except that its Constitution shall be Republican; and that the imposition of any other by Congress would not only be in violation of the Constitution, but in direct conflict with the principle on which our political system rests." *

So this subject remained until the first of March, 1847, when a bill appropriating three million of dollars, to enable the President to effect such treaty with Mexico as he wished, came up before the Senate for consideration. Mr. Upham, of Vermont, then moved to amend the bill by the insertion of what had become well known as the "Wilmot Proviso." That is,

"That there shall be neither Slavery nor involuntary servitude in any Territory which shall hereafter be acquired or be annexed to the United States, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: *Provided always*, That any person escaping into the same from whom labor or service is lawfully claimed in any one of the United States, such fugitive may be lawfully reclaimed and conveyed out of said Territory, to the person claiming his or her labor or service."

On agreeing to this amendment, the vote was twenty-one for it, and thirty-one against it.† Every one of the yeas was from the non-slaveholding States, except John M. Clayton, of Delaware; and every one of the nays was from the slaveholding States, except Sidney Breese of Illinois, Jesse D. Bright and Edward A. Hannegan of Indiana, Lewis Cass of Michigan, and Daniel S. Dickinson of New York.

* *Congressional Globe*, 29*th Congress*, 2*d Session*, p. 455.

† *Congressional Globe*, 29*th Congress*, 2*d Session*, p. 555.

This proposition re-opened in the Senate, as Mr. Wilmot's motion did in the House the year before, the Missouri question, so far as it related to the public domain, in its totality, and as it was presented in the beginning. We see from the vote that there were then in the Senate but five votes from the entire North who were in favor of abiding by the settlement of that question as made in 1820. These five votes from the North, with the Southern votes, defeated the amendment, and the Three Million Bill went from the Senate to the House without the restriction. When it came up for consideration before that body, on the 3d of March, Mr. Wilmot moved his Proviso in the same words, substantially, as it had been presented to the Senate by Mr. Upham. To this Mr. Graham, of North Carolina, moved a substitute, as follows:

"*Provided*, That if any Territory be acquired by the United States, from Mexico, the Missouri Compromise Line of 36° 30′ shall be extended direct to the Pacific Ocean; that is, Slavery shall be prohibited north of that line, and allowed south of it."

Mr. Graham's substitute was rejected, and the "Wilmot Proviso" was incorporated in the bill, by ayes ninety, noes eighty, while the house was in Committee of the Whole. When the bill was reported to the House from the Committee of the Whole, the question came up on agreeing to this amendment. Upon this direct question of agreeing to this "Proviso" as it stood, the ayes were ninety-seven, and the noes one hundred and two! The "Proviso" was therefore lost by a majority of five only. Every one of the ninety-seven votes for it were from the Northern States, except John W. Houston, of Delaware. And of the one hundred and two against it, every one was from the Southern States, except thirteen. These were Stephen A. Douglas and Robert Smith, of Illinois;

James Black, Richard Brodhead, Charles J. Ingersoll, and Jacob Erdman, of Pennsylvania; Francis A. Cunningham, Isaac Parrish, and William Sawyer, of Ohio; Robert Dale Owen, and William W. Wick, of Indiana; Joseph Russell, of New York; Joseph E. Edsall, of New Jersey. Here is the record.*

A most insuperable obstacle it is, too, in the way of those who undertake to maintain that the South was the offending Party, in her want of fidelity in adhering to the Missouri Line of Compromise, between the sections, as agreed upon in 1820! It was, as we have seen, literally forced upon the Southern States at first. If they had had their just representation in the House—the twelve more members which they would have had, but for the three-fifths clause of the Constitution—it never would have been forced upon them as it was. A bare majority of her Representatives accepted it under the circumstances, reluctantly then, as an alternative of two evils; but their entire people, nearly, were willing ever afterwards to abide by it in good faith. Up to this time, March, 1847, it had been preserved only, however, by a united South, aided by a comparatively very small number from the entire North, as this history of it clearly shows. From this last vote, the people of the Southern States still hoped that it might continue to be so preserved for all time to come. This hope, however, soon proved to be utterly delusive.

It is proper to state here, that a goodly number of the members of Congress from the South, in the House, with Mr. Calhoun in the Senate, had disapproved of the policy which led to the war; and did not favor the acquisition of Territory as one of the objects for which it should be prosecuted. This great South Carolina Statesman had,

* *Congressional Globe*, 29*th Congress*, 2*d Session*, p. 573.

in language almost prophetic, characterized Mexican Territory in this view as "the forbidden fruit" to the United States. In this sentiment I fully concurred, and, hence, in every possible way opposed the acquisition, even as a cession by purchase, unless the Slavery question should be first settled in regard to it; and under no circumstances was I in favor of it, as the spoils of conquest. Mr. Toombs, my colleague, then in the House, occupied in the main a similar position. But the great majority of the South, however, both in the Senate and House, under the delusive hope, perhaps, inspired by the final vote on the Three Million Bill, sustained the Administration throughout, and thus secured the acquisition without any previous settlement of this question.

This vote so given in both Houses, on the Three Million Bill, as stated, was the last, by which this line of 36° 30′ was ever even indirectly recognized by the joint action of both Houses of Congress on any measure whatever.

We now approach the end—its final and total abandonment in the Senate, as well as the House, not by the Southern States, but by the Northern States! It was on another bill for the organization of a Territorial Government for Oregon, which came up in the House of Representatives, on the 2d of August, 1848, after the treaty of peace had been negotiated with Mexico, and the acquisition of an immense area of unsettled public domain, including the Territories of California, Utah, and New Mexico, amounting in all, to several hundred thousand square miles, to which the Southern States had contributed as liberally, in blood and treasure, as their Northern Confederates.

In this new bill for organizing a Territorial Government for Oregon, no provision was made touching the

new acquisitions. The bill came up and was passed in the House with a general Slavery Restriction in it, on the 2d of August, 1848.* An effort was made to strike this restriction out, but on the motion, the vote was eighty-eight to one hundred and fourteen. It was sent to the Senate with the Restriction. In that body, on the 10th of August, Mr. Douglas, then a Senator, moved to strike out the restriction as it stood in the bill, and to insert in lieu the following:

"That the line of thirty-six degrees thirty minutes of north latitude, known as the Missouri Compromise line, as defined by the eighth section of an Act entitled 'An act to authorize the people of the Missouri Territory to form a Constitution and State Government, and for the admission of such State into the Union on an equal footing with the original States, and to prohibit Slavery in certain Territories,' approved March 6th, 1820, be, and the same is hereby, declared to extend to the Pacific Ocean; and the said eighth section, together with the Compromise therein effected, is hereby revived and declared to be in full force and binding for the future organization of the Territories of the United States, in the same sense and with the same understanding with which it was originally adopted."†

His object appears clearly from the proposition itself. It evidently was, that now, after these large additional acquisitions had been made by the common blood and treasure of all the States, to settle this Territorial question throughout the whole, by the recognition of this line of division known as the Missouri Compromise. His amendment was carried in the Senate by a vote of thirty-three to twenty-one.‡ But, when the bill went back, the

* *Congressional Globe*, 30*th Congress*, 1*st Session*, p. 1027.
† *Congressional Globe*, 30*th Congress*, 1*st Session*, p. 1061.
‡ *Congressional Globe*, 30*th Congress*, 1*st Session*, p. 1061.

House refused to concur by a vote of eighty-two to one hundred and twenty-one.* The House continued persistently to refuse. The Senate, finally, on the 12th of August, gave way! They on that day receded from their amendment and passed the House bill, with an unconditional Territorial Restriction in it, by a vote of twenty-nine to twenty-five!† This was a complete and total abandonment of the Missouri Compromise, so-called, by both Houses of Congress. It met its final doom on the 12th of August, 1848. On that day it fell, and was buried in the Senate, where it had originated twenty-eight years before, but had never quieted the Abolitionists a day! It fell too, not by Southern, but by Northern hands. The very State to which it owed its paternity struck the last decisive blow!

A few more words in relation to these last votes in both Houses in the last stages of this memorable Compact, so-called, in the Federal Halls of Legislation. On the vote in the House, on the 2d of August, of the eighty-eight in favor of still standing by this division as a Compromise, every one was from the South, except ten; and of the one hundred and fourteen against it, every one was from the North, except two. Of the thirty-three votes in the Senate on the 10th of August, in favor of Mr. Douglas's Amendment, twenty-six were from the South, and seven only were from the entire North. These seven were Bright and Hannegan, of Indiana; Douglas, of Illinois; Dickinson, of New York; Fitzgerald, of Michigan; and Cameron and Sturgeon, of Pennsylvania. Every Southern Senator present voted for it. Of the twenty-one votes against it, every one was from the North.

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* *Congressional Globe*, 30*th Congress*, 1*st Session*, p. 1062.

† *Congressional Globe*, 30*th Congress*, 1*st Session*, p. 1078.

An analysis of this vote, by States, presents the following results. There were sixteen States in favor of abiding by the line of 36° 30′, nine against it, three divided, and two not voting. There were then thirty States in the Union. Of the sixteen yeas, fourteen were Southern States, to wit, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Tennessee, Kentucky, Missouri, Arkansas, and Texas, while only two were Northern States, to wit, Indiana and Pennsylvania. Of the nine nays, every one was a Northern State, to wit, Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New Jersey, Ohio, and Wisconsin. The three divided States were Northern, to wit, New York, Michigan, and Illinois. The two not voting, were Iowa, and Florida; one a Northern State, and the other a Southern State.

When this amendment was before the House, on the 11th of August, of the eighty-two votes for it, every one of them was from the South, except four. These were Ausburn Birdsall, of New York, Charles Brown, Charles J. Ingersoll and Richard Brodhead, of Pennsylvania. Of the one hundred and twenty-one against it, every one was from the North, except one, John W. Houston, of Delaware.

On the final vote, in the Senate, on receding, when the yeas were twenty-nine, and nays twenty-five, every Northern Senator voted with the yeas, and every Southern Senator with the nays, except Mr. Benton, of Missouri. His vote would not have changed the result. So that every Northern State, both in the Senate and in the House, abandoned this principle of division, on the 12th of August, 1848. The vote by States on this question, thus presented for the last time in the Senate,

stands thirteen yeas for the Missouri Compromise line, to wit, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Arkansas, Tennessee, Kentucky, Louisiana, and Texas—all Southern States; and fourteen nays against it, to wit, Maine, Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Michigan, and Wisconsin, all Northern States. Missouri, a Southern State, was divided. Iowa and Florida failed to vote in this case as before.

Now in the face of all the facts of these Records, which no one can gainsay or deny, with any regard for truth, who can justly charge upon the South, or the Southern States, the abandonment of the Missouri Compromise, so-called, or a violation of this sacred Compact, so-called? If there was any breach of faith in this matter, to whose door is it to be laid? "Breach of faith, indeed!" I think you said. Well, then, I repeat, if there was any "breach of faith" on this subject, to which side is it justly to be charged? With what renewed force does your proverb react?

Having thus gone through with the Missouri Compromise, so-called, we will postpone the consideration of the other matters now in hand, until evening.

COLLOQUY XVI.

REPLY TO JUDGE BYNUM CONTINUED—COMPROMISE OF 1850—FULL EXPOSITION OF THIS NEVER BEFORE GIVEN—EXCITEMENT OF THE SESSION—ELECTION OF SPEAKER IN THE HOUSE—POSITION OF A PORTION OF SOUTHERN WHIGS—SPEECHES OF MR. TOOMBS—THE SENATE AT THAT TIME—POSITION OF MR. CLAY, MR. WEBSTER, AND MR. CALHOUN—MR. CLAY'S OMNIBUS BILL—PRINCIPLE ESTABLISHED BY COMPROMISE OF 1850, WAS THE ABANDONMENT OF TERRITORIAL DIVISION BETWEEN THE TWO GREAT SECTIONS OF THE UNION AND THE AFFIRMANCE OF THE PRINCIPLE OF NO CONGRESSIONAL RESTRICTION UPON ANY PORTION OF THE PUBLIC DOMAIN—THIS PRINCIPLE ENDORSED BY BOTH THE GREAT PARTIES AND BY THE PEOPLE OF THE STATES IN THE ELECTION OF MR. PIERCE IN 1852.

Mr. Stephens. We come now to the Compromise of 1850. How far the measures of that year are entitled to that appellation, the facts will show. The general ideas in relation to them are quite as erroneous, as in relation to the one we have just gone through with. For a correct understanding of the subject then, this must be borne distinctly in mind, that the old principle of a division of the public domain between the sections having been presented by the North, and reluctantly accepted by the South, and then entirely rejected by the North, as we have seen, the whole Territorial controversy on this question came up before the Thirty-first Congress, which assembled in December, 1849, just as it did before the Fifteenth Congress, as to the then unsettled public lands. California, New Mexico, and Utah, were still undisposed of, in any way, as we have seen. It is true, two other attempts, besides those noticed, had been made to settle the controversy as to these new acquisitions, which had both failed. One was known as the "Clayton Com-

promise" in 1848; and the other as the "Walker Amendment," in 1849. As neither of these measures, however, had any direct bearing on the point, which we now have in hand, they may both be passed by at this time, without any inquiry into their respective merits or demerits.*

The whole question, therefore, came up in 1849, as it did in the beginning in 1818. A new Administration had, in the meantime, come into power. The Democratic Party, under whose auspices these acquisitions of Territory had been made, had lost, not only the Presidential election in 1848, but had also lost their majority in the House of Representatives. Never had any Congress convened under so much excitement, or under so great responsibility as did the one on which then devolved the disposition of this question, under all the circumstances attending it. The embarrassments of the period were increased from the fact that, for the first time, Southern Senators and Members were greatly divided, as to the proper course to pursue, in view of the question with all its bearings. Some believed the time had come for a separation of the States, and that everything should be done with a view to effect that result. Others believed that the Union might still be preserved upon Constitutional principles, and that the object was worth the most earnest and patriotic efforts. This class believed, however, that the time had come for a total abandonment of all old Party associations, and that the united South should act in Party organization with those of the North only, who would maintain the Federal system, as it was established by the Constitution.

The principle of division having been abandoned by the North, from which side it had originally been pro-

* For the author's views on the Clayton Compromise, see his speech on the subject, *Appendix to Congressional Globe, 30th Congress, 1st Session*, p. 1103.

posed, this class maintained that the South should now firmly and unitedly occupy their original position against the Restrictionists from the beginning of the Government, and present the distinct question to the North of a continued Union under the Constitution, or an immediate separation. They believed that on this issue, squarely presented, a majority of the North would stand by the Constitution. The entire South, with few exceptions, were resolved not to submit to the "Wilmot Proviso," or, what was the same thing, a total exclusion from the public domain. Nearly all of the Southern States, if not every one, had passed Resolutions to this effect.

But the particular class in Congress, so mentioned, who were then of opinion that the best policy for the South was thus to make a united effort, through a *reorganization of Parties*, to bring the administration of the government back to original principles, with hopes thus to preserve the Union, and the equality of the States, was confined at first, almost exclusively, to those known as Southern Whigs. They set the ball in motion by refusing to act further with the Whig organization, as it was then constituted, when the Party met in caucus to nominate a candidate for Speaker of the House. A Resolution, previously prepared, was submitted to this meeting, which in substance was, that Congress ought not to put any restriction upon any State Institution in the Territories, and ought not to abolish Slavery as it then existed in the District of Columbia. Upon the refusal of this Caucus even to entertain this proposition, this class retired from the meeting and would not act with the Whigs in the organization of the House. If all the Southern Members had then occupied the same position, with the view to an entire reorganization of Parties, as stated, it would, I doubt not, have been much better for

the country. But no Southern Democrat favored the movement, while a majority of the Southern Whigs refused to sanction it. Howell Cobb, of Georgia, was the Democratic nominee for the Speaker's Chair, and Robert C. Winthrop, of Massachusetts, was put in nomination for the same by the Whigs. But neither of these two great Parties, then so called, as matters stood at the time, had a majority in the House. Besides the Southern Whigs, who had thus separated themselves from their former Party organization, there were fourteen extreme Restrictionists from the North, composed partly of Whigs and partly of Democrats, who refused to support either of these nominees. In this way the election of a Speaker was prevented for nearly a month, and would have been prevented from ever taking place, on old Party lines, if the entire South had united with this separate Southern organization in their purpose, or if the Rules of the House had not been violated by the passage of a Resolution declaring that a bare plurality of votes cast for any one, instead of a majority of the whole, should constitute an election. This, subsequent events clearly proved. The position and views of these Southern Whigs, as well as the temper of the times, can best be known from a sample of the debates in the House, on the question of the election of a Speaker.

My colleague, Mr. Toombs, took the lead in this matter, in behalf of his associates. He it was who presented the Resolution in the Whig caucus referred to. I now call your attention to what he said in the midst of the confusion and excitement attending the organization of the House. It was on the 13th of December, after nine days had been consumed in unsuccessful ballotings for Speaker. But before taking up this speech, it is proper to add to what has been said, a few words more in further

explanation. The Democrats, having become satisfied that in no event could they concentrate a majority of votes upon their regular candidate, [Mr. Cobb,] had informally taken his name down, and run up that of Mr. William J. Brown, of Indiana. On the 12th of December, after Mr. Brown had received a full majority of all the votes in the House, but before the result was announced, a very discreditable arrangement between him and certain members belonging to the extreme Restrictionists referred to, then known as "Free-Soilers," by which he had pledged himself to constitute three important committees in such way as they had required, was exposed, when Southern Democrats immediately withdrew their votes, and he failed of an election. Mr. Albert G. Brown, of Mississippi, then introduced a Resolution declaring Mr. Cobb the Speaker.

It was amidst the confusion growing out of this state of things that Mr. Duer, of New York, next day, addressed the House at some length. Amongst other things, he said:

"The gentleman from Mississippi [Mr. Brown] had introduced a proposition, declaring the gentleman from Georgia [Mr. Cobb] to be the Speaker of this House; in other words, a proposition calling upon his (Mr. D's) side of the House (the Whig side) to make an unconditional surrender. It appeared to him that this was asking altogether too much; for his own part, so anxious was he that an organization should be effected, that he was willing to organize in almost any way, by electing to the Speaker's chair either a Whig or a Democrat, or a Free-Soiler—any one, in short, except a Dis-unionist. He never would give his vote for any man whom he believed to be inimical to the Union.

"Mr. Bayly (interposing) said: There are no Disunionists in this House.

"Mr. Duer. I wish I could think so, but I fear there are."*

In this speech, Mr. Duer made no special mention of the Southern Whigs, who thus stood aloof, and did all in their power, to prevent an organization, under circumstances then existing; but he evidently referred to them, in his remarks about not voting for a Dis-unionist; for, the position of these Whigs was well known at the time to be for a separation of the States, or the abandonment by Congress of the general Territorial Restriction.

It was now that Mr. Toombs, in his own behalf, as well as in behalf of these Southern Whigs, who, up to this time, had been silent, rose, and in his bold, dashing, impromptu, Mirabeau strain, delivered himself in these words:

"Mr. Toombs said the difficulties in the way of the organization of this House, are apparent and well understood here, and should be understood by the country. A great sectional question lies at the foundation of all these troubles. The disgraceful events of yesterday, and the explanations consequent upon their exposure, prove conclusively that the Democratic Party and the Free-Soilers were both acting in reference to it. The Southern Democrats were satisfied, from the public course and private assurances both of the member whom they supported and his friends, that he was worthy of trust upon these important sectional issues. The disclosures which were made proved that they were mistaken; and, with a promptness honorable to them, they instantly withdrew their support, and left the discredit to fall where it properly belonged. The Free-Soilers, who were engaged in the discreditable conspiracy, secretly and dishonorably sought to acquire advantages in the organization of the House

* *Congressional Globe*, 31*st Congress*, 1*st Session*, p. 27.

by private pledges, concealed and intended to be concealed from the great majority of those whose votes were necessary to elect the person for whom they voted. They sought, by a discreditable trick, to secure those advantages in the organization which they had not the courage or the boldness openly to demand. They affected to rely on a written pledge which they knew was given in fraud and treachery. I leave the morality and honesty of this Party to be tested by the simple fact of this transaction, with the single remark, that these are the men whose consciences have no rest on account of what they call the sin of Slavery. The Whig party presented their nominee, who has received the support of the great majority of that Party. No pledges were asked by the Northern members of that Party, for the very sufficient reason that, being in a majority of nearly three to one, they were very abundantly able to take care of themselves. I did not act with them, because the events of the past, of the present, and the prospect of the future, force the conviction on my mind that the interests of my section of the Union are in danger, and I am therefore unwilling to surrender the great power of the Speaker's Chair without obtaining security for the future.

We have just listened to strong appeals upon the necessity of organizing the House. I confess I do not feel that necessity. From the best lights before me, I cannot see that my constituents have anything to hope from your legislation, but every thing to fear. We are not impatient to have the doors of your Treasury thrown open, and forty millions of the common taxes of the whole nation thrown into the lap of one half of it. We ask for none of it; we expect none of it; therefore gentlemen must pardon my want of sympathy for their impatience. By giving you the control of the Treasury, we increase your ability

to oppress. I want grievances redressed, and security against their further perpetration, before I am willing to give you power over the supplies. Sir, I do not regret this state of things in the House. It is time we understood one another; that we should speak out, and carry our principles in our foreheads.

"It seems, from the remarks of the gentleman from New York, that we are to be intimidated by eulogies upon the Union, and denunciations of those who are not ready to sacrifice national honor, essential interests, and Constitutional rights, upon its altar. Sir, I have as much attachment to the Union of these States, under the Constitution of our Fathers, as any freeman ought to have. I am ready to concede and sacrifice for it whatever a just and honorable man ought to sacrifice. I will do no more. I have not heeded the aspersions of those who did not understand, or desired to misrepresent, my conduct or opinions in relation to these questions, which, in my judgment, so vitally affect it. The time has come when I shall not only utter them, but make them the basis of my political action here. I do not, then, hesitate to avow before this House and the country, and in the presence of the living God, that if by your legislation you seek to drive us from the Territories of California and New Mexico, purchased by the common blood and treasure of the whole people, and to abolish Slavery in the District, thereby attempting to fix a national degradation upon half the States of this Confederacy, *I am for disunion;* and if my physical courage be equal to the maintenance of my convictions of right and duty, I will devote all I am and all I have on earth to its consummation.

"From 1787 to this hour, the people of the South have asked nothing but justice—nothing but the maintenance

of the principles and the spirit which controlled our Fathers in the formation of the Constitution. Unless we are unworthy of our ancestors, we will never accept less as a condition of Union. A great Constitutional right which was declared by a distinguished Northern Justice of the Supreme Court (Judge Baldwin) to be the corner-stone of the Union, and without which he avers, in a judicial decision, it would never have been formed, has already practically been abrogated in all of the non-slave-holding States. I mean the right to reclaim fugitives from labor. I ask any and every Northern man on this floor, to answer me, now, if this is not true—if this great right, indispensable to the formation of the Union, is any longer, for any practicable purpose, a living principle? There are none to deny it. You admit you have not performed your Constitutional duty; that you withhold from us a right which was one of our main inducements to the Union; yet you wonder that we look upon your eulogies of a Union whose most sacred principles you have thus trampled under foot as nothing better than mercenary, hypocritical cant. This District was ceded immediately after the Constitution was formed. It was the gift of Maryland to her sister States for the location of their common Government. Its municipal law maintained and protected domestic Slavery. You accepted it. Your honor was pledged for its maintenance as a National Capital. Your faith was pledged to the maintenance of the rights of the people who were thus placed under your care. Your fathers accepted the trust, protected the slaveholder and all other citizens in their rights, and in all respects faithfully and honestly executed the trust; but they have been gathered to their fathers, and it was left to their degenerate sons to break their faith with us, and insolently to attempt to play the master where they

were admitted as brethren. I trust, sir, if the representatives of the North prove themselves unworthy of their ancestors, we shall not prove ourselves unworthy of ours; that we have the courage to defend what they had the valor to win.

"The Territories are the common property of the people of the United States, purchased by their common blood and treasure. You are their common agents; it is your duty, while they are in a Territorial state, to remove all impediments to their free enjoyment by all sections and people of the Union, the slaveholder and the non-slaveholder. You have given the strongest indications that you will not perform this trust—that you will appropriate to yourselves all of this Territory, perpetrate all these wrongs which I have enumerated; yet, with these declarations on your lips, when Southern men refused to act in Party caucuses with you, in which you have a controlling majority—when we ask the simplest guarantee for the future—we are denounced out of doors as recusants and factionists, and in doors we are met with the cry of 'Union, Union.'

"Sir, we have passed that point. It is too late. I have used all my energies, from the beginning of this question, to save the country from this convulsion. I have resisted what I deemed unnecessary and hurtful agitation. I hoped against hope, that a sense of justice and patriotism would induce the North to settle these questions upon principles honorable and safe to both sections of the Union. I have planted myself upon a National platform, resisting extremes at home and abroad, willingly subjecting myself to the aspersions of enemies, and, far worse than that, the misconstruction of friends, determined to struggle for, and accept any fair and honorable adjustment of these questions. I have almost

despaired of any such, at least from this House. We must arouse and appeal to the Nation. We must tell them, boldly and frankly, that we prefer any calamities to submission, to such degradation and injury as they would entail upon us; that we hold that to be the consummation of all evil. I have stated my positions. I have not argued them. I reserve that for a future occasion. These are the principles upon which I act here. Give me securities that the power of the Organization which you seek will not be used to the injury of my constituents, then you can have my co-operation; but not till then. Grant them, and you prevent the recurrence of the disgraceful scenes of the last twenty-four hours, and restore tranquillity to the country. Refuse them, and, as far as I am concerned, 'let discord reign forever!'

"[Several times during the delivery of these remarks, Mr. T. was interrupted by loud bursts of applause.]"*

This speech produced a profound sensation in the House, and in the country. It received rounds of applause from the floor and the galleries. It did not, however, assuage, in the slightest degree, either the bitterness, or the determination of the Restrictionists. This is apparent from the fact that, the next day, a Resolution was passed prohibiting all further debate, and also from another specimen of the proceedings, on the 22d of December, which deserves special notice. But before referring to this specimen, it is proper to state that after the disclosure of the arrangement which Mr. Brown had entered into, his name was immediately withdrawn by the Democrats, and that of Mr. Cobb again put up; but no election had taken place, and it was evident that none could take place under the Rules without an abandonment of the then Party organizations. The Whigs

* *Congressional Globe*, 31*st Congress*, 1*st Session*, p. 27.

and the Democrats, in order to get over the difficulty, and to elect a Speaker without coming to the terms of these Southern Whigs, as stated, had come to a joint resolution, which was presented to the House by Mr. Stanton, of Tennessee, from the Democratic side of the Conference Committee between the two great Parties, on the 22d of December, and which declared in substance that that person should be speaker who should receive the largest number of votes, barely, on a certain ballot; provided the number so received should be a majority of a *quorum*, though it fell short of a majority of the House. This was the Plurality Resolution under which the House was organized as before referred to, in direct violation of its Rules. The scenes which occurred when it was presented, constitute the specimen of the proceedings on that day to which I refer, and in which Mr. Toombs again figured in the style we shall see. It is unnecessary to read the whole. A sample of the most striking points in the general prevailing disorder will suffice. The parts omitted have no material bearing upon those here reproduced:

"Mr. Stanton, of Tennessee, rose and said, that he desired to present a proposition to the House. He presumed that, under the rule which had been adopted, it would not be in order to debate it He would, however, be permitted to say, that it was a proposition known to have been presented on the part of the committee appointed by the Whig caucus, to confer with a similar committee appointed by the Democratic caucus.

"Mr. Toombs inquired of the gentleman from Tennessee [Mr. Stanton] if he yielded the floor?

"Mr. Stanton. I do, if it is understood that I am to have the floor, as soon as the question is decided.

"Mr. Toombs, (still remaining upon the floor,) said: I

desire to be heard, to show this House, that they have no right to pass such an order, as they adopted on the 14th instant; that, according to the Constitution, and the act of Congress of 1789, this House [in its present condition,] has not the right to pass that or any other Rule.

"Mr. Duer. I am willing to hear the gentleman from Georgia, and I propose that the unanimous consent be given, to allow that gentleman, and all other gentlemen, to discuss the point.

"Mr. Baker. I move that by unanimous consent the gentleman from Georgia be allowed to debate this question.

"Mr. Inge called attention to the fact, that the motion of the gentleman from Illinois [Mr. Baker] could not be received, as there was already a question pending upon his motion, to rescind the Resolution of the 14th instant.

"The clerk, (to Mr. Toombs). Will the gentleman from Georgia allow me to put the question upon the motion to rescind the Rule?

"Mr. Toombs. No. I have the floor. I deny the Constitutional right of this House, to pass that Resolution, or any other rule or Resolution. It is an unauthorized infringement of the great right of freedom of speech. The Constitution and the law of 1789—

[Loud cries to order.]

"Mr. Toombs. You may cry order, gentlemen, till the heavens fall; you cannot take this place from me. I have the right to protest against this transaction. It is not with you to say whether this right shall be yielded, and when it shall be yielded. I desire, then, gentlemen of the House, to show that you are without rules, and that no orders can—

[Cries to order—'Sit down; you have no right to debate.']

"Mr. Toombs, (continuing.) I am attempting to show to you, that no man can rise to order—

[Calls to order.]

"Mr. Stevens, of Pennsylvania. I call the gentleman to order.

"Mr. Toombs, (continuing.) I say that, by the law of 1789, this House, until a Speaker is elected, and gentlemen have taken the oath of office, has no right to adopt any rules, whatsoever.

[Loud cries of order!]

"Mr. Toombs. Gentlemen may amuse themselves by crying order—

[Calls to order.]

"Mr. Toombs. But I have the right, and I intend to maintain the right to—

"Mr. Van Dyke. I call upon the clerk to put the question, and let us see whether the gentleman will disregard the order of this House.

"Mr. Toombs. I have the floor, and the clerk cannot put the question. I submit that—

[Calls to order.]

"Mr. Toombs, (continuing.) The clerk has not the right to put the question of order.

[Order! Order!]

"Mr. Toombs, (continuing.) That it cannot be done. The House has no right. Gentlemen may cry 'order,' and interrupt me. It is mere brute force, attempting, by the power of lungs, to put down a gentleman in the exercise of his right.

[Cries to order.]

"Mr. Toombs, (continuing.) But gentlemen cannot deprive me of my rights. I shall insist upon them to the last extremity.

"Mr. Van Dyke. It is for the House to decide, whether the gentleman is in order or not.

"The Clerk. The gentlemen from New Jersey rises to a question of order. The question submitted to the House is—

"Mr. Toombs. I deny the right of the clerk, to put the question. I am upon the floor, and it is my right to—

[Calls for the yeas and nays, from various parts of the House.]

"The Clerk, (Mr. T. still upon the floor.) The yeas and nays are demanded upon the motion of the gentleman from Alabama, [Mr. Inge.] Gentlemen, you, who are in favor of agreeing to the motion, will, when your names are called, say 'aye;' those of a contrary opinion will say 'no.' The clerk will call the roll.

"Mr. Toombs, (continuing.) I deny the right of these gentlemen to—

[Cries of order!—call the roll!]

"Mr. Toombs. I shall debate the question, whether you call the roll or not.

[Great confusion.]

"Mr. Breck. I move that this House do now adjourn.

"Mr. Toombs (continuing.) I keep upon the floor. Shall the clerk deprive me of my Constitutional rights? [Order, order.] Shall members, by crying 'order,' deprive me of those rights? I desire to show my rights under the Constitution. You do well to call the roll, and to cry 'order:' [loud calls to order]—but I deny the right of any and every man to interrupt me.

[Cries of 'Go it, Toombs'—'call the roll'—'order'—and great confusion.] In the midst of this, and while Mr. Toombs was still addressing the House—

"The Clerk commenced to take the yeas and nays, on the motion of Mr. Inge.

"Mr. Toombs continued to speak.

[Great confusion prevailed.]

"He said: If you seek, by violating the common law of Parliament, the laws of the land, and the Constitution of the United States, to put me down, [order, order,—'call the roll,'] you will find it a vain and futile attempt. [Order, order.] I am sure I am indebted to the ignorance of my character of those who are thus disgracing themselves, [order, order,] if they suppose any such efforts as they are now making, will succeed in driving me from the position I have assumed. [Order, order.] It is too strongly planted in the very foundations of public liberty. [Order, order.] I stand upon the Constitution of my country, upon the liberty of speech, [order, order,] which you have treacherously violated, and upon the rights of my constituents, and your fiendish yells may be well raised to drown an argument which you tremble to hear. You claim and have exercised the power to prevent all debate upon any and every subject; [order, order,] yet you have not even as yet, shown your right to sit here at all. I will not presume that you have any such right—[order, order.] I will not suppose that the American people have selected such agents to represent them; and I therefore demand that they shall comply with the act of 1789, before I shall be bound to submit to their authority. [Loud cries of order, order.] The second section of that act is [in] these words:

"'That at the first Session of Congress after every general election of Representatives, the oath or affirmation aforesaid shall be administered by any one member of the House of Representatives to the speaker, and by him to all the members present, and to the clerk, *previous to entering on any other business.*'

"This you have not done. [Order, order.] Your power to make rules for your own Government does not

belong to you in your unorganized condition. [Cries of order.] You must first be sworn to obey the Constitution, before you can bind me, or yourselves, or any other citizen, by your rules. [Loud cries of 'order, order.']

"You refuse to hear either the Constitution or the law, or the comments upon it. Perhaps you do well to listen to neither; they all speak a voice of condemnation to your reckless proceedings. But if you will not hear them, the country will. Every freeman, from the Atlantic to the Pacific shore, shall hear them, and every honest man will consider them. They are the securities for his rights as well as mine. You cannot stifle the voice that shall reach their ears. The electric shock shall proclaim to the freemen of this Republic, [order, order,] that an American Congress, having conceived the purpose to violate the Constitution and the laws, to conceal those enormities, have disgraced the Record of their proceedings by placing upon it a resolution that their Representatives shall not be heard in their defence; and finding this illegal resolution inadequate to secure so vile an end, have resorted to brutish yells and cries, to stifle the words of those whom they cannot intimidate. [Order, order.] The law is clear, plain, and conclusive. You cannot answer it. It has been solemnly affirmed by an American Congress, in 1839. [Order, order.] I read from the Congressional Globe, page 56: On motion of Mr. Dromgoole, of Virginia, to adopt the standing rules and orders of the (then) last House of Representatives, as the rules and orders of that House, it was moved by Mr. Louis Williams to lay the resolution on the table. Mr. W. C. Johnson here made a point of order, that by the act of 1789, to which I have referred, the House had no power to adopt rules until they were sworn. The speaker (Mr. R. M. T. Hunter,) suggested

that the better way of deciding the question would be on the motion (of Mr. Williams) to lay it on the table. The yeas and nays were called, and the Resolution was laid upon the table by the casting vote of the speaker: Congress thus deciding that, even after a more advanced stage of the proceedings, after a speaker was elected, the House could not, before its members were sworn, even adopt rules for their own government. [The clerk still continued to call the roll, a few members were answering, others inquiring what was the question, others demanding that their names should be called, and great confusion; during all of which, Mr. Toombs held on in his remarks.]

"I ask (said Mr. T.) by what authority that man (pointing to the clerk's desk) stands there and calls those names? By what authority does *he* interfere with the rights of a member of this House? [The clerk continued to call.] He is an intruder, and how dares he to interrupt members in the exercise of their Constitutional rights? Gentlemen, has the sense of shame departed with your sense of right, that you permit a creature, an interloper, in no wise connected with you, to stand at that desk and interrupt your order. [Order, order.]

"I have shown you that the House of Representatives decided this question in 1839, pending the New Jersey contested election. At the head of the names affirming it, stands that of John Q. Adams—a gentleman, distinguished at least for his vast and varied knowledge of Constitutional law and the science of government. The members of the House whose seats were not contested, having decided (before they were sworn or organized,) that the votes of certain members of New Jersey should not be counted, and the validity of that decision being insisted upon, Mr. Adams said, 'That decision was illegal,

unconstitutional, null and void, on the ground, also, that the House, in its then unorganized State, had no power under the Constitution to decide any question.' The history of that whole controversy shows such to have been the general opinion of the House, as I am prepared to show from the debates now before me; but as the House seems to be a little more patient, I will not inflict further quotations upon them. The House continued, without making any new rules, for days, until it was finally organized, and the members were sworn; then rules were adopted for its government.

"If, then, the House, before its organization, could decide no question, how can it enact a law, binding upon its members, abridging the liberty of speech? I venture to say that no such rule was ever before adopted in any deliberative assembly. It is without a precedent in the annals of civilization. Even the Revolutionary tribunals of France, during the Reign of Terror, did not soil their blood-stained records with an order denying the liberty of speech. This deed was reserved for you, Representatives of a free people. [Order! order!] What, then, is your condition?—what your rights, and what your duties, in your present condition? Under the Constitution you have the right 'to choose your speaker and other officers.' This must be done in conformity to existing laws, for you cannot now make a new law. The general Parliamentary law, the common law of Parliament, as far as it is not inconsistent with your Constitution and Statute law, is your law. By it you are bound, until you are in a condition to make others. It is amply sufficient for all legitimate purposes of organization. Thirty Congresses have met and been organized under it, and no such tyrannical proceeding as that which you have adopted has ever been deemed necessary. But you find yourselves trammelled

by your Party ties. Your plain duty is to break these ties, and perform your Constitutional duty; but you prefer to break the Constitution of your country. Therefore, you will this day, do what you have already determined in caucus to do—you will delegate that power which the Constitution vests in the House of Representatives to a minority of that House, and you will permit that minority to exercise your Constitutional duty to choose a Speaker. A power delegated to the House must be used by a majority of the House. In Jefferson's Manual, we find the true and correct doctrine laid down, page 183: 'The voice of the majority decides; for the *lex majoris partis* is the law of all councils, elections, etc., where not otherwise expressly provided.' It is not otherwise provided in the Constitution, nor laws, nor rules of Parliament, nor in any rule of any preceding Congress. They, one and all, where the question is referred to, sustain the majority rule. It is the basis of our whole system. The will of any assembly can only be known by a majority. Therefore, whether every member of Congress is present, or but a majority of one, it is but a 'House,' and a majority must declare its will. I, therefore, demand of you, before the country, in the name of the Constitution and of the people, to repeal your illegal rule, reject the one on your table, and proceed to the discharge of the high duties which the people have confided to you, according to the unvarying precedents of your predecessors and the law of the land.

"[During the latter part of Mr. T's speech, the House was more tranquil.]" *

This whole stenographic picture, from which I have extracted the most prominent parts, by Henry W. Wheeler, then reporter for the Congressional Globe, is

* *Congressional Globe*, 31*st Congress*, 1*st Session*, p. 61.

one of the best of the kind ever put upon paper. The concluding note, however, hardly does full justice to the effect of the speech. The statement that the House was more tranquil, falls short of conveying an exact idea of its real condition. Members, it is true, were still out of their seats, and standing in the aisles; but the clerk had stopped calling the roll, all noise and interruptions had ceased, and every eye was staringly fixed upon the speaker.

This speech of Mr. Toombs, as well as the other one cited, in tone and manner, was deemed by some as bullying, menacing, and insolent; but the former seemed to me, then and now, to be justly obnoxious to no such censure, while the latter, I thought, should rather be considered in the light of a wonderful exhibition of physical as well as intellectual prowess—in this, that a single man should have been able, thus successfully, to speak down a tumultuous crowd, and by declamatory denunciations, combined with solid argument, silence an infuriated assemblage. The House at that time was little else. Mr. Douglas tried a similar experiment some months afterwards, at Chicago, but failed in it.

The Resolution, which had been agreed upon by the Representatives of the two nominal Parties, Whig and Democratic, was immediately adopted by the House. Under this Resolution, Mr. Cobb received one hundred and two votes, and Mr. Winthrop ninety-nine. The whole number of votes cast was two hundred and twenty-one. So Mr. Cobb was declared to be the Speaker, though he fell short by nine votes of receiving a majority of the whole, as required by law. These samples must suffice for the phase of things as presented in the House.

We will now turn to the Senate. Mr. Clay had just

been returned again after being in retirement for several years. He had been defeated for the Presidency by Mr. Polk, in 1844. He was in politics a disciple of the Jefferson school, and had lost his election for the Presidency by a defection at the North from the Party then running him, because of their violent opposition to the incorporation of Texas into the Union. He had expressed himself in favor of that measure in a letter, which was published not long before the election. He had stood amongst the most prominent of the Anti-Restrictionists upon the Missouri question, though he was known to be opposed to Slavery. His position on this question, in 1821, and on the Tariff question, in 1832, had secured to him the appellation of "The Great Pacificator." Coming back to the Senate, therefore, now, in this even more alarming crisis than either of the former ones, all friends of the Constitution, and Union under it, looked to him with more interest than ever before, and with more hope than to any other man then living. He was approaching the sunset of life; and, personally, it was a brilliant one to him. The clouds and tempests of the morning, noon, and evening of his day, had passed away. All party and personal bitterness had ceased. He had the respect and the confidence of the entire country. He, therefore, took the lead in the Senate, where he again met Mr. Calhoun and Mr. Webster, the other two of the illustrious trio of their day. This body never before presented a greater array of talent than it did at the beginning of this Session of Congress.

Besides Mr. Clay, Mr. Calhoun and Mr. Webster, there were, at this time, in the Senate of the older class, connecting and lapping the outgoing with the incoming generation of Statesmen, quite a number who had gained great distinction, and who will ever hereafter occupy a

high place on the Roll of the men who made their mark upon the history of the country, during the period in which they lived.

Amongst these, without invidious distinction, may be named Lewis Cass, Thomas H. Benton, John McPherson Berrien, William R. King, John Bell, Wilie P. Mangum, James Alfred Pearce, Samuel S. Phelps, and Samuel Houston.

Then of the younger class, just rising to note on that august arena, may be, in like manner, named Stephen A. Douglas, Jefferson Davis, Salmon P. Chase, William H. Seward, Robert M. T. Hunter, James M. Mason, Moses Norris, George E. Badger, John P. Hale, and Henry S. Foote.

These, to say nothing of others, all added more or less lustre, by vigor of thought or brilliancy of wit, to that grandest intellectual constellation—moral qualities and all considered—which was ever beheld in the Political firmament of this or any other country.

The crowning halo was imparted by Millard Fillmore, who presided over the whole as Vice President of the United States. He was of most imperturbable temper, and of a personal appearance, in every respect, exceedingly impressive. There was a dignity in this Head of the Ambassadors of the States in Grand Council assembled, which fully accorded with all the surroundings. Order and decorum, with all the proprieties which should govern high debate, were stamped upon his brow. Of him, taken altogether, it might be said with as much truth as of any other public character I ever met with: There, "indeed," is a man "in whom is no guile!"

On the 29th of January, 1850, Mr. Clay introduced his celebrated series of Resolutions covering, as was supposed, all the questions involving sectional controversy, agitation

and alienation. It was known for several days previous, that, on this day, he would address the Senate, and present to their consideration propositions for the adjustment of all these questions. The announcement of this fact, which had gone to the country, had brought an immense crowd of strangers to the city. At an early hour in the morning, long before the hour for the meeting of the Senate, the chamber, in every aisle, nook and corner, was jammed to hear the words which, on this occasion, would fall from the lips of the "Sage of Ashland." Thousands were disappointed from inability to reach even within ear-shot of the speaker. On the conclusion of this speech, one of the most eloquent of his life, which was continued to the next day, he formally submitted the Resolutions referred to, which were the *basis* of what is known as the Compromise of that year.

They, however, did not contain the main provision upon which the final legislation of that year depended and turned. To understand the bearing of his Resolutions, and the difference between them and the final acts of Congress upon the subjects embraced by them, it is proper to state that before the meeting of this Session of Congress, and without any authority from Congress, the people of California had, during the Summer of 1849, under a proclamation of General Riley, of the United States Army, then in command of that Military District, called a Convention, which had framed a Constitution, with an exclusion of Slavery, and asked to be admitted as a State into the Union under it. This was understood to have been done in pursuance of the policy of General Taylor's Administration, which was to get rid of the vexed question, by stimulating the people of the Territories to form State Constitutions, with the exclusion of Slavery in them, and for them thus to apply for admission

into the Union without any previous authority from Congress. This policy met the approval of very few of any Party. To say nothing of other considerations, the people of Utah and New Mexico were in no condition to become States.

Mr. Clay's Compromise proposed to admit California under the Constitution so formed—to organize Territorial Governments for Utah and New Mexico, without any restriction as to Slavery—to settle the question of boundary between New Mexico and Texas by negotiation with that State—to pass an efficient act for the rendition of fugitive slaves, and to abolish the slave trade, as it was called, in the District of Columbia. These propositions, taken together, like the Administration plan, satisfied very few members, either of the Senate or the House. The great majority of the North were utterly unwilling to abandon the Restriction of Slavery in the Territories. A formidable minority of the same section was equally as unwilling to comply with that clause of the Constitution requiring the rendition of fugitive slaves. This latter class, also, were not satisfied with the bare suppression of the slave trade in the District of Columbia, but insisted upon a total abolition.

On the Southern side an overwhelming majority were opposed to the admission of California as a State, under the Constitution so formed, irregularly and without the authority of law. The class of Southern Whigs referred to were willing to admit California under her Constitution; but required that in the organization of the Territorial Governments for Utah and New Mexico, the people from the South, settling and colonizing these Territories, should be permitted to carry their slaves with them, if they chose; and that the whole people, there, should be permitted to frame such Constitutions as they might

please in reference to African Slavery; and upon their application for admission into the Union, they should be received as States without any Congressional Restriction upon that subject. So matters stood in both Houses. The debates in each were continued with great bitterness. No active demonstration of forces was made in either until the 18th of February.

On that day, Monday, which was the day of the week under the Rules when Resolutions were in order from the States, Mr. James D. Doty, of Wisconsin, offered, in the House, a resolution instructing the committee on Territories, to report a bill for the admission of California under her Constitution, and called the previous question upon it. This was a nigh cut to get California in without any settlement of the other questions. A large majority of the House was in favor of the admission of California; but there were some of this majority, to wit, the Southern Whigs referred to, who were opposed to her admission, until the Territorial question should be adjusted. They therefore resisted the passage of Mr. Doty's resolution. They could resist it successfully, in one way only—that was by making dilatory motions; for, under the operation of the previous question, if the call for that had been allowed to be sustained, the resolution of instruction would have immediately passed by a large majority. The only possible way, therefore, to defeat this result, and the admission of California without the adjustment of the other question, was to prevent the vote being taken. This was done by repeated motions to adjourn, for calls of the House, to go into Committee of the Whole, etc., and the consumption of time in taking the yeas and nays upon these various motions. In this movement, Southern members generally joined zealously. One-fifth of the members present, under the Constitution, could require

the yeas and nays to be taken upon any motion or question. Forty-one members constituted a fifth of the House. More than that number pledged themselves so to resist the question and prevent its ever coming to a vote under such circumstances. I made the list, saw the members, and secured the pledges. The whole of the day, and the early hours of night, were consumed in this way. The vote finally became almost exclusively sectional. Nearly all, if not every one, on the one side, were from the North; while nearly all, if not every one, on the other, were from the South. The passions on both sides became highly excited. Very little intercourse took place between the members of either of the great Parties from the two sections, even on the same sides of the House.

In this condition of affairs, Mr. John A. McClernand, of Illinois, a gentleman whose general courtesy and urbanity of manner secured him the personal respect of all, came round to the seats occupied by Mr. Toombs and myself, and inquired if there was no possible way by which the contest then going on in the House could be ended. We stated to him our positions fully. We did not object to the admission of California, if the Territorial question could be first satisfactorily adjusted. On this we insisted, not only that there should be no Congressional exclusion of Slavery from the public domain, but that, in organizing Territorial Governments, the people under each should be distinctly empowered so to legislate as to allow the introduction of slaves, and to frame their Constitutions in respect to African Slavery, as they pleased, and when admitted as States into the Union, should be received without any Congressional Restriction upon the subject. We stated that we never would permit California to be admitted, if we could possibly prevent it, until these Territorial principles were first

settled. The propositions were briefly set forth in writing. I have given their substance only. He read them, and stated that he thought a compromise might be effected on the basis therein set forth, and he would return to his side of the House and endeavor to get enough members to agree to an adjournment, to see what could be done in the premises. No adjournment, however, was effected until the hour of twelve arrived, when the speaker ruled that the Legislative day had ceased, that the motion of Mr. Doty was no longer in order for consideration, as the resolution he had offered under the Rules could only be entertained or considered on Mondays. The House acquiescing in this decision then adjourned. Mr. McClernand came round to our seats again, and we agreed to meet him at the Speaker's house, the next night, with such friends as he might bring with him, from the North, to see if the terms we had proposed could be agreed upon and put in proper language.

The meeting accordingly took place the next night at Mr. Cobb's house. There were present Mr. Cobb, Mr. Toombs, Mr. Linn Boyd, of Kentucky, and myself, from the South; Mr. John A. McClernand, and Mr. William A. Richardson, of Illinois, and Mr. John K. Miller, of Ohio, from the North. Some one or two more, perhaps, were present whose names or where from, I do not now recollect. Mr. McClernand stated that Mr. Douglas, of the Senate, with whom he had consulted, would act in concert with him in anything he might agree to on the subject, and had declined being present simply because it was a meeting of members of the House. Mr. Douglas was Chairman of the Committee on Territories of the Senate, and Mr. McClernand was Chairman of the like Committee of the House. They conferred freely together and understood each other thoroughly.

At this meeting it was agreed that California should be admitted, and the Territorial Governments should be organized as stated, and that all our joint efforts should be united to effect these results, as well as the defeat of any attempt to abolish Slavery in the District of Columbia. The words of the Territorial Bills, which in our judgment would effect our objects, were reduced to writing. Mr. McClernand and Mr. Douglas therefore prepared bills on this basis for their respective Committees. Mr. Douglas reported his in the Senate on the 25th of March.* Mr. McClernand announced to the House the substance of his bills, as he had had no opportunity to report them, on the 3d of April.† In the meantime, on the 27th of February, Mr. Doty introduced into the House, in the regular way, a bill for the admission of California, which was referred to the Committee of the Whole.‡ On the same day, Mr. Toombs addressed the House, at great length, upon the whole subject. I cannot ask you to go through with the entire speech which I have here, but a short extract will suffice to show its tenor. Addressing himself to the North, he said :

"We had our Institutions when you sought our alliance. We were content with them then, and we are content with them now. We have not sought to thrust them upon you, nor to interfere with yours. If you believe what you say, that yours are so much the best to promote the happiness and good government of society, why do you fear our equal competition with you in the Territories? We only ask that our common Government shall protect us both, equally, until the Territories shall be ready to be admitted as States, into the Union, then

* *Congressional Globe*, 31*st Congress*, 1*st Session*, p. 592.
† *Congressional Globe*, 31*st Congress*, 1*st Session*, p. 628.
‡ *Congressional Globe*, 31*st Congress*, 1*st Session*, p. 424.

to leave their citizens free to adopt any domestic policy in reference to this subject, which, in their judgment, may best promote their interest and their happiness. The demand is just. Grant it, and you place your prosperity and ours upon a solid foundation; you perpetuate the Union, so necessary to your prosperity; you solve the true problem of Republican Government; you vindicate the power of Constitutional guarantees. * * * The fact cannot longer be concealed—the declaration of members here proves it, the action of this House is daily demonstrating it—that we are in the midst of a legislative revolution, the object of which is to trample under foot the Constitution and the laws, and to make the will of the majority the supreme law of the land. In this emergency our duty is clear—it is to stand by the Constitution and laws, to observe in good faith all its requirements, until the wrong is consummated, until the act of exclusion is put upon the statute book. It will then be demonstrated that the Constitution is powerless for our protection; it will then be not only the right, but the duty of the slaveholding States to resume the powers which they have conferred upon this Government, and to seek new safeguards for their future security." *

On the next day, February the 28th, Mr. John Bell, of Tennessee, introduced into the Senate a series of Resolutions, setting forth in substance what was then considered a modified form of the Executive policy for a proper adjustment, which he supported in a speech of great length, and with all the powers he could command.

On the 4th of March, Mr. Calhoun's sentiments on the crisis were delivered in the Senate. He was too feeble to speak, but he was present, and Mr. Mason, of Virginia, read what Mr. Calhoun had written for the

* *Appendix to Cong. Globe, Part* I, 31*st Congress*, 1*st Session*, p. 198.

occasion. In this speech he manifested strong attachment to the Union under the Constitution, but maintained that all the dangers which then threatened its continuance arose from the Centralizing tendency of the Government. This had, by its Tariffs, and by several other measures specified by him, given a preponderance to the population of the non-slaveholding States, and the tendency was towards Consolidation. He said:

"What was once a Constitutional Federal Republic, is now converted, in reality, into one as absolute as that of the Autocrat of Russia, and as despotic in its tendency as any absolute government that ever existed."

He alluded to the ligaments of the Union from the beginning. They were chiefly ecclesiastical, social and political. The two former had already been broken. Most of the churches North and South had separated. "The political ties only remained, and these too, as the tendency was, must soon be broken, except the sections were held together by force. Force might keep them connected, but the combination would partake more of the character of subjugation on the part of the weaker to the stronger than the Union of free, independent, sovereign States in one Confederation, as they stood in the early days of the Government, and which only is worthy the name of Union. There was only one way in which the Union could be preserved, and that was by adopting such measures as would satisfy the States belonging to the Southern section, that they could remain in the Union consistently with their honor and safety."

"It" [the Union, said he] "cannot, then, be saved by eulogies on the Union, however splendid or numerous. The cry of 'Union, Union, the glorious Union!' can no more prevent disunion than the cry of 'Health, health, glorious health!' on the part of the physician

can save a patient lying dangerously ill. So long as the Union, instead of being regarded as a protector, is regarded in the opposite character, by not much less than a majority of the States, it will be in vain to attempt to conciliate them by pronouncing eulogies on it.

"Besides, this cry of Union comes commonly from those whom we cannot believe to be sincere. It usually comes from our assailants. But we cannot believe them to be sincere; for, if they loved the Union, they would necessarily be devoted to the Constitution. It made the Union, and to destroy the Constitution would be to destroy the Union. But the only reliable and certain evidence of devotion to the Constitution is to abstain, on the one hand, from violating it, and to repel, on the other, all attempts to violate it. It is only by faithfully performing these high duties that the Constitution can be preserved, and with it the Union.

"But how stands the profession of devotion to the Union by our assailants, when brought to this test? Have they abstained from violating the Constitution? Let the many acts passed by the Northern States to set aside and annul the clause of the Constitution, providing for the delivery up of fugitive slaves, answer. I cite this, not that it is the only instance, (for there are many others,) but because the violation in this particular is too notorious and palpable to be denied. Again, have they stood forth faithfully to repel violations of the Constitution? Let their course in reference to the agitation of the Slavery question, which was commenced and has been carried on for fifteen years, avowedly for the purpose of abolishing Slavery in the States—an object all acknowledged to be unconstitutional, answer. Let them show a single instance, during this long period, in which

they have denounced the agitators or their attempts to effect what is admitted to be unconstitutional, or a single measure which they have brought forward for that purpose. How can we, with all these facts before us, believe that they are sincere in their profession of devotion to the Union, or avoid believing their profession is but intended to increase the vigor of their assaults, and to weaken the force of our resistance!

"Nor can we regard the profession of devotion to the Union, on the part of those who are not our assailants, as sincere, when they pronounce eulogies upon the Union, evidently with the intent of charging us with disunion, without uttering one word of denunciation against our assailants. If friends of the Union, their course should be to unite with us in repelling these assaults, and denouncing the authors as enemies of the Union. Why they avoid this, and pursue the course they do, it is for them to explain.

"Nor can the Union be saved by invoking the name of the illustrious Southerner, whose mortal remains repose on the Western bank of the Potomac. He was one of us—a slaveholder and a planter. We have studied his history, and find nothing in it to justify submission to wrong. On the contrary, his great fame rests on the solid foundation that, while he was careful to avoid doing wrong to others, he was prompt and decided in repelling wrong. I trust that, in this respect, we profited by his example.

"Nor can we find anything in his history to deter us from seceding from the Union, should it fail to fulfil the objects for which it was instituted, by being permanently and hopelessly converted into the means of oppressing, instead of protecting us. On the contrary, we find much in his example to encourage us, should we be

forced to the extremity of deciding between submission and disunion.

* * * * * * * *

"Having now shown what cannot save the Union, I return to the question with which I commenced, How can the Union be saved? There is but one way by which it can, with any certainty; and that is, by a full and final settlement, on the principle of justice, of all the questions at issue between the two sections. The South asks for justice, simple justice, and less she ought not to take. She has no Compromise to offer but the Constitution, and no concession or surrender to make. She has already surrendered so much, that she has little left to surrender. Such a settlement would go to the root of the evil, and remove all cause of discontent, by satisfying the South she could remain honorably and safely in the Union; and thereby restore the harmony and fraternal feelings between the sections which existed anterior to the Missouri agitation. Nothing else can, with any certainty, finally and forever settle the questions at issue, terminate agitation, and save the Union.

"It is time, Senators, that there should be an open and manly avowal on all sides, as to what is intended to be done. If the question is not now settled, it is uncertain whether it ever can hereafter be; and we, as the Representatives of the States of this Union, regarded as Governments, should come to a distinct understanding, as to our respective views, in order to ascertain whether the great questions at issue can be settled or not. If you, who represent the stronger portion, cannot agree to settle them on the broad principle of justice and duty, say so; and let the States we both represent, agree to separate and part in peace. If you are unwilling we should part in peace, tell us so, and we shall know what to do, when

you reduce the question to submission or resistance. If you remain silent, you will compel us to infer by your acts what you intend. In that case, California will become the test question. * * *

"I have now, Senators, done my duty in expressing my opinions fully, freely, and candidly, on this solemn occasion. In doing so, I have been governed by the motives which have governed me in all the stages of the agitation of the Slavery question, since its commencement. I have exerted myself, during the whole period, to arrest it, with the intention of saving the Union, if it could be done; and, if it could not, to save the section where it has pleased Providence to cast my lot, and which I sincerely believe has justice and the Constitution on its side. Having faithfully done my duty to the best of my ability, both to the Union and my section, throughout this agitation, I shall have the consolation, let what will come, that I am free from all responsibility."*

In this speech Mr. Calhoun also suggested, as a further security for the permanency as well as the strength of the Union, for the future, in case the then questions should be settled upon right principles, a Constitutional amendment providing for a dual Executive. The idea was barely presented, not elaborated. But it was that the Executive office should be filled with two instead of one. One of these two to be selected by the slaveholding States, and the other by the non-slaveholding States, who, upon all sectional questions, should have the same check upon each other as that which existed in the amended Constitution of Rome between the Consuls and the Tribunes. This he thought would be necessary for harmony, which he considered as essential for strength, after the equality then existing between the number of slave-

* *Congressional Globe*, 31*st Congress*, 1*st Session*, p. 453.

holding and non-Slaveholding States would be destroyed by the admission of California. But he lived to see the end of none of these measures. He died twenty-five days afterwards, on the 31st of March. In his death passed away one of the ablest, truest and most patriotic public men this country ever produced. He was a close reasoner, a clear and profound thinker. A model of sobriety, temperance and morals in every respect. The science of Government was his favorite study; and, in his day, he had few equals and no superior in all the elements of real Statesmanship. The two survivors of the illustrious trio referred to, both did honor to themselves, in their feeling tributes to his memory on the occasion of his funeral obsequies.

But I must proceed with a rapid glance at facts, with their dates, during this stormy, as well as momentous Session. On the 7th of March, three days after Mr. Calhoun's speech, Mr. Webster addressed the Senate. What he then said has become famous as his 7th of March Speech, or "Union Speech." In it he took, for the first time, decided ground against Congressional Restriction in the Territories. The speech made a profounder sensation upon the public mind throughout the Union, than any one ever delivered by him before. The friends of the Union, under the Constitution, were strengthened in their hopes, and inspired with renewed energies by its high and lofty sentiments.

Mr. Douglas addressed the Senate on the 13th of March, on the same line, and with great power and eloquence. On the 18th of April, a resolution, previously offered by Mr. Henry S. Foote, of Mississippi, an active and zealous co-operator with Mr. Clay in his general objects, was passed in the Senate, to raise a select committee of thirteen, to whom the Resolutions of Mr. Clay

and Mr. Bell were referred. This Committee was chosen by that body the next day. The Chairmanship of it was, by almost unanimous consent, awarded to Mr. Clay. The other members of the Committee consisted of Gen. Cass, of Michigan, Mr. Dickinson, of New York, Mr. Bright, of Indiana, Mr. Webster, of Massachusetts, Mr. Phelps, of Vermont, Mr. Cooper, of Pennsylvania, Mr. King, of Alabama, Mr. Mason, of Virginia, Mr. Downs, of Louisiana, Mr. Mangum, of North Carolina, Mr. Bell, of Tennessee, and Mr. Berrien, of Georgia.

On the 8th of May, Mr. Clay, as Chairman of this Committee, reported to the Senate one bill, (which afterwards was known as the "*Omnibus*,") covering all the matters embraced in his Resolutions on the 29th of January before: that is, for the admission of California, Territorial Governments for Utah and New Mexico, the settlement of the question of boundary with Texas, the rendition of fugitive slaves, and the abolition of what was called the slave trade in the District of Columbia. Those portions of the bill providing Territorial Governments for Utah and New Mexico were identical with the separate bills on the same subjects introduced by Mr. Douglas, in the Senate, on the 25th of March, as before stated, except in one particular; that is, after the words in his bills declaring that the Territorial Legislatures should pass "no law interfering with the primary disposal of the soil," the Committee had added, "nor in respect to African Slavery."

This amendment, in the opinion of many Southern men, was tantamount in legal effect to a positive Congressional exclusion of the South; for, by the law of Mexico, Slavery was prohibited in these Territories at the time of their acquisition, and if the Legislative power there were restrained by Congress from ever changing

this law, then in force there, no Southern man could ever colonize any of this portion of the public domain with his slaves. Mr. Clay said this amendment had been put in by a majority of the Committee, against his wishes; but he did not regard it as an insuperable objection to the bill, as it was not, in his opinion, a positive Congressional Restriction. He said Slavery was abolished by Mexican Law in these Territories at the time of their acquisition, and he never would vote to change it.

Mr. Jefferson Davis, of Mississippi, on the 16th of May, moved an amendment to the words added by the Committee, which he afterwards, on the 27th of May, modified so as to read as follows:

"That nothing herein contained shall be construed so as to prevent said Territorial Legislature from passing such laws as may be necessary for the protection of the rights of property of every kind, which may have been, or may be hereafter, conformably to the Constitution and laws of the United States, held in or introduced into said Territory."

The object of this amendment, as he understood its legal effect, was evidently to declare this Territory open alike for settlement and colonization by citizens of all the States, with their property, of every kind, while in a Territorial condition, without any restriction or discrimination, one way or the other. His amendment, however, was rejected on the 5th of June, by a vote of twenty-five to thirty. Mr. Douglas then moved to strike out the Select Committee's amendment to his original bill, which left the Territorial Legislature free to pass all laws consistent with the Constitution of the United States, and the provisions of the Act. His motion, too, was lost, but the same motion was renewed by Mr. Norris, of New Hampshire, on the 31st of July, when

it was adopted—which accomplished, in the opinion of the Southern Whigs referred to, all that Mr. Davis's amendment would have done.

We turn now to the House again. In that body, on the 11th of June, Mr. Doty's bill, regularly introduced on the 27th of February, as stated, came up for action in that body, and was discussed, from day to day, in Committee of the Whole. Mr. Green, of Missouri, moved as an amendment, the recognition of the Missouri line through all the newly-acquired territory. This was rejected by a large majority. Mr. Stanton, of Tennessee, on the 13th of June, offered the following amendment: "*Provided, however*, that it shall be no objection to the admission into the Union, of any State which may be hereafter formed out of the territory lying south of the parallel of latitude of 36° 30′, that the Constitution of said State may authorize or establish African Slavery therein." This proposition was rejected upon a count by tellers—yeas seventy-eight, nays eighty-nine. This was almost exclusively a sectional vote. The debates grew warmer and more excited. Speeches on the question, under an order of the House, were now limited to five minutes. The 14th of June was consumed in the same way. On the 15th of June, the question was put, in debate, to the ultra Northern advocates, of the admission of California, if they would ever, under any circumstances, vote for the admission of a Slave State into the Union. They refused to say that they would. It was in this condition of affairs that Mr. Toombs took the floor and spoke as follows:

"Mr. Toombs renewed the amendment, and said the gentleman from Ohio had just charged that the opposition to California with her present Constitution, by the South, was founded upon the Anti-Slavery Clause in her

Constitution, and therefore, in the denial of this right of a people forming a State Constitution, to admit or exclude Slavery. Mr. T. denied the fact, and demanded proof. On the contrary, he asserted that the South had uniformly held and maintained this right. That in 1820, on the Missouri question, the North denied it, but the South unanimously affirmed it. From that day till this, the South, through all her authorized exponents of her opinions, has affirmed this doctrine; her Legislatures, her Governors of States, her Members upon this floor, and even her primary assemblies, have all affirmed it, and the gentleman from Ohio cannot point to a single particle of evidence to support his unfounded charge. The South can proudly point to her whole political history for its reputation. But how stands the case with the North? She denied the truth of this great principle of Constitutional right in 1820, acquiesced in the Compromise then made as long as it was to her interest, and then repudiated the Compromise and re-asserted her right to dictate Constitutions to Territories seeking admission into the Union. She put her Anti-Slavery proviso upon Oregon, and at the last session of Congress, when the present Secretary of the Navy introduced a bill to authorize California to form a State government and come into the Union, leaving her free to act as she pleased upon the question of Slavery, the North put the Anti-Slavery proviso upon this State bill. I know of no Northern Whig who voted against that proviso. A few gentlemen of the Democratic Party from the North-west, and my friend from Illinois among them, [Mr. Richardson] boldly and honestly struck for the right, and opposed it; but they were powerless against the torrent of Northern opposition. The evidence is complete; the North repudiated this principle—and while, for sinister and temporary pur-

poses, they may pretend to favor the President's plan, which affirms it, they will not sustain it. They will not find a right place to affirm it until they get California into the Union, and then they will throw off the mask and trample it under foot. I intend to drag off the mask before the consummation of that act. We do not oppose California on account of the Anti-Slavery clause in her Constitution. It was her right, and I am not even prepared to say that she acted unwisely in its exercise—that is her business; but I stand upon the great principle that the South has right to an equal participation in the Territories of the United States. I claim the right for her to enter them all with her property and securely to enjoy it. She will divide with you, if you wish it; but the right to enter all, or divide, I shall never surrender. In my judgment, this right, involving, as it does, political equality, is worth a thousand such Unions as we have, even if they each were a thousand times more valuable than this. I speak not for others, but for myself. Deprive us of this right and appropriate this common property to yourselves, it is then your Government, not mine. Then I am its enemy, and I will then, if I can, bring my children and my constituents to the altar of liberty, and like Hamilcar, I would swear them to eternal hostility to your foul domination. Give us our just rights, and we are ready, as ever heretofore, to stand by the Union, every part of it, and its every interest. Refuse it, and for one, I will strike for *Independence!*"*

In sampling these debates with the view to present the tone and temper of the times, I purposely select the speeches made by Mr. Calhoun and Mr. Toombs, because they have been generally regarded as the extremest of the Ultras on that side, and have both been very greatly

* *Congressional Globe*, 31*st Congress*, 1*st Session*, p. 1216.

misrepresented on this subject. No man was ever more so than Mr. Toombs. It has been the object of many to hold him up as the embodiment of Slavery Propagandism. Even *histories* have been written in which the statement is made that he had declared that he would yet call the roll of his slaves on Bunker Hill. This has been done, too, without a particle of proof, and after the most positive denial by him of his ever having made such a declaration.

But to proceed. This speech of Mr. Toombs delivered on the 15th of June, produced the greatest sensation in the House that I ever witnessed by any speech in that body during my Congressional course. It created a perfect commotion. Several Southern Whigs who had not before sympathized with the class first alluded to, now openly took sides with them. The House adjourned without coming to any further vote. The excitement in the House increased that in the Senate. It extended to the city, and the subjects discussed in the House became the topics of heated conversations on the streets and at the hotels. This was Saturday. Monday, Mr. Doty made another effort to get a resolution passed, requiring the Committee of the Whole to report his bill. The effort failed.

In the Senate, on the same day, the excitement was no less than it was in the House. It was at this stage of the proceedings, that Mr. Soulé, of Louisiana, offered to Mr. Clay's Compromise Bill an amendment to the first section which related to the Territorial Government of Utah in these words:

"And when the said Territory, or any portion of the same, shall be admitted as a State, it shall be received into the Union with or without Slavery, as their Constitution may prescribe at the time of their admission."*

This presented to that body the issue squarely, as it

* *Congressional Globe*, 31*st Congress*, 1*st Session*, p. 1239.

had been presented by Mr. Toombs in the House, on Saturday, and covered one of the essential points made by the Southern Whigs referred to in the beginning. When the Missouri line was thus, for the last time, voted down in the House, the South fell back in almost solid column to their original position. They now maintained that there should be no Congressional Restriction of Slavery, either North or South of 36° 30′. On this principle alone would they now settle. This amendment, therefore, of Mr. Soulé was the turning point, and upon its adoption everything depended, so far as concerned Mr. Clay's proposed Compromise. In this connection, allow me to read what I said on a former occasion, in reference to the action of the Senate, that day, on this amendment:

"I well recollect the intensity of interest felt upon the fate of that proposition in the Senate. Upon its rejection, in the then state of the public mind, depended consequences, which no human forecast could see, or estimate. The interest was enhanced from the great uncertainty and doubt as to the result of the vote. Several Northern Senators, who had before yielded the question of positive restriction—that is, the 'Wilmot Proviso'—had given no indication of how they would act upon this clear declaration, that the people of the Territories might, in the formation of their State Constitutions, determine this question for themselves. Among these was Mr. Webster. Just before the question was put, and while anxiety was producing its most torturing effects, this most renowned Statesman from New England arose to address the Senate. An immense crowd was in attendance. The lobby was full, as well as the galleries. All eyes were instantly turned toward him, and all ears eager to catch every word that should fall from his lips

upon this, the most important question, perhaps, which had ever been decided by an American Senate. His own vote, even, might turn the scale. That speech I now have before me. In it he declared himself for the amendment. His conclusion was in these words:

"'Sir, my object is peace—my object is reconciliation. My purpose is not to make up a case for the North, or to make up a case for the South. My object is not to continue useless and irritating controversies. I am against agitators North and South; I am against local ideas North and South, and against all narrow and local contests. I am an American, and I know no locality in America. That is my country. My heart, my sentiments, my judgment, demand of me that I should pursue such a course as shall promote the good, and the harmony, and the union of the whole country. This I shall do, God willing, to the end of the chapter.'

"The reporter says:

['The honorable Senator resumed his seat amidst the general applause from the gallery.']

"Yes, sir; he did. I was there and witnessed the scene; and no one, I fancy, who was there, can ever forget that scene. Every heart beat easier. The friends of the measure felt that it was safe. The vote was taken —the amendment was adopted. The result was soon communicated from the galleries, and, finding its way through every passage and outlet to the rotunda, was received with exultation by the crowd there; with quick steps it was borne through the city; and in less than five minutes, perhaps, the electric wires were trembling with the gladsome news to the remotest parts of the country. It was news well calculated to make a nation leap with joy, as it did, because it was the first decisive step taken towards the establishment of that great princi-

ple upon which this Territorial question was disposed of, adjusted, and settled in 1850."

The *per capita* vote on this amendment, thus establishing the new principle of no Congressional intervention anywhere in the Territories in lieu of the former principle of a division of the public domain, and thus bringing the Government back to the original position of the South upon the whole question, was thirty-eight yeas to twelve nays. The twelve nays against it were, Messrs. Baldwin, of Connecticut; Chase, of Ohio; Clark, of Rhode Island; Davis, of Massachusetts; Dayton, of New Jersey; Dodge, of Wisconsin; Green, of Rhode Island; Hale, of New Hampshire; Miller, of New Jersey; Smith, of Connecticut; Upham, of Vermont; and Walker, of Wisconsin.

By States, the vote for and against the new principle was twenty yeas; six nays; two divided, and two not voting. The yeas were Pennsylvania, Indiana, Illinois, Michigan, Iowa, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, Tennessee, Kentucky, Missouri, Arkansas, Louisiana and Texas. The six nays were, Connecticut, Rhode Island, New Jersey, Ohio, Vermont and Wisconsin. The two States divided, were New Hampshire and Massachusetts. The two not voting were Maine and New York. Mr. Seward, of New York, was within convenient distance, but voted neither one way nor the other. Thus two-thirds of the States in 1850, did affirm the original position of the South upon the Territorial question. This was the gist of that Compromise.

We have now to follow the progress of this principle, thus established by the Senate on the 17th of June, to its final consummation. On the 9th of July, President Taylor died. Vice President Fillmore immediately assumed the duties of the Executive chair. He was known

to be in full sympathy with Mr. Clay in his objects. Mr. Webster was transferred from the Senate to the Cabinet. He became Secretary of State in the new Administration. Mr. Doty's bill for the admission of California was not again taken up in the House.

Mr. Clay's bill continued the subject matter of angry discussion in the Senate until the 31st of July, when it was so amended by striking out first one part and then another, until nothing of it was left but that portion providing a Government for the Territory of Utah, with the select Committee's amendment stricken out, and the Soulé amendment of the 17th of June incorporated in it, as stated. This bill so passed the Senate the 1st of August and went down to the House. In this way Mr. Clay's "Omnibus Bill," as it was called, went to pieces on the 31st of July; but the Senate immediately took up the separate parts, embodied them in separate bills, passed them, and sent them down to the House in like manner, where they took their regular place on the Speaker's table. In that body on the 28th of August, the Senate Utah Bill was reached. It was referred to the Committee of the Whole without debate. The next one of the Senate Bills reached, the same day, was the one for the settlement of the boundary between Texas and New Mexico. When this came up Mr. Boyd, of Kentucky, offered an amendment providing for a Territorial Government for New Mexico with the Soulé amendment in it. This amendment so offered by Mr. Boyd, in other respects, was substantially the same bill prepared for New Mexico by Mr. Douglas and Mr. McClernand, as before stated. On this the great Sectional Contest was now fought in the House as it had been in the Senate. It may not be uninteresting to notice in detail the various phases of the conflict as it progressed. We will, therefore, rapidly re-

view some of the scenes. Civic conflicts have their interest as well as conflicts of arms. Though bloodless and less exciting, yet the lessons they teach, in a historic view, are quite as instructive.

On the 4th of September,* then, when this Senate bill with Mr. Boyd's proposed amendment to it, and also an amendment to the amendment proposed by Mr. Clingman, of North Carolina, providing another Territorial Government for a portion of the country which he designated as "Colorado," came up for consideration under a special order, a motion was made to refer the bill with the pending amendments to the Committee of the Whole on the state of the Union. The previous question was seconded, and the main question on this reference was ordered by a vote of yeas one hundred and thirty-three to nays sixty-eight.

On the question of reference, the vote was one hundred and one to ninety-nine. So the motion to refer was carried.

Mr. Walden, of New York, moved to reconsider the vote by which the bill and amendments had been referred.

Mr. Root, of Ohio, moved to lay that motion on the table.

The vote to lay the motion to reconsider on the table was one hundred and three to one hundred and two. The Speaker, Mr. Cobb, voted in the negative. So the vote stood one hundred and three to one hundred and three, and the motion to lay on the table the motion to reconsider was not carried.

The question to reconsider then recurred. Upon it the yeas were one hundred and four, the nays ninety-eight, so the vote by which the bill had been referred was reconsidered.

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* For the scenes here described see *Congressional Globe*. 31*st Congress*. 1*st Session*, p. 1746 *et sequentes*.

The question, then, again recurred upon the reference of the bill with amendments. The vote now stood one hundred and one to one hundred and three. So the House refused to refer the bill with amendments to the Committee of the Whole.

The first question, then, was on Mr. Clingman's amendment to Boyd's amendment. The vote on this was sixty-nine to one hundred and thirty. So his amendment was lost.

Mr. Thompson, of Mississippi, said that as no amendment under the previous question was now in order, he moved as a test vote to lay the whole thing on the table.

Mr. Bayly, of Virginia, protested against its being considered a test vote.

Mr. Vinton, of Ohio, wished to know if the motion to lay on the table was in order after the previous question was ordered.

The Speaker said that it was.

Mr. Wentworth, of Illinois, wished to know if there was any amendment pending.

The Speaker said there was.

Mr. Wentworth wanted to know if the "Wilmot Proviso" was in it. He was informed that it was not—the amendment pending was Mr. Boyd's, which did not contain it.

Mr. Thompson, of Mississippi, withdrew his motion to lay on the table.

Mr. Ashe, of North Carolina, renewed it.

Mr. McClernand, of Illinois, asked the yeas and nays: when four or five members had answered to their names on the call of the roll, the confusion in the Hall became so great, the Clerk could not proceed. The call was suspended.

Mr. Disney, of Ohio, rose to a question of order.

The Speaker decided it was too late, as several members had answered to their names on the call. The call of the roll was then resumed and completed, when the vote stood sixty-one for laying on the table, to one hundred and forty-one against it—so the bill was not laid on the table.

The question then came on Boyd's amendment.

Mr. Gott, of New York, demanded the yeas and nays. The vote stood ninety-eight to one hundred and six; so the amendment was rejected.

Mr. Schenck, of Ohio, moved to reconsider the vote, by which Boyd's amendment had been rejected, and to lay that motion on the table.

Mr. McLean, of Kentucky, called for the yeas and nays.

Mr. Bokee, of New York, called for a division of the question. It then came up, first, to lay on the table the motion to reconsider.

Mr. Schenck withdrew his motion to reconsider.

Mr. Cartter, of Ohio, renewed it.

Mr. Root moved to lay Mr. Cartter's motion to reconsider on the table.

Mr. Boyd moved that the House adjourn. On this question the vote stood seventy-one to one hundred and twenty-eight.

Mr. Cartter then withdrew his motion to reconsider.

The question came then on ordering the bill to be engrossed without the Boyd amendment. On this the vote stood yeas eighty, nays one hundred and twenty-six. So the bill was not ordered to be engrossed, and passed to a third reading, which was in effect its defeat. Great confusion prevailed in the Hall. Many members addressed the Speaker at the same time. Mr. Boyd, of Kentucky, was recognized. He moved to reconsider the vote, by which the engrossment of the bill had been rejected.

Mr. Burt, of South Carolina, moved to lay Mr. Boyd's motion to reconsider on the table.

Mr. Harris, of Illinois, moved that the House adjourn, which motion prevailed.

In this position of affairs night closed upon the parties. So ended the first day's action.

The next day, September the 5th, the motion to lay Mr. Boyd's motion to reconsider on the table, was the first question in order. On this the vote stood seventy-one to one hundred and thirty-five. So the motion to reconsider was not laid on the table. The previous question was seconded on Mr. Boyd's motion to reconsider—the main question was ordered.

Mr. Halloway, of New York, inquired of the Speaker if the vote should be reconsidered, whether the bill would then be open for amendment.

The Speaker said it would.

The vote on Mr. Boyd's motion to reconsider the vote, by which the engrossment of the bill had been rejected, was then taken, and stood one hundred and thirty-one in favor, and seventy-five against it. So the motion prevailed.

Mr. Grinnell, of Masachusetts, then moved to reconsider the vote, by which Mr. Boyd's amendment had been rejected the day before, and called the previous question, which was seconded.

Mr. Campbell, of Ohio, moved to lay the motion to reconsider on the table. The vote stood ninety-six to one hundred and eight. The question then came up on Mr. Grinnell's motion to reconsider. The vote stood, yeas one hundred and six, nays ninety-nine. So the rejection of Mr. Boyd's amendment was reconsidered. Many members now again addressed the Chair at the same time. Mr. Boyd was recognized. He called the

previous question. Strong appeals were made to him to withdraw it. Cries came from all sides of the House, "question!" "question!"

Mr. Meade, of Virginia, inquired if it was then in order to move to refer the whole matter to the Committee of the Whole on the state of the Union.

The Speaker said it was not, pending the demand for the previous question.

Mr. Preston King, of New York, asked if it was in order to move an amendment to the bill?

The Speaker said not pending the motion for the previous question.

Mr. King asked if the Chair had not decided that it would be open for amendment, if it was reconsidered?

The Speaker said he had, and it would be now, but for the demand for the previous question; if the demand for the previous question was voted down, the subject matter would be open for amendment.

On the demand for the previous question, the vote was in favor of sustaining it, eighty-eight, and against it, ninety-nine. So the previous question was not ordered.

Mr. Toombs, of Georgia, obtained the floor, and moved an additional section, in these words:

"*And be it further enacted*, That no citizen of the United States shall be deprived of his life, liberty, or property in said Territory, except by the judgment of his peers and the laws of the land; and that the Constitution of the United States, and such Statutes thereof as may not be locally inapplicable, and the common law as it existed in the British Colonies of America, until the 4th day of July, 1776, shall be the exclusive laws of said Territory, upon the subject of African Slavery, until altered by the proper authority."

Mr. Toombs said he had no desire to debate the question or to close debate on it, and would not move the previous question. Several members addressed the Chair.

Mr. Wentworth was recognized. He inquired whether it would be in order to move a substitute for Mr. Toombs' amendment.

The Speaker said it would not be, as that was an amendment to an amendment already pending.

Mr. Wentworth inquired if it was in order to move to commit.

The Speaker said it was.

Mr. Wentworth. Is it in order to move to commit with instructions?

The Speaker said that it was.

Mr. Wentworth then moved to commit the bill with the following instructions:

"So to amend the amendment as to exclude Slavery from all the territory acquired from Mexico by the treaty of Guadalupe Hidalgo eastward of California."

Several members addressed the Chair. Mr. Wentworth, holding the floor, inquired of the Speaker whether he could adopt other instructions that might be suggested to him, and after his demand for the previous question whether separate votes could be taken on the different sets of instructions?

The Speaker said the motion to commit with instructions, was indivisible; but upon the instructions a separate vote could be called, so as to leave with the motion to commit a separate and distinct proposition. Mr. Wentworth then accepted from Mr. Howard, of Texas, certain instructions relating to boundary and the settlement proposed to be made between the United States and Texas, and moved the previous question; but yielded the floor to Mr. Featherstone, who wished an additional in-

struction, to wit, "strike out all of the original bill after the enacting clause, and insert as follows:

"That the boundaries of the State of Texas, as defined and established by the act of the Texas Congress, passed December 19, 1836, for that purpose; are hereby recognized by the Government of the United States."

He renewed Mr. Wentworth's call for the previous question. Great confusion prevailed. Many inquiries were addressed to the Chair, as to what would be the effect of ordering the previous question, and what would be the order of voting, if the previous question should be sustained. In answer the Speaker said:

"The Chair will state the question. If the previous question should be sustained, and the main question ordered, the question will be first on the amendment to the instructions offered by the gentleman from Mississippi, [Mr. Featherstone]. Secondly, on the motion to commit with instructions, (amended or not, as the case may be.) If the House should refuse to commit with instructions, the question then recurs on the amendment of the gentleman from Georgia, [Mr. Toombs,] and then on the amendment of the gentleman from Kentucky, [Mr. Boyd,] amended or not, as the House may determine, and then on ordering the bill to a third reading. After the vote shall have been taken on the last-mentioned proposition, and not before, the previous question will be exhausted."

The call for the previous question was sustained by a vote of one hundred and two to forty.

The question on Mr. Featherstone's instruction was then decided by a vote of seventy-one yeas to one hundred and twenty-eight nays.

The question then to commit with Mr. Wentworth's instructions coupled with Mr. Howard's, was decided by

a vote of eighty yeas to one hundred and twenty-one nays. So the motion to commit with instructions failed.

The question then recurred upon Mr. Toombs' amendment. On this a division was called. The first branch of his amendment was agreed to without a count. The second branch was rejected by a vote of sixty-four yeas to one hundred and twenty-one nays.

The question then came up for a second time upon agreeing to the amendment of Mr. Boyd.

Mr. Stevens, of Pennsylvania, moved a division of the question.

The Speaker held it to be indivisible. The question on Mr. Boyd's amendment was then decided by one hundred and six yeas to ninety-nine nays. So Mr. Boyd's amendment, as amended, was agreed to; and the question recurred on ordering the bill, as it stood amended, to be engrossed for a third reading.

Mr. Gott called for the yeas and nays.

Mr. Inge moved that the House adjourn. The House refused to adjourn.

Mr. Inge moved to lay the whole subject on the table. The House decided against the motion without division.

The question then recurred on ordering the bill as amended to be engrossed for a third reading. The roll was called. Intense excitement prevailed. The Speaker arose and very slowly was about to announce the result. Cries of "report! report! report!" came up from all sides of the Hall.

Mr. McDowell, of Virginia, rose and said he desired to know of the Speaker, in the event of the bill being lost by the present vote, if it would be open to reconsideration. Cries of "order! order!"

The Speaker made no reply.

Mr. McDowell still remained on the floor.

The Speaker inquired if the gentleman of Virginia desired to vote. Mr. McDowell said he had voted. Cries from all sides, "report, report," etc.

The Speaker commenced his announcement by saying, "upon ordering the bill to be engrossed, the vote is ninety-seven—"

Mr. Cabell, of Florida, rose and said he desired to have his name called. The Speaker inquired if he was within the bar of the House when his name was called on the roll. He said he was. His name was then again called, and he responded "aye." Demands were again made upon the Speaker to report.

Mr. Potter, of Ohio, rose and asked that his name be called. The inquiry was made if he was within the bar of the House when his name had been called. He answered he was. His name was again called, and he also voted aye.

Mr. McLean insisted that order should be restored in the Hall before the result was announced. The area was then cleared and order restored.

The Speaker arose and announced the vote. Yeas ninety-nine, nays one hundred and seven. So the engrossment of the bill was again lost!

Mr. Howard, of Texas, moved a reconsideration of the vote.

Mr. Inge moved to lay that motion on the table.

The Speaker decided that the motion to reconsider was not in order—as a motion to reconsider the vote on the third reading of the bill, had been once reconsidered.

Mr. Howard appealed from the decision. The question was, Shall the decision of the Chair stand as the judgment of the House? Pending this question, on motion of Mr. McClernand, an adjournment took place.

So closed the second day upon the scenes of strife.

On the 6th of September, the question recurring upon the appeal from the decision of the Chair, Mr. Duer moved to lay the appeal on the table. On this question the yeas were seventy-seven, and the nays one hundred and twenty-three. So the appeal was not laid on the table.

The question then was, "Shall the decision of the Chair stand as the judgment of the House?" On this the yeas were eighty-three, and the nays one hundred and twenty-three. So Mr. Speaker Cobb's decision was overruled.

The question now was, Shall the vote by which the House refused to order the bill as amended to be engrossed for a third reading, be reconsidered? The vote was yeas one hundred and twenty-two, nays eighty-four. So the rejection of the engrossment of the bill, was again reconsidered. The question then recurred, Shall the bill as amended be ordered to be engrossed for a third reading? Mr. Howard demanded the previous question. On ordering it, there were yeas one hundred and fifteen, nays ninety-one—and upon the engrossment of the bill for a third reading, the yeas now were one hundred and eight, nays ninety-eight. So Boyd's amendment was thus finally adopted! The Anti-Restrictionists had won the day at last! The Hall was in a general uproar!

Mr. Burt moved to lay the bill on the table. The vote was, yeas ninety-seven, nays one hundred and eight. The bill as it then stood amended, was put upon its passage, and was carried by a vote of one hundred and eight yeas to nays ninety-seven.

Such are some of the scenes and struggles through which this new principle, established in the Senate on the 17th of June, passed before its final consummation in

the House on the 6th of September, 1850. This was the Compromise of that year. The other associated measures all depended upon it. The Senate concurred in the House amendments thus made to their bill. The other measures were all soon afterwards taken up and passed—the Utah bill; the bill for the admission of California; the fugitive slave bill; and the bill forbidding slaves to be introduced into the District of Columbia, for the purpose of offering them in public market for sale.

It is proper here to state that the Utah Bill thus passed, embraced within the boundaries of that Territory a portion of the Louisiana cession to which the old Missouri Restriction applied. It embraced that portion of this cession lying on the head-waters of the Colorado River, known as the Middle Park, "so glowingly described by Colonel Fremont;" while the New Mexico Bill embraced a degree and a-half of latitude, and nearly four degrees of longitude, of that portion of Territory north of 36° 30′, which was covered by the Congressional exclusion of Slavery, as provided by the Resolutions under which Texas became incorporated as a State into the Union. This is seen by a perusal of these acts.* The new principle now established, removed these old Restrictions so far as they came within the range of its action, at the time, and the establishment of this new Territorial principle, was the real and only Compromise of 1850. The other measures, except the District Slave-trade Bill, were but cognate accompaniments.

In procuring the establishment of this new principle there was no other threat, menace, or bluster, on the part of Southern Senators and Members, except the firm and determined declaration that their States would not remain in the Union, when it became a fixed fact that

* *United States Statutes at Large*, vol. ix, pages 447 and 458.

the principle of a division of the public domain between the opposing Sections had been forever repudiated, unless Territorial Restriction by Congress should be totally abandoned, and unless the principles of the Federal Constitution should be adhered to in good faith on this question on the part of their Northern Confederates. The Compromise was an agreement on the part of the slave-holding States to continue in the Union, in consideration of these renewed pledges on the part of the non-slave-holding States, through their Members and Senators, to abide by the Constitution. It is true, Southern Members and Senators were far from being unanimous in favor of this Compromise. A protest against the admission of California was presented to the Senate, the 14th of August, signed by Messrs. Hunter and Mason, Senators of Virginia; Messrs. Butler and Barnwell, of South Carolina; and Mr. Davis, of Mississippi, and some others: while thirty Members in the House, from the South, voted against the bill, which we have just traced through its perils to its final passage, and which embraced the principle of the Compromise, as we have seen.

An analysis of this vote in the House, close as it was, presents some interesting facts, when made either by States or *per capita*. Analyzed by States, it shows that, in that body, the votes stood fifteen States for it, thirteen States against it, with two divided. The States voting for it were New Hampshire, Pennsylvania, Illinois, Iowa, Delaware, Maryland, Virginia, North Carolina, Georgia, Florida, Tennessee, Kentucky, Missouri, Texas, Indiana —five Northern and ten Southern. The States voting against it were Massachusetts, Connecticut, Vermont, New York, New Jersey, Ohio, Michigan, Wisconsin, South Carolina, Alabama, Mississippi, Arkansas, and Louisiana—eight Northern and five Southern. The two

States divided, were Maine and Rhode Island, both Northern.

The *per capita* view of the vote is interesting only as it exhibits the position of the two great nominal Parties upon the then living issues of the day—North as well as South. The one hundred and eight votes by which the Compromise was carried, were composed of fifty-nine Democrats and forty-nine Whigs. Of these Democrats, thirty-two were from non-slaveholding States, and twenty-seven from slaveholding States. Of the forty-nine Whigs, twenty-four were from the non-slaveholding States, and twenty-five from slaveholding States. Of the ninety-seven votes against the Compromise, forty-six were Democrats, and fifty-one Whigs. Of the forty-six Democrats, seventeen were from non-slaveholding States, and twenty-nine from slaveholding States. Of the fifty-one Whigs, fifty were from non-slaveholding States, and one from a slaveholding State.

This exhibition of itself is quite enough to show that those Southern Whigs to whom I have alluded, were right in their opinion at the beginning of the Session, that the time had come for a reorganization of Parties. This was the conclusion to which Mr. Clay and Mr. Cobb, and many other distinguished opposing Party leaders, came when the struggle was over. This appears from a paper drawn up and signed by them with over forty others and published as a manifesto to the country, that they would in the future support no man for office either State or Federal, who would not agree to stand by and support the principles established by these measures. The effect of this paper, together with the action of the Georgia State Convention in December, 1850, and the elections in this State and Mississippi, in 1851, which were carried by overwhelming majorities under a new

Party organization styled the Constitutional Union Party, showed clearly to the two old Parties that their days were numbered, unless they in their Conventions should proclaim their determination to abide by the settlement so made. The Sovereign Convention of this State had, in December, 1850, as stated, set forth her position on all these questions in a series of Resolutions which became famous as the Georgia Platform, and gave to her the appellation of the Union State as well as the Empire State of the South.* Upon the principles announced in this Platform, Mr. Howell Cobb was triumphantly elected Governor, in 1851, over Mr. Charles J. McDonald, who had been twice Governor before, and who was thought to be, personally, the most popular man at that time in the State. On the same principles, Mr. Henry S. Foote was elected Governor of Mississippi the same year, over Mr. Jefferson Davis. McDonald and Davis were run by those of all Parties who were opposed to the Compromise Measures. The truth is an overwhelming majority of the people, North as well as South, were in favor of maintaining the principles affirmed by the Measures of 1850. This is apparent from the action of both the two great nominal Parties, Whig and Democratic, when they met in their respective Conventions to nominate candidates for President in 1852. The Democratic Convention assembled in Baltimore, on the 1st of June of that year, and endorsed these measures by Resolutions in the following words:

"*Resolved*, That Congress has no power under the Constitution, to interfere with, or control the domestic Institutions of the several States, and that such States are the sole and proper judges of everything appertaining to their own affairs, not prohibited by the Constitution;

* *See Appendix*, B.

that all efforts of the Abolitionists, or others, made to induce Congress to interfere with questions of Slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend of our political institutions.

"*Resolved*, That the foregoing proposition covers, and was intended to embrace, the whole subject of Slavery agitation in Congress; and, therefore, the Democratic Party of the Union, standing on this National Platform, will abide by, and adhere to a faithful execution of the Acts known as the Compromise Measures, settled by the last Congress—'the Act for reclaiming fugitives from service or labor,' included; which Act being designed to carry out an express provision of the Constitution, cannot, with fidelity, thereto, be repealed, nor so changed as to destroy or impair its efficiency."

The Whig Convention, which met at the same place, on the 16th of June, gave them an endorsement, in words, even more pointed and explicit. The language used by that body, is as follows:

"1. That the Government of the United States is of a limited character, and it is confined to the exercise of powers expressly granted by the Constitution, and such as may be necessary and proper for carrying the granted powers into full execution; and that all powers not thus granted, or necessarily implied, are expressly reserved to the States respectively, or to the people.

* * * * * * *

"7. That the Federal and State Governments are parts of one system, alike, necessary for the common

prosperity, peace, and security, and ought to be regarded alike, with a cordial, habitual, and immovable attachment. Respect for the authority of each, and the acquiescence in just Constitutional measures of each, are duties required by the plainest considerations of National, of State, and of individual welfare.

"8. That the series of acts of the 31st Congress, known as the Compromise Measures of 1850—the act known as the Fugitive Slave Law included—are received and acquiesced in by the Whig Party of the United States as a settlement, in principle and substance, of the dangerous and exciting questions which they embrace; and, so far as they are concerned, we will maintain them, and insist on their strict enforcement, until time and experience shall demonstrate the necessity of further legislation, to guard against the evasion of the laws on the one hand, and the abuse of their powers on the other—not impairing their present efficiency; and we deprecate all further agitation of the questions thus settled, as dangerous to our peace, and will discountenance all efforts to continue or renew such agitation, whenever, wherever, or however the attempt may be made; and we will maintain this system as essential to the nationality of the Whig Party and the integrity of the Union."

These Resolutions, Mr. Greeley styles the "Southern Platform," and speaks of it as having been "imposed" upon the Convention by the "Southern Delegates." According to his idea, it was but another dictation of the "Slave Power."* This is certainly a very great mistake. My opinion is, that it was drawn up by Northern delegates, or Northern men, at least. All that I know about it is, that Mr. Choate, of Massachusetts, a delegate to the Convention, was with Mr. Webster a few days be-

* *American Conflict*, vol. i, p. 223.

fore its meeting. Mr. Webster called over to my quarters, while Mr. Choate was still with him [we lived in adjacent houses], and submitted to me a series of Resolutions prepared to be offered to the Convention. They were substantially the Resolutions which were adopted. The eighth one in particular, I think, is just as it then was, with one exception. The words "in principle and substance" were not then in it. Having been struck with the point and force of these words, which he had used in a letter published some time before, and the great appropriateness of the same words in Mr. Fillmore's message, in December 1851, I suggested to him to put them in this Resolution after the word "settlement." He instantly assented, and interlined them himself on my table. I saw them afterwards in the report of the Committee of the Convention on Resolutions as they now stand. Mr. George Ashmun, of Massachusetts, was Chairman of that Committee. My opinion then was, and now is, that these Resolutions were prepared by the Northern friends of Mr. Webster, at his house, and met with his full concurrence. Southern friends were doubtless consulted, but they did nothing in relation to them which could be justly styled as imposing them upon the Convention. Mr. Ashmun, Chairman of the Committee on Resolutions, in his speech on reporting the whole series, stated that they had been agreed to by the Committee by an almost unanimous vote. Mr. Dayton, of New Jersey, who in his place in the Senate, had been a most decided and earnest advocate of Territorial Restriction, while that question was open, now as member of this Convention, gave this Resolution his emphatic endorsement. The published proceedings show these striking facts. On the adoption of the whole platform, with this Resolution in it, the *per capita* vote stood two hundred and twenty-seven

yeas to sixty-five nays.* By States the vote in Convention stood twenty-seven States for the platform, three States only against it, and one State divided. The three States against it, were New York, Ohio, and Michigan. The State equally divided—four delegates for—and four against it—was Maine. Every other State of the Union, by their delegates in that Convention, affirmed and endorsed it.

How in the face of these facts Mr. Greeley could have stated, as a historic truth, that the Platform was imposed upon the Convention by Southern Delegates, I cannot well perceive. Another equally singular error is made by him in stating that General Scott, who was nominated, "made haste to plant himself unequivocally and thoroughly on the platform thus erected." The truth is, General Scott refused to express any direct approval of the platform, when he knew that the support of a large class of persons at the South, including Mr. Toombs and myself, and other Members of Congress, who had before 1850, acted with the Whig Party, depended upon his giving an unequivocal endorsement of that portion of it relating to the Compromise. He acted, as was supposed, under the advisement of Mr. Seward, then in the Senate, from New York, who was on intimate terms with him—was one of his most active friends in procuring his nomination, and who was known to be very much opposed to the platform. To this refusal of General Scott "to plant himself unequivocally and thoroughly on the platform thus erected," in my judgment, his great defeat was mainly owing. Mr. Pierce, who received the Democratic nomination, gave these measures his cordial approval, as well as another Resolution of the Democratic Convention, reaffirming the Kentucky and Virginia Resolutions of

* *National Intelligencer*, June 19th, 1852.

1798–99. He it is known carried every State in the Union except four.

Was there ever a more general and decided popular approval of any measure, than that given by the people and States of this Union, in that election, to the establishment of this new principle on the Territorial question? So much, then, for the Compromise of 1850, and its bearing upon the question of Slavery in the public domain.

COLLOQUY XVII.

DISCUSSION CONTINUED—COMPOSITION OF SENATE IN 1854—LEGISLATION OF THAT YEAR—NO REPEAL OF MISSOURI COMPROMISE—IT WAS CARRYING OUT THE PRINCIPLE ESTABLISHED IN 1850—CLAMOR OF RESTRICTIONISTS—KANSAS WAR OF 1856—TRIUMPH OF THE PRINCIPLE OF 1850 BY THE ELECTION OF MR. BUCHANAN—HIS DEPARTURE FROM THIS PRINCIPLE THE PROXIMATE CAUSE OF SUBSEQUENT TROUBLES.

Mr. Stephens. We now come to the last point under consideration. That is, the legislation of 1854, in which Mr. Buchanan says the South, for the first time, was the aggressor. We will soon see how little weight this assertion, however high the authority from which it comes, has against the indisputable facts of history. These facts will show that the legislation of this year, was in strict conformity with the Territorial principle established in 1850.

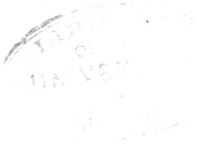
What then are these facts? In the first place, what was the principle settled, in 1850, upon the Territorial question which had for so long a time caused so great and fearful agitation, both in and out of Congress? This we have just seen. To repeat for the purpose of keeping it distinctly in mind, it was clearly this, that after the principle of division had been abandoned and repudiated by the North, in the organization of all Territorial Governments, the principle of Congressional Restriction should be totally abandoned also, and that all new States, whether North or South of 36° 30′, should be admitted into the Union, "either with or without Slavery, as their Constitutions might prescribe," at the time of their admission. This was, un-

questionably, the principle established in 1850, on this subject.

Well, then, in 1854, certain portions of the public domain embraced in the Louisiana cession, not included in Utah, lying outside of Missouri, and north of 36° 30′, known as Nebraska and Kansas, became sufficiently populated to require local Governments. Two delegates to Congress were chosen, and petitions presented for the organization of Governments for them by Congress. Early in this Session, on the 4th of December, 1853, Mr. Dodge, of Iowa, introduced into the Senate a bill for the organization of a Territorial Government for Nebraska. This was referred to the Committee on Territories.

At this time the Senate was changed in its personal composition very materially from what it was four years before. Several of the great lights then in it had departed. Some had gone down never more to shed their splendor upon subjects of earthly investigation. Mr. Clay survived his last great efforts in restoring peace and harmony between the Sections only two years. He sank to rest from all mortal cares in Washington, on the 29th of June, 1852. Mr. Webster followed him within a few months. He closed his earthly existence the 24th of October, the same year. William R. King, of Alabama, who had been elected Vice President on the Pierce ticket, was also no more.

Others who added lustre to the Senatorial galaxy in 1850, were now filling other posts of honor and trust. Mr. Davis, of Mississippi, was Secretary of War. Mr. Benton who had been beaten for the Senate in Missouri, mainly on account of his vote to recede on the disagreeing vote between the two Houses on the Oregon Bill, in 1848, was now a member of the House of Representatives. Mr. Berrien was in private life. General Cass,



S. A. Douglas

General Houston, of Texas, and Mr. Bell, of Tennessee, of all the most distinguished characters of the former generation of statesmen who were in the Senate in 1850, were the only ones who at this time still continued to occupy their seats in that body. Of the younger members, however, a goodly number were still there. Amongst these may be mentioned Mr. Douglas, of Illinois, who had in the meantime added greatly to his fame. For mental vigor and power of debate, he had already received the general appellation of "The Little Giant." Messrs. Hunter and Mason, of Virginia, Mr. Seward, of New York, Mr. Chase, of Ohio, Mr. Pearce, of Maryland, Mr. Badger, of North Carolina, who were all men of great ability, were also still there. Besides these, and others who might be named, the vacated seats had been filled by men of a very high order of genius and eloquence. Amongst the latter class may be mentioned Mr. Toombs, of Georgia, Mr. Sumner, of Massachusetts, Mr. Butler, of South Carolina, Mr. Clay, of Alabama, and Mr. Toucey, of Connecticut. So the Senate of the United States was still, notwithstanding the changes, a most august body—not inferior to that of Rome in her palmiest days. This is but a glance at the general character of that Assembly at the time we are now to enter upon an examination of their proceedings. Nor is this notice at all out of place considering the grave charge which has been brought against their acts. To go on then with the narrative.

Mr. Douglas, of Illinois, was still Chairman of the Committee on Territories. On the 4th of January, 1854, he reported back Mr. Dodge's Bill with amendments so changing its language as to make it accord with the language of the Utah and New Mexico Bills of 1850, on the question of Slavery, and accompanied his amend-

ments with an elaborate report stating fully the reasons which had induced the Committee to change its phraseology in these particulars. The sole object was to carry out the principle established in 1850. In speaking of this report he said in the Senate:*

"We were aware that from 1820 to 1850, the Abolition doctrine of Congressional interference with Slavery in the Territories and new States had so far prevailed as to keep up an incessant Slavery agitation in Congress, and throughout the country, whenever any new territory was to be acquired or organized. We were also aware that, in 1850, the right of the people to decide this question for themselves, subject only to the Constitution, was substituted for the doctrine of Congressional intervention. The first question, therefore, which the Committee were called upon to decide, and, indeed, the only question of any material importance in framing this bill, was this: Shall we adhere to and carry out the principle recognized by the Compromise measures of 1850, or shall we go back to the old exploded doctrine of Congressional interference, as established in 1820, in a large portion of the country, and which it was the object of the Wilmot Proviso, to give a universal application, not only, to all the territory which we then possessed, but all which we might hereafter acquire? There were no other alternatives. We were compelled to frame the bill upon the one or the other of these two principles. The doctrine of 1820, or the doctrine of 1850, must prevail. In the discharge of the duty imposed upon us by the Senate, the Committee could not hesitate upon this point, whether we consulted our individual opinions and principles, or those which were known to be entertained and boldly avowed by a large majority of the Senate. The two

* *Appendix to Congressional Globe*, 33*d* Congress, 1*st* Session, p. 326.

great political Parties of the country stood solemnly pledged before the world, to adhere to the Compromise Measures of 1850, 'in principle and substance.' A large majority of the Senate, indeed every member of the body, I believe, except the two avowed Abolitionists, [Mr. Chase and Mr. Summer] profess to belong to the one or the other of these Parties, and hence was supposed to be under a high moral obligation to carry out the 'principle and substance' of those measures in all new territorial organizations. The report of the Committee was in accordance with this obligation."

He then read from that portion of the report in which the Committee had laid down the principle by which they proposed to be governed:

"In the judgment of your Committee, those measures [Compromise of 1850] were intended to have a far more comprehensive and enduring effect than the mere adjustment of the difficulties arising out of the recent acquisition of Mexican territory. They were designed to establish certain great principles, which would not only furnish adequate remedies for existing evils, but, in all time to come, avoid the perils of a similar agitation, by withdrawing the question of Slavery from the Halls of Congress and the political arena, and committing it to the arbitrament of those who were immediately interested in, and alone responsible for its consequences."

He also read the concluding words of the report, which are as follows:

"The substitute for the bill which your Committee have prepared, and which is commended to the favorable action of the Senate, proposes to carry these propositions and principles into practical operation, in the precise language of the Compromise Measures of 1850."

He proceeded further to say:

"But my accusers attempt to raise up a false issue, and thereby divert public attention from the real one, by the cry that the Missouri Compromise is to be repealed or violated by the passage of this bill. Well, if the eighth section of the Missouri Act, which attempted to fix the destinies of future generations in those Territories, for all time to come, in utter disregard of the rights and wishes of the people when they should be received into the Union as States, be inconsistent with the great principle of self-government and the Constitution of the United States, it ought to be abrogated. The legislation of 1850 abrogated the Missouri Compromise, so far as the country embraced within the limits of Utah and New Mexico was covered by the Slavery Restriction. It is true, that those Acts did not in terms, and by name, repeal the Act of 1820, as originally adopted, or as extended by the resolutions annexing Texas in 1845, any more than the report of the Committee on Territories proposes to repeal the same Acts this Session. But the Acts of 1850 did authorize the people of those Territories to exercise 'all rightful powers of legislation consistent with the Constitution,' not excepting the question of Slavery; and did provide that, when those Territories should be admitted into the Union, they should be received with, or without Slavery, as the people thereof might determine at the date of their admission. These provisions were in direct conflict with a clause in any former enactment, declaring that Slavery should be forever prohibited in any portion of said Territories, and hence rendered such clause inoperative and void to the extent of such conflict. This was an inevitable consequence, resulting from the provisions in those Acts, which gave the people the right to decide the Slavery question for themselves, in conformity with the Constitution. It was not necessary to

go further and declare that certain previous enactments, which were incompatible with the exercise of the powers conferred in the bills, 'are hereby repealed.' The very act of granting those powers and rights have the legal effect of removing all obstructions to the exercise of them, by the people, as prescribed in those Territorial bills. Following that example, the Committee on Territories did not consider it necessary to declare the eighth section of the Missouri Act repealed. We were content to organize Nebraska in the precise language of the Utah and New Mexican Bills. Our object was to leave the people entirely free to form and regulate their domestic Institutions and internal concerns in their own way, under the Constitution; and we deemed it wise to accomplish that object in the exact terms in which the same thing had been done, in Utah and New Mexico, by the Acts of 1850."

Thus stood the Nebraska Bill with these words in it, "that the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act," and "the said Territory, or any portion of the same, shall be received into the Union with or without Slavery, as their Constitution may prescribe at the time of their admission," which were transcribed literally from the Utah and New Mexican Bills of 1850; when on the 17th of January, Mr. Sumner, of Massachusetts, introduced into the Senate a memorial against Slavery generally, and also gave notice, that when the bill to organize Nebraska Territory should come up for consideration, he should offer an amendment reaffirming the old Congressional Restriction of 1820.* His amendment was pre-

* Mr. Sumner's amendment was in these words:

"*Provided*, That nothing herein contained, shall be construed to

sented informally and ordered to be printed. This opened the whole Territorial question settled in 1850 *de novo*. If this was Pandora's box, as has been stated, who opened it? If there was a renewal of the agitation of the sectional controversy, settled as we have seen, who made it? Was it made by the friends of the Compromise or by its open and avowed enemies?

It was then that the Restrictionists again raised their clamor. A manifesto was issued from Washington on the 19th of January, signed by Mr. Sumner and Mr. Chase, and a few others, calling their clans and hosts to action everywhere. In this they spoke of the old Missouri line of division as a "sacred pledge" which was never to be violated. This old line of division all at once came to be considered by them and their allies as a "Solemn Compact." Three thousand New England clergymen, assuming to speak in the name of Almighty God, joined in the chorus. But when did these men, or any of their class, singly or collectively, ever before acknowledge any binding obligation of this now so-called "Solemn Compact?" Was it, when Missouri was denied admission by them under it? Was it, when the admission of Arkansas was opposed by them? Was it, when provision was made for the admission of Texas? Was it, when a Government for Oregon was organized? Was it, when this line was voted down for

abrogate or in any way contravene the act of March 6, 1820, entitled 'An act to authorize the people of Missouri Territory to form a Constitution and State Government, and for the admission of such State into the Union, on an equal footing with the original States, and to prohibit Slavery in certain Territories;' wherein it is expressly enacted that 'in all that territory ceded by France to the United States, under the name of Louisiana, which lies north of thirty-six degrees and thirty minutes north latitude, not included within the limits of the State contemplated by this act, Slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted, shall be, and is hereby forever prohibited.'"—*Congressional Globe*, 33*d Congress*, 1*st Session*, p. 186.

the last time in the House on the 13th of June, 1850? Was it, when the proposition was then distinctly made to them that the South would still abide by this line of division with the exclusion of Slavery north of it, and leaving the people South of it to do as they pleased upon the subject, accompanied with the declaration, that if this was rejected, then there should be no exclusion anywhere, but that the people everywhere, in all parts of the public domain, should be permitted to do as they pleased on this subject, and that all new States should come into the Union either with or without Slavery, as their State Constitutions should determine?

We have seen from the facts in the history of this controversy that, in all these stages of the conflict, the leaders of this Party utterly repudiated the idea of its being in any sense whatever "a Compact" binding upon them. In this view of the case, the supporters of the settlement of 1850 had but one course to pursue in 1854; and that was to adhere strictly to their own principles, leaving the consequences of all agitation which might be gotten up by the enemies of these principles, to be properly charged to those who renewed the agitation. A few days after Mr. Sumner's notice of his intended movement, the Committee on Territories, looking to the extent of the country, as well as the fact that two separate organizations had been formed in it, and that two delegates had been sent to Congress asking two separate Territorial Governments, thought it expedient to divide the country into two Territories, and to provide Governments for each separately—one for Nebraska, and the other for Kansas. A substitute, therefore, for the first bill was reported to the Senate by Mr. Douglas, from the Committee on Territories, on the 23d of January.* This bill provi-

* *Congressional Globe*, 33*d Congress*, 1*st Session*, p. 221.

ded for organizing two Territorial Governments instead of one—one for Kansas, as well as Nebraska. The language in each upon the subject of Slavery, was identical with that in the first Nebraska bill, with an addition of some words which we will now notice. Here they are: "except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March 6th, 1820, which being inconsistent with the principle of non-intervention by Congress, with Slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the Compromise Measures, is hereby declared inoperative and void; it being the true intent and meaning of this act, not to legislate Slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic Institutions in their own way, subject only to the Constitution of the United States."

These words made no change in the legal effect of those already in the bill, as we have seen. They were deemed necessary, however, by quite a number of Senators to preserve a perfect symmetry in the bill. In section thirty-two, in that portion of the bill providing a Government for Kansas, these words had been copied from section seventeen of the New Mexico Bill of 1850, "that the Constitution and laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States."

Now, as the eighth section of the act of the 6th of March, 1820, did have a local application to this country by its terms, it was thought that a general affirmance of all laws locally applicable might be construed by some as a re-enactment of this old exclusion of Slavery, especially after the intimated movement of Mr. Sumner, notwith-

standing the entire inconsistency of such a construction with the other explicit provisions of the bill upon the subject of Slavery, copied from the measures of 1850, as I have shown. Hence it was thought both expedient and proper to add the excepting words stated, to put the matter beyond all cavil or question as to the true meaning and intent of Congress in the premises. That was, to adhere strictly to the principles established in 1850. It was to prevent an erroneous construction by implication.

The same words, in the same connection, were added to the Nebraska Bill. All the strife which ensued in 1854, upon this bill, as it thus stood, known as the Kansas-Nebraska Bill, arose therefore, was gotten up and waged by the enemies of the Compromise of 1850. It was, indeed, a fierce and bitter contest. The most exciting appeals were made to the passions of the people, and the heaviest denunciations were hurled against those who stood by the Constitution and maintained, in this instance, as they did in all others, their plighted faith to support, stand to, and abide by the settlement of 1850, on this subject, both "in principle and substance." As a sample of the ragings of the Restrictionists at this period, Mr. Greeley, of the Tribune, said, in one of his leaders, while the measure was before Congress:

"We urge, therefore, unbending determination on the part of the Northern members hostile to this intolerable outrage, and demand of them, in behalf of freedom—in behalf of justice and humanity—resistance to the last. Better that confusion should ensue—better that discord should reign in the National councils—better that Congress should break up in wild disorder—nay, better that the Capitol itself should blaze by the torch of the incendiary, or fall and bury all its inmates beneath its crum-

bling ruins, than this perfidy and wrong should be finally accomplished."

But this, and all others of like character, had no effect upon those who had passed through the perilous struggle of 1850, in procuring the establishment of the new principle on the Territorial question. They remained firm almost to a man in both the Senate and the House. This bill, so worded upon this subject, with one or two other slight amendments, not varying the sense or effect of the language given, passed the Senate on the 3d of March, by a vote of thirty-seven yeas to fourteen nays.* By a majority of more than two to one on the *per capita* vote. By States, the vote stood twenty-one yeas, seven nays, and three divided. Two-thirds of the States, therefore, gave this legislation in the Senate their emphatic endorsement. The yeas were New Hampshire, New Jersey, Pennsylvania, Illinois, Indiana, Michigan, Iowa, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Missouri, Arkansas, Kentucky, Alabama, Louisiana, and California. The nays were Maine, Massachusetts, Rhode Island, Vermont, New York, Ohio, and Wisconsin. The States divided were Connecticut, Tennessee, and Texas.

The same bill passed the House with one or two other slight amendments, not changing the substance on the main points in the slightest particular, on the 20th of May,† by a vote of one hundred and thirteen yeas to one hundred nays. The majority in this branch of Congress, on the *per capita* vote, was greater for this confirmation of the Compromise of 1850, than it had been for the establishment of the principle upon which it was based in that year. By States, this vote in the House stood

* *Congressional Globe*, 33*d Congress*, 1*st Session*, p. 532.

† *Congressional Globe*, 33*d Congress*, 1*st Session*, p. 1254.

eighteen yeas to thirteen nays. There were then thirty-one States in the Union.

Thus we see that the legislation of 1854 did nothing but carry out, in good faith, the Territorial principle established in 1850. There was no aggression in it on the part of the South. There was no "perfidy," or "breach of Compact," or "wrong," perpetrated by anybody in securing its accomplishment. Apart from its being the fulfilment of a pledge to maintain the principle of 1850, was it not perfectly just and right in itself? What wrong did the Act contain? Wrong to whom? Was it wrong to the people of the South, one large section of the Union, to permit them to enjoy an equal and fair participation of the public domain, purchased by the common blood and common treasure of all? Was it wrong to the people of the North to permit those of them who might emigrate to these Territories, to be as free there, as they were in their native homes? Was it wrong and unjust to allow all, from all the States, who might be disposed to quit their father-land and to seek to better their fortunes in these rich and fertile plains, to enjoy the same rights which their fathers did in the early formation of their State Constitutions and Governments? Whom did the bill wrong? To whom did it deal any injustice? Was it the slave—the African—whom a Southern master might take there? How could it be unjust, even to him? Was not his condition as much bettered by new lands and virgin soils, as that of his master? Was not expansion of that portion of Southern population quite as necessary for their comfort and well-being, as it was for the whites? Was it either just, right, or humane to keep them hemmed in within their then limits, until by failure of subsistence they should be reduced to starvation, even in the Slavery view of the

subject? Allow me to call your attention to what I said in the House, when it was under consideration there. Upon the subject of the Missouri Compromise, which had then assumed, for the first time, such a sacred form in the opinion of the opponents of the measure, I said:

"The principle upon which it was based has been abandoned—totally abandoned—as I have shown by those who now contend for it, and superseded by another, a later, a better, and a much more national and republican one. We do not propose to repeal any 'Compact' or to violate faith in any sense—we only invoke you to stand upon the Territorial principle established by what is known as the Compromise of 1850. That has already received the sanction of an overwhelming majority of the American people, as I doubt not it always will receive when fairly presented. It has been suggested that if a proposition should be made to extend the provisions of this bill to the guarantee to the South in the Texas Annexation Resolutions for the admission of Slave States from Texas, south of 36° 30′, that such proposition would certainly defeat it. By no means, sir; those who reason thus show nothing so clearly as how little they understand the real merits of the question. That guarantee secured in the Texas Resolutions, so far as the character of the Institutions of such States hereafter to be formed, is concerned—that is, whether they be slave or free—is, itself, in perfect accordance with the present provisions of this bill. That guarantee was not that those new States should be Slave States, but the people there might do as they pleased upon the subject. The reason that the guarantee was important, at the time, was, because the policy of Congressional *Restriction* had not then been abandoned. The South never asked any discrimination in her favor from your hands. All that the South se-

cured by those resolutions, so far as the character of the States is concerned, was, simply, that they should be admitted at a proper time, 'either with or without Slavery,' as the people may determine. As to the number of States, that is a different question. So that if you should repeal that so-called guarantee for *Slave* States, by extending the provisions of this bill to that country, you would only erase to fill again with the same words. We ask no discrimination in our favor. All we ask of you of the North, is that you make none in your own. And why should you wish to? Why should you even have the desire to do it? Why should you not be willing to remove this question forever from Congress, and leave it to the people of the Territories, according to the Compromise of 1850? You have greatly the advantage of us in population. The White population of the United States is now over twenty millions. Of this number the Northern States have more than two to one, compared with the Southern States. There are only a little over three millions of Blacks. If immigration into the Territories, then, should be assumed to go on in the ratio of population, we must suppose that there would be near seven White persons to one slave at least; and of these seven, two from the free States to one from the South. This is without taking into the estimation the immense foreign immigration. With such an advantage are you afraid to trust this question to your own people? To those reared under the influence of your own boasted superior Institutions? With all the prejudices of birth and education against us, are you afraid to let them judge for themselves?"

In another part of the speech I said:

"Do you consider it Democratic to exercise the high prerogative of stifling the voice of the adventurous

pioneer, and restricting his suffrage in a matter concerning his own interest, happiness and government, which he is much more capable of deciding than you are? As for myself and the friends of the Nebraska Bill, we think that our fellow citizens who go to the frontier, penetrate the wilderness, cut down the forests, till the soil, erect school-houses and churches, extend civilization, and lay the foundation of future States, do not lose by their change of place, in hope of bettering their condition, either their capacity for self-government, or their just rights to exercise it conformably to the Constitution of the United States. We of the South are willing that they should exercise it upon the subject of the condition of the African race amongst them, as well as upon other questions of domestic policy. If they see fit to let them hold the same relation to the White race which they do in the Southern States, from the conviction that it is better for both races that they should, let them do it. If they see fit to place them on the same footing they occupy in the Northern States, that is, without the rights of a citizen, or the protection of a master, outcasts from society, in a worse condition than that of Cain, who, though sent forth as a vagabond, yet had a mark upon him that no man should hurt him—I say, if they choose to put this unfortunate race on that footing, let them do it. That is a matter that we believe the people there can determine for themselves better than we can for them. We do not ask you to force Southern Institutions, or our form of civil polity upon them; but to let free emigrants to our vast public domain, in every part and parcel of it, settle this question for themselves, with all the experience, intelligence, virtue and patriotism they may carry with them. This, sir, is our position. It is, as I have said, the original position of the South.

It is the position she was thrown back upon in June 1850."

Similar views were presented by the advocates of the Kansas-Nebraska Bill from all sections of the Union. It was with these views and upon these principles it triumphantly passed both Houses of Congress, notwithstanding the clamor and excitement raised by its opponents. It was with these views and upon these principles that it received an emphatic endorsement by the Democratic Convention in Cincinnati, in 1856, which nominated Mr. Buchanan for the Presidency.

In accepting that nomination so expressly endorsing this legislation, and making the principle upon which it was based a part of the Democratic creed, declaring it to be in strict conformity with the Compromise Measures of 1850, Mr. Buchanan himself, as we have seen, in express words announced that "this legislation is founded upon principles as ancient as free government itself." Under that announcement and by this emphatic endorsement of this very legislation, he was triumphantly elected President of the United States, over the most powerful efforts ever before made by the agitators and Restrictionists to defeat him. He carried the Electoral Colleges in nineteen States of the Union, while the Restrictionists who voted for Col. Fremont carried eleven only—one State, Maryland, voted for Mr. Fillmore. The entire popular vote which the Restrictionists could command for their candidate, with all their "bluster" about "breach of compact," "perfidy," etc., was 1,341,264; while the entire popular vote throughout the Union against them, given partly for Mr. Buchanan, and partly for Mr. Fillmore, was 2,802,703. But Mr. Buchanan's majority over both his competitors in the Electoral Colleges was sixty.

This election was another most signal condemnation

of the principles as well as policy of the Restrictionists by the people and States of the Union. It was the more so from the fact that after their utter defeat in the Halls of Congress, on the principles of the legislation of 1854, they had openly resorted to the policy of stirring up bloody strife in the Territories. Large amounts of money were raised for what were called "Emigrant Aid Societies." The object of these was to send to these Territories as many as possible of the most daring characters to drive Southern settlers from the Territories by force. Arms were bought and put in the hands of these desperadoes, thus sent out as warriors and not as peaceful colonists. This was done, too, by many who styled themselves Ministers of the Gospel? The result, for a time, was what during this Presidential campaign, was called the "Civil War in Kansas," which was charged by them and their allies upon the Legislation of 1854, while in truth the whole strife was instigated and gotten up by the avowed enemies of that legislation, enraged by their defeat, and with the view to kindle a general war in the States, for the total abolition of Slavery. It was in these Kansas scenes of blood in 1856, that the noted John Brown first figured, who afterwards closed his career by his most infatuated "raid" on the United States Armory at Harper's Ferry, in 1859. All these wild, reckless and revolutionary measures, so instigated and controlled by these mischievous malcontents, did not prevent the general condemnation stated, in 1856. There can be no question that there was then a very large majority of the people of the United States, South as well as North, devotedly attached to the Union under the Constitution and who were resolved to maintain, if possible, the Federal system against all attempts, whether covert or open, at Centralism or Consolidation.

Allow me to say, further, that my opinion then was, and now is, if Mr. Buchanan had adhered to the principles on which he was so triumphantly elected, in 1856, he, or whoever else might have been nominated on the same platform at Charleston, on which he had been nominated at Cincinnati, would have been even more triumphantly elected in 1860. For, by the Kansas policy of the Restrictionists, and from their avowed sympathy for John Brown in his desperate undertaking in getting up civil war in Virginia, the supporters of the Constitution and Union, everywhere, saw that revolution was their real object, and were ready to give them a sterner rebuke than ever before. But Mr. Buchanan did not adhere to the principles on which he had been elected. He insisted upon another plank being introduced into the Party Platform, which, however right it might have been on principle, as an original question, was, nevertheless, a distinct departure from the doctrine of strict Non-intervention on the part of Congress, with Slavery in the Territories in any way, either for or against, which had been agreed upon as the basis of the final settlement in 1850. This we shall have occasion, perhaps, to look into hereafter. The result of his policy, which may be here stated, was the rupture of the Party by which he had been elected, and the success of Mr. Lincoln, the candidate of the Restrictionists, by a popular vote of only 1,857,610, against the combined vote of 2,787,780, cast for the other three candidates voted for, even with the distractions and bitter feelings growing out of the rupture. This shows how easily the Restrictionists and Centralists could have been again defeated, if, by wiser statesmanship, the supporters of the Union, under the Constitution, on the basis of the Compromise of 1850, and as carried out by the legislation of 1854, had been

brought, as they might have been, to act in concert in that election.

I have now gone through with what Mr. Buchanan was pleased to say in his book on the Missouri Compromise, the Compromise of 1850, and the legislation of 1854. I cannot quit the subject, however, without one other remark, upon another statement by him, in the extract which I read; and to express my very great surprise, that it should have been made by him. I allude to what he says about the Constitutionality of the old Missouri Restriction, and his assertion that, if "this question had been decided by the Supreme Court of the United States, to be in violation of the Constitution, in a case arising before them, in the regular course of judicial proceedings, the decision would have passed off in comparative silence, and produced no dangerous excitement among the people."

Now, it is well known that the Supreme Court did decide this question in the very way and manner spoken of by him, and that they did decide it to be in violation of the Constitution, and, therefore, void from the beginning; yet, nothing that Congress had ever done so much excited the Restrictionists, as this regular and solemn adjudication did.* By resolves and denunciations in every form and shape, this entire class of agitators expressed their fixed determination never to be bound by it, and resorted to all the epithets of abuse they could command to cast odium upon the learned Judges who made it; especially did they exhaust their vocabulary of defamation in their attempts to blacken the name of Chief Justice Taney, who delivered the judgment of the Court. This eminent jurist, who thus became the marked object of their vituperations, was no less distinguished for his public than his private virtues. In all the qualities

* 19 *Howard's Reports*, p. 393.

which characterize a good citizen, as well as an able statesman, he had no superior in the country. By his legal and judicial acquirements, he had added new lustre to that Bench to which Marshall, whom he succeeded, had already given so much distinction and renown, not only in this, but in foreign countries.

Enough, however, on this subject.

The facts adduced show that there was no "breach of Compact" or of "faith," and that there was no "aggression" on the part of the South in the legislation of 1854. Whatever excitement followed that legislation was gotten up by the Restrictionists, who would be bound by no Compact in the premises, not even by the Constitution itself, which they were sworn to support. These are the enduring facts of history.

So after all these three last long talks, in which we have gone over extensive new grounds, we come back to the point at which we had arrived before, in relation to the open, palpable, and avowed violation of the Constitution by the Centralists and Restrictionists in the matter of the rendition of fugitives from service. We have seen, conclusively, that in that matter the wrong, the aggression, the acknowledged "breach of faith," was on the side of the non-slaveholding States alluded to, and that in no instance pointed out by Judge Bynum, as an excuse or palliation, was there any aggression or breach of faith by the Southern States. They were ever true to their Constitutional obligations, and resorted to a withdrawal from the Union only when it became the thorough conviction of their leading men, that it was the object of the Centralists, by using this question, to accomplish their purpose of effecting a Consolidated Empire instead of continuing the Federal Republic. We have seen that by public law*

* *Ante*, vol. i, pp. 495 to 522.

they had a perfect right to withdraw. In denial of this right to withdraw, the war was inaugurated, as we have seen. The cry, on the part of those controlling the Federal Government at the time, of saving the Union, was but a pretext to cover their design of overthrowing the Principles of the Constitution. It remains, then, for us now to proceed, if you have nothing further to say against these facts, to consider the conduct of the war thus inaugurated; and, after that, to take some notice of the results of this conflict of principles, so brought into physical play on both sides. We will, however, if agreeable to you, take another rest before entering upon these subjects.

Major Heister. I have no objection to the rest, but I have a question to put to you before you enter upon these other subjects to which you allude.

COLLOQUY XVIII.

THE DISCUSSION TAKES ANOTHER NEW TURN—MAJOR HEISTER ASKS A QUESTION WHICH PUTS MR. STEPHENS IN A NEW ATTITUDE OF DEFENCE—REASONS GIVEN WHY HE DID NOT FAVOR SECESSION AS A REDRESS OF WRONGS—CORRESPONDENCE WITH MR. LINCOLN CALLED FOR AND PRODUCED—CHARLESTON AND BALTIMORE CONVENTIONS—THE NEW PLANK IN THE DEMOCRATIC PLATFORM—MILLEDGEVILLE UNION SPEECH—THE UNION PLATFORM IN SECESSION CONVENTION—SPEECH IN THAT CONVENTION—IRREPRESSIBLE CONFLICT DOCTRINE CONSIDERED.

Mr. Stephens. Well, Major Heister, what is your question? Are you inclined to join issue with me on any of the points discussed in our last three Colloquies?

Major Heister. No. My question does not relate to any of these points. I must admit, as I do, that I was entirely mistaken in relation to the principle established by the Compromise of 1850, as well as the nature and character of the legislation of 1854. I think that you have shown, that Mr. Buchanan's statement in regard to the latter was erroneous. But the question I wish to put to you is this: why you opposed Secession, with the sentiments you have expressed, and in the face of the facts you have adduced? It seems to me, if I had been in Georgia, entertaining the sentiments you did, and in view of the facts as you have related them, I should have gone with the Secessionists.

Mr. Stephens. Ah! that is your line is it? In military language, you are about to make a flank movement, are you? You are about to bring some of the experience of your army training to fields of controversy of a different

character? Your question entirely reverses the order of our proceedings, and will require for the present, at least, a change of front.

Judge Bynum put me on my defence for yielding obedience to the Ordinance of Secession of my State after it was passed, and you now put me on a like defence for not supporting and advocating it in the first instance. My answer to him has been fully given; and the reasons which induced me to oppose its passage, I intended to give when I came to speak of that Ordinance itself: but as you have propounded the question you have, I may as well give them now as hereafter. They were perfectly satisfactory to me at the time, and are still so; though I very much question if they will, in the judgment of mankind, be considered as complete a vindication and justification of my opposition to that measure, as those given in answer to Judge Bynum will be deemed a justification of my course after its adoption. Especially in view of subsequent events. It must, however, be recollected that when one line of policy is adopted instead of another, either in civil or military affairs, or even in the ordinary business of life, it is impossible ever afterwards to form any very satisfactory conclusion as to what would or *might* have been the results of that other line which was rejected.

In illustration of what I mean, let me say that if the views of Nicias instead of those of Alcibiades had prevailed at Athens, when war against Syracuse was resolved upon, no one can now, with any assurance, venture to assert what would have been the difference in the results upon the well-being of that Commonwealth. So in this instance. What would or *might* have been the result of the line of policy I advocated, can never be positively known. It can only be

considered or appreciated upon the principle of probabilities. Its merits must ever remain a matter of speculation only. The reasons, however, by which I was influenced in the premises, whatever weight they were entitled to then, at present, or hereafter, I will now proceed to state.

My opposition to the measure, it must be borne in mind, was not to the right or power of the State to secede, or to any want of conviction that she had ample cause to justify her in doing it, but solely to the expediency of the policy of resorting to that measure at the time, and under all the circumstances, then attending the questions involved.

Prof. Norton. Did not a correspondence take place between you and Mr. Lincoln, after his election, upon this subject? It seems to me that I have heard that such a correspondence did take place, and that he had tendered you a place in his Cabinet.

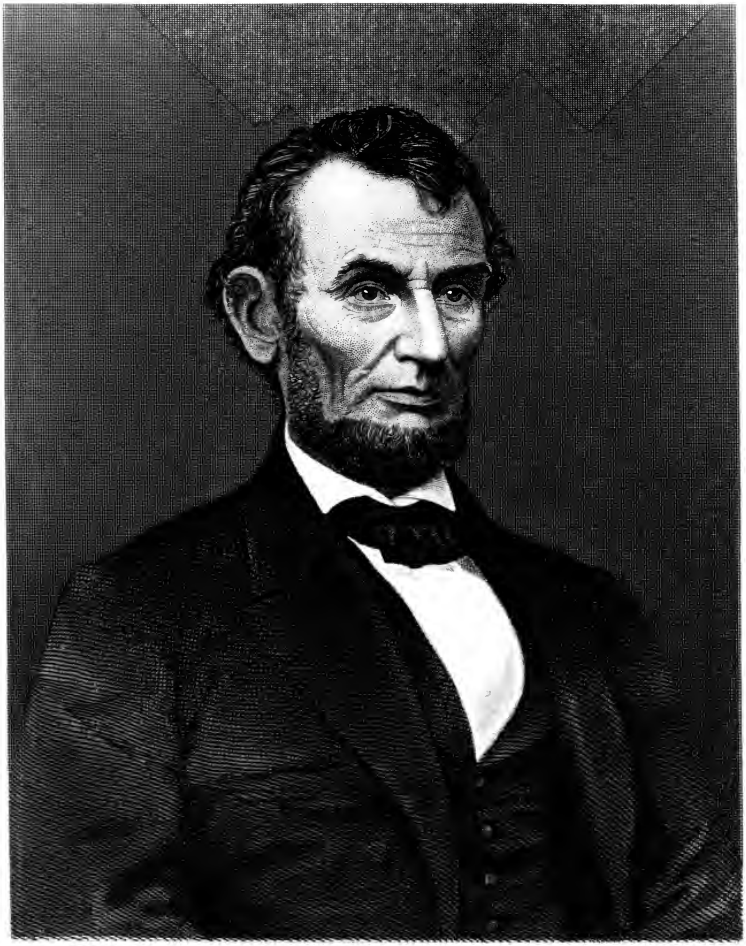
Mr. Stephens. There was a correspondence between us after his election, but not directly upon this subject, nor in any manner, whatever, connected with the subject of his Cabinet. That rumor, to whatever extent it prevailed, was utterly groundless; or if he ever addressed any communication to me on that subject, it never reached me. His correspondence with me was in reference to my Union speech on the 14th of November, 1860, to which Judge Bynum alluded at first: and as the reasons for my course upon this subject, which I was about to state, appear to a considerable extent in that speech, perhaps the better way would be to answer both your questions together, first, by exhibiting that correspondence, and then the speech to which it refers.

Here, then, is the correspondence about which the Professor inquired. It was given to the public for the first

time in Mr. Cleveland's book, to which I have alluded before.

Mr. Lincoln's injunction in his second letter (which I considered as applicable to the whole correspondence,) was strictly observed until the close of the war. No "eye" had ever seen his letters except my Private Secretaries' into whose hands they fell. Nor did I ever allude to the subject of any such correspondence between us, except to Messrs. Hunter and Campbell, as we were on our way to the famous Hampton Roads Conference. I mentioned it to them at that time, that they might be fully apprized of the personal relations existing between Mr. Lincoln and myself. He and I had been in Congress together. We had both opposed the policy of the Mexican war, and had both cordially co-operated together in the nomination and election of General Taylor to the Presidency in 1848, as the surest means of arresting a consummation of that policy. We succeeded in the election, but not in the object. Neither Mr. Hunter nor Mr. Campbell knew much of Mr. Lincoln, except from his public acts, after his elevation to the Presidency. Personally, I knew him well, and esteemed him highly; and to them mentioned this correspondence as evidence of our kind relations, individually, anterior to the war.

With this explanation, I show you the letters. First, his autograph letter to me, and the copy I kept of my reply to him; then his second letter to me, and my reply to that:



A. Lincoln

Springfield, Ill. Nov. 30. 1860

Hon. A. H. Stephens

My dear Sir.

I have read, in the newspapers, your speech recently delivered (I think) before the Georgia Legislature or its assembled members. If you have revised it, as is probable, I shall be much obliged if you will send me a copy—

Yours very truly

A. Lincoln

Original draft Copy of As Sent

Crawfordville Ga

14 Dec 1860

My Dear Sir

Your short & hasty note of the 30th Ult asking for a revised copy of the speech sent you was not received until last night — The newspaper report of the speech has never been revised by me — The notes of the Reporter were submitted to me & corrected to some extent before being published but not so thoroughly as I would have wished — The report was substantially correct — If I had had any idea that it would have been so extensively circulated as it has been and been published in so many papers throughout the country as it has been I should have prepared a copy for the press in the first instance. But I

read not such thoughts and sentiments as the speech was as it did - there are several verbal inaccuracies in it but the main points appear sufficiently clear for all practical purposes the Country is certainly in great peril and no man ever had heavier or greater responsibilities resting upon him than you have in the present momentous crisis

Yours most Respectfully
Alexander H. Stephens

Hon. Abraham Lincoln
Springfield
Ill.

For your own eye only

Springfield. Ills. Dec. 22. 1860

Hon. A. H. Stephens—

My dear Sir

Your obliging answer to my short note is just received, and for which please accept my thanks— I fully appreciate the present peril the county is in, and the weight of responsibility a new-

Do the people of the South really entertain fears that a Republican administration would, directly, or indirectly, interfere with the slaves, or with them, about the slaves? If they do I wish to assure you, as once a friend, and still I hope, not any an enemy, that there is no cause for such fear—

The South would be in no more danger in this respect, than it was in the days of Washington

I suppose, however, this does not meet the case— You think slavery is right and ought to be extended; while we think it is wrong and ought to be restricted— That I suppose is the real issue— It certainly is the only substantial difference between us—

Yours very truly
A. Lincoln

The copy retained of my second letter to him, of the 30th, after the usual heading and address, is in these words:

"Yours of the 22d instant was received two days ago. I hold it and appreciate it as you intended. Personally I am not your enemy—far from it—and however widely we may differ politically, yet I trust we both have an earnest desire to preserve and maintain the Union of the States, if it can be done upon the principles and in furtherance of the objects for which it was formed. It was with such feelings on my part, that I suggested to you in my former note the heavy responsibility now resting on you, and with the same feelings I will now take the liberty of saying in all frankness and earnestness, that this great object can never be attained by force. This is my settled conviction. Consider the opinion, weigh it, and pass upon it for yourself. An error on this point may lead to the most disastrous consequences. I will also add, that in my judgment the people of the South do not entertain any *fears* that a Republican Administration, or at least the one about to be inaugurated, would attempt to interfere *directly* and *immediately* with Slavery in the States. Their apprehension and disquietude do not spring from that source. They do not arise from the fact of the known Anti-Slavery opinions of the President elect. Washington, Jefferson, and other presidents are generally admitted to have been Anti-Slavery in sentiment. But in those days Anti-Slavery did not enter as an element into Party organizations.

"Questions of other kinds, relating to the foreign and domestic policy—commerce, finance, and other legitimate objects of the General Government—were the basis of such associations in their day. The private opinions of individuals upon the subject of African Slavery, or the *status* of the Negro with us, were not looked to in the

choice of Federal officers, any more than their views upon matters of religion, or any other subject over which the Government under the Constitution had no control. But now this subject, which is confessedly on all sides outside of the Constitutional action of the Government so far as the States are concerned, is made the 'central idea' in the Platform of principles announced by the triumphant Party. The leading object seems to be simply, and wantonly, if you please, to put the Institutions of nearly half the States under the ban of public opinion and national condemnation. This, upon general principles, is quite enough of itself to arouse a spirit not only of general indignation, but of revolt on the part of the proscribed. Let me illustrate. It is generally conceded, by the Republicans even, that Congress cannot interfere with Slavery in the States. It is equally conceded that Congress cannot establish any form of religious worship. Now, suppose that any one of the present Christian Churches or Sects prevailed in all the Southern States, but had no existence in any one of the Northern States—under such circumstances suppose the people of the Northern States should organize a political Party—not upon a foreign or domestic policy, but with one leading idea of condemnation of the doctrines and tenets of that particular Church, and with the avowed object of preventing its extension into the common Territories, even after the highest judicial tribunal of the land had decided they had no such Constitutional power! And suppose that a Party so organized should carry a Presidential election! Is it not apparent that a general feeling of resistance to the success, aims, and objects of such a Party would necessarily and rightfully ensue? Would it not be the inevitable consequence? And the more so, if possible, from the admitted fact that

it was a matter beyond their control, and one that they ought not in the spirit of comity between co-States to attempt to meddle with. I submit these thoughts to you for your calm reflection. We at the South do think African Slavery, as it exists with us, both morally and politically right. This opinion is founded upon the inferiority of the Black race. You, however, and perhaps a majority of the North, think it wrong. Admit the difference of opinion. The same difference of opinion existed to a more general extent amongst those who formed the Constitution, when it was made and adopted. The changes have been mainly to our side. As Parties were not formed on this difference of opinion then, why should they be now? The same difference would of course exist in the supposed case of religion. When Parties or combinations of men, therefore, so form themselves, must it not be assumed to arise not from reason or any sense of justice, but from Fanaticism? The motive can spring from no other source, and when men come under the influence of fanaticism, there is no telling where their impulses or passions may drive them. This is what creates our discontent and apprehension. You will also allow me to say, that it is neither unnatural nor unreasonable, especially when we see the extent to which this reckless spirit has already gone. Such, for instance, as the avowed disregard and breach of the Constitution, in the passage of the statutes in a number of the Northern States against the rendition of fugitives from service, and such exhibitions of madness as the John Brown raid into Virginia, which has received so much sympathy from many, and no open condemnation from any of the leading men of the present dominant Party. For a very clear statement of the prevailing sentiment of the most moderate men of the South upon them, I refer you to

the speech of Senator Nicholson, of Tennessee, which I inclose to you. Upon a review of the whole, who can say that the general discontent and apprehension prevailing is not well founded?

"In addressing you thus, I would have you understand me as being not a personal enemy, but as one who would have you to do what you can to save our common country. A word 'fitly spoken' by you now, would indeed be 'like apples of gold, in pictures of silver.' I entreat you be not deceived as to the nature and extent of the danger, or as to the remedy. Conciliation and harmony, in my judgment, can never be established by force. Nor can the Union, under the Constitution, be maintained by force. The Union was formed by the consent of Independent Sovereign States. Ultimate Sovereignty still resides with them separately, which can be resumed, and will be, if their safety, tranquillity and security in their judgment require it. Under our system, as I view it, there is no rightful power in the General Government to coerce a State, in case any one of them should throw herself upon her reserved rights, and resume the full exercise of her Sovereign Powers. Force may perpetuate a Union. That depends upon the contingencies of war. But such a Union would not be the Union of the Constitution. It would be nothing short of a Consolidated Despotism. Excuse me for giving you these views. Excuse the strong language used. Nothing but the deep interest I feel in prospect of the most alarming dangers now threatening our common country, could induce me to do it. Consider well what I write, and let it have such weight with you, as in your judgment, under all the responsibility resting upon you, it merits."

This is the whole of the correspondence the Professor inquired about. It had no influence whatever with me,

in the course I took upon the Ordinance of Secession. The general views I entertained upon that subject, at the time, are to be found in the speech referred to by Mr. Lincoln, as well as in a substitute that was offered for the Secession Ordinance, in the State Convention, on the 19th of January, 1861, and in the speech I made in this Convention on the Ordinance and the substitute. To each of these I will presently call your attention in their order. But, before doing so, it is proper here to state, that these views were all based upon a firm conviction, on my part, that Mr. Lincoln's election was not, in any proper sense, an endorsement of the principles of his Party by a majority of the people of the non-slaveholding States. I did not think it was to be considered as anything like a fair exponent of the fixed sentiments of a majority of even all those States which had cast their Electoral votes, as they had, for Mr. Lincoln. I considered it as nothing but the result of the unfortunate rupture of the Democratic Party, at Charleston, in 1860. This rupture I also attributed directly to the very injudicious and unwise policy of Mr. Buchanan, before referred to, in insisting upon a new article in the creed of the Democratic Party, or a new plank in the Platform, as it was called. A few additional facts must be borne in mind for a right understanding of the due import of the Presidential election, in 1860, as I viewed it, and upon which my convictions were founded.

Be it borne in mind, then, that the new article, so insisted to be inserted in the Democratic creed, was substantially embraced in a resolution proposed to the regular Convention of that Party, assembled at Charleston, on the 23d of April, 1860, for the purpose of nominating candidates for the offices of President and Vice President. The Resolution was in the following words:

"That the Government of a Territory, organized by an act of Congress, is provisional and temporary; and during its existence, all citizens of the United States have an equal right to settle with their property in the Territory, without their rights, either of person or property, being destroyed or impaired by Congressional or *Territorial Legislation*."

This Resolution it will be seen contains, in substance, the fourth and fifth of the series offered by Mr. Davis in the Senate, on the 29th of February before, and about which I gave my opinion, when we had them under consideration.* For my views, more at large, however, on this subject, and the merits of this particular Resolution, as well as upon its effects on the Presidential election of that year, I must refer you to two letters, and a speech made by me, as the events transpired. Here they are.† You can examine them, but I must waive their reading at present, and go on with the brief rehearsal of facts.

The only new principle proposed to be incorporated by this Resolution into the Cincinnati Platform as it stood, and which, in other respects, met the general approbation of the Convention at Charleston, was covered by the two words, "*Territorial Legislation*," as they appear in their connection. The object of it evidently was, to make an issue with a large class of Democrats, who had ever been firm against *Congressional* Restriction, on the subject of Slavery in the Territories, but who, nevertheless, entertained the opinion that the Territorial Legislatures could Constitutionally regulate the subject of Slavery, or property in slaves in the Territories, as well as property of any other kind or character. It was, without doubt, aimed chiefly at the doctrine of Mr. Douglas, who, it was well known, held that the people of an organized

Ante, vol. i, pages 410, 414 and 415.

† See Appendix, C, D, E.

Territory, through their Legislature, could Constitutionally regulate this subject, as rightfully as the people of a State. In other words, that this was as rightful a subject of local legislation, as any other committed to the Territorial Legislatures, upon the principle established in 1850. This doctrine of his, upon the rights and powers of the Territorial Legislatures, in this respect, was what was at that time called "Squatter Sovereignty." He also, it was known, was the favorite candidate of a large majority of the Convention, for the office of President, while a minority were unwilling to support him under any circumstances.

When this Resolution, therefore, was rejected, quite a number of the delegates, as is well known, withdrew from the Convention, and after organizing themselves into a separate body, called another Convention, to meet on the second Monday in June, at Richmond, Virginia, for the purpose of nominating candidates on a Platform more to their liking, than that adopted in 1856, at Cincinnati. The remaining delegates, constituting a large majority of the Convention as organized, then resolved without doing any further business, to adjourn, to meet again on the 18th of June, in the city of Baltimore, with a request to the Democratic Party of the several States, to supply the vacancies in their respective delegations, occasioned by the withdrawal of their delegates. The Convention did so reassemble at the time stated. After the adjournment from Charleston, Conventions were held in several of the States to fill the vacancies as requested. But, in the meantime, the Convention which had been called at Richmond, was postponed and adjourned to the same time and place, as that of the regular organization. Upon the reassembling of the regular Convention at Baltimore, on the 18th of June, another withdrawal took place, headed

by Mr. Caleb Cushing, the President, and Mr. Benjamin F. Butler, of Massachusetts. A majority of the original body, however, still remained. Those who then withdrew, immediately joined the new organization, which had assembled in another part of the city.

The rupture of the Democratic Party was, therefore, now complete. Both wings of it put forth their candidates upon their respective Platforms. The regular organization, after adopting the Cincinnati Platform, and giving a pledge to maintain the principles of the decision of the Supreme Court of the United States, in the Dred Scott case, put in nomination Mr. Douglas, for the Presidency, and Mr. Benjamin Fitzpatrick, of Alabama, for the Vice Presidency. The other organization, calling itself the Democratic Party of the United States, after adopting the same Cincinnati Platform, with the additional plank respecting the powers of a Territorial Legislature, with some other less material matters, put in nomination Mr. John C. Breckinridge, of Kentucky, for the office of President, and Mr. Joseph Lane, of Oregon, for that of Vice President. Mr. Breckinridge was, at that time, Vice President of the United States, having been elected to that office, on the ticket with Mr. Buchanan, in 1856. He was a man of a high order of talents, of most fascinating manners, and of great popularity. Very few contributed more than he did in the House, to the Kansas-Nebraska legislation of 1854. Mr. Lane was, at the time, Senator from Oregon. He had been a Brigadier General in the Mexican war, where he acquired distinction, and was justly regarded in civil affairs as a statesman of high order, having ever been an able defender of the Constitution, according to the principles of the Jeffersonian school.

In the meantime, then, while these distractions were

going on in the Democratic Party, another portion of the people strongly opposed to the principles and objects of the Party which supported Messrs. Lincoln and Hamlin, had met at Baltimore, some time in May, and had presented the names of Mr. John Bell, of Tennessee, and Mr. Edward Everett, of Massachusetts, for the same offices. Mr. Lincoln and Mr. Hamlin were nominated by a Convention of their Party, on the 18th of the same month, at Chicago. Mr. Fitzpatrick, of Alabama, having declined to accept the nomination tendered him, the same position was assigned Mr. Herschel V. Johnson, of Georgia, who did accept it. Thus the campaign of 1860 was opened, and continued during the canvass with four full tickets in the field. That headed by Mr. Breckinridge claimed to be the regular Democratic ticket, and was understood to be the favorite of every member of the Administration; while the ticket headed by Mr. Douglas claimed, also, and with more right, as it seemed to me, to be the regular Democratic ticket. The result was not different from what might reasonably have been expected. The Restrictionists carried the election, as we have seen, by a minority vote, owing to this division of their opponents.

It has been supposed by some that this state of things was brought about intentionally by those who favored the policy which led to the rupture of the Democratic organization, with a view to effect the very result which ensued, in order to avail themselves of it in their ulterior purpose of dis-union. This, in my judgement, is a great mistake, at least so far as relates to the action of Mr. Buchanan, the members of his Cabinet, Mr. Breckinridge, Mr. Lane, Mr. Davis, and an overwhelming majority of those who advocated that policy. They anticipated no such results, and were in the main as much disappointed,

I think, at what occurred, as men ever were at the consequences of their own acts. They really hoped and expected the final result to be the election of Mr. Breckinridge. They thought he would carry the entire South, and *might* get enough Electoral votes at the North to secure this end, through the Electoral Colleges. But failing in that, they felt quite assured that he would receive enough Electoral votes at the North and South together, to carry his name in the House of Representatives, where, in case no one of the four candidates should receive a majority of the votes cast by the Electoral Colleges, the election, under the Constitution, was to be determined by the States. And as the majority of the Representatives in the House, from a majority of the States, was Democratic, but opposed to Mr. Douglas, they considered Mr. Breckinridge's election as certain, if it should in the end have to be determined by that body.

But again, even failing in the election of Mr. Breckinridge in this way, by any factious movement on the part of the House of Representatives in staving off the election, (as the *per capita* majority in that body was against him,) then they looked with confidence to the election of Mr. Lane as Vice President, either by the Electoral Colleges, or by the Senate, (which was Democratic,) in case of the Colleges failing to make a choice of Vice President, upon whom, after being so elected Vice President by the Senate, would devolve the office of President, under the Constitution, if no choice for President should be made by the Electoral Colleges, nor by the House of Representatives, before the 4th of March, 1861. They, therefore, felt quite assured that the final result would be the election to the Presidency, of one or the other of the nominees on their ticket—if not Mr. Breckinridge, then Mr. Lane.

These were their views and expectations, as I understood them. They were founded in too little regard, if not too much contempt of the forces of the Restrictionists, as well as upon too little regard for the effects upon the Northern mind, of the party warfare that had been made upon Mr. Douglas. When the candidates entered the field in June, not a man of this class, perhaps, thought it to be within the range of probability even, that Mr. Lincoln and Mr. Hamlin would receive a majority of the Electoral votes, as they did. This policy, therefore, which brought about this state of things, with its results, viewed in the light of true statesmanship, appeared to me then, neither prudent nor sagacious. It so appears still. It risked and perilled, by too many chances, matters involving too great and even momentous consequences, upon differences on points comparatively of entirely too little importance.

The final result was not generally looked for at all in the beginning of the canvass. When I stated in the speech, (I referred you to, in Augusta, on the 1st of September,) that the people need not be surprised to see the States involved in war, in less than six months, it was said by many, that "the weakness of my body was extending to my head;" or in other words, it was said, I was becoming "crazy." As the day of election approached, however, especially after the State elections at the North, in October, apprehensions as to the result became serious, and many of the leading men and presses supporting the ticket headed by Mr. Breckinridge, not only in Georgia, but in the States of the South generally, declared openly for Secession, in case this result should occur. When it did come, it struck the masses of the people with general consternation.

These facts have required more time in giving them in

detail, than I expected; but they are important outside of this connection, and must be borne specially in mind, in considering the grounds upon which my convictions were founded, and on which my action was based. Hence, while I regarded the success of the Centralists and Restrictionists in the election of Mr. Lincoln, as a great public calamity; yet I did not think that all further maintenance of Constitutional principles was hopelessly lost by it. The Centralists had, by a minority of the people only, gotten possession of one branch of the Government only. A majority of the Senate was still true to the Constitution. The House of Representatives elected to go into office, on the same day with Mr. Lincoln, had also a large majority in it still true to the Constitution, and the principles established in 1850. The changes in this House, at the very same election in the Northern States, were upon the whole against the Restrictionists. The Supreme Court was still, also, unfaltering in their firm maintenance of the Constitution on all these subjects. Hence, I saw no immediate serious danger from the triumph of the Centralists in the election of Mr. Lincoln, under the circumstances. He was powerless to effect much mischief before the people of the several States could, under wiser counsels, and better statesmanship, be brought to act more harmoniously upon sound principles, on which, in the main, an overwhelming majority of them in the aggregate were agreed.

Having stated so much by way of premise, I now present the views on this subject as expressed in the speech to which Mr. Lincoln referred in his first letter to me. This speech, as appears from the correspondence, was delivered before the Georgia Legislature, on the 14th of November, 1860. It was entirely extemporaneous, and was not thoroughly revised by me before publication. In

reading such parts as are pertinent to the matters we now have under consideration, you will, therefore, bear in mind that I read from the newspaper report with the correction of a few verbal mistakes only, omitting some parts not pertinent to our present purpose, and which in the report break the close connection of those parts which are thus pertinent. It was addressed to that body on the subject of Secession, in view of the then condition of public affairs; and in reply, in part, to the idea entertained by some, at the time, that the Legislature could resume the delegated Sovereign powers of the State. Here is what I then said upon these subjects, with the interruptions and responses of the audience as given by the reporter. These phonographed "foot-prints," small matters as they are, possess within themselves a special interest, in throwing light upon the temper and spirit of the times:

"Fellow Citizens: I appear before you to-night at the request of Members of the Legislature and others, to speak of matters of the deepest interest that can possibly concern us all, of an earthly character. There is nothing, no question or subject connected with this life, that concerns a free people so intimately as that of the Government under which they live. We are now, indeed, surrounded by evils. Never since I entered upon the public stage, has the country been so environed with difficulties and dangers that threatened the public peace and the very existence of our Institutions as now. I do not appear before you at my own instance. It is not to gratify any desire of my own that I am here. Had I consulted my personal ease and pleasure, I should not be before you; but believing that it is the duty of every good citizen, when called on, to give his counsels and views whenever the country is in danger, as to the best

policy to be pursued, I am here. For these reasons, and these only, do I bespeak a calm, patient, and attentive hearing.

"My object is not to stir up strife, but to allay it; not to appeal to your passions, but to your reason. Let us, therefore, reason together. It is not my purpose to say aught to wound the feelings of any individual who may be present; and if in the ardency with which I shall express my opinions, I shall say anything which may be deemed too strong, let it be set down to the zeal with which I advocate my own convictions. There is with me no intention to irritate or offend.

"I do not, on this occasion, intend to enter into the history of the reasons or causes of the embarrassments which press so heavily upon us all at this time. In justice to myself, however, I must barely state upon this point that I do think much of it depended upon ourselves. The consternation that has come upon the people is the result of a sectional election of a President of the United States, one whose opinions and avowed principles are in antagonism to our interests and rights, and we believe, if carried out, would subvert the Constitution under which we now live. But are we entirely blameless in this matter, my countrymen? I give it to you as my opinion, that but for the policy the Southern people pursued, this fearful result would not have occurred.

"The first question that presents itself is, shall the people of Georgia secede from the Union in consequence of the election of Mr. Lincoln to the Presidency of the United States? My countrymen, I tell you frankly, candidly, and earnestly, that I do not think that they ought. In my judgment, the election of no man, constitutionally chosen to that high office, is sufficient cause to justify any State to separate from the Union. It

ought to stand by and aid still in maintaining the Constitution of the country. To make a point of resistance to the Government, to withdraw from it because any man has been elected, would put us in the wrong. We are pledged to maintain the Constitution. Many of us have sworn to support it. Can we, therefore, for the mere election of any man to the Presidency, and that, too, in accordance with the prescribed forms of the Constitution, make a point of resistance to the Government, without becoming the breakers of that sacred instrument ourselves, by withdrawing ourselves from it? Would we not be in the wrong? Whatever fate is to befall this country, let it never be laid to the charge of the people of the South, and especially to the people of Georgia, that we were untrue to our national engagements. Let the fault and the wrong rest upon others. If all our hopes are to be blasted, if the Republic is to go down, let us be found to the last moment standing on the deck with the Constitution of the United States waving over our heads. [Applause.] Let the fanatics of the North break the Constitution, if such is their fell purpose. Let the responsibility be upon them. I shall speak presently more of their acts; but let not the South, let us not be the ones to commit the aggression. We went into the election with this people. The result was different from what we wished; but the election has been constitutionally held. Were we to make a point of resistance to the Government and go out of the Union merely on that account, the record would be made up hereafter against us.

"But it is said Mr. Lincoln's policy and principles are against the Constitution, and that, if he carries them out, it will be destructive of our rights. Let us not anticipate a threatened evil. If he violates the Constitution, then

will come our time to act. Do not let us break it because, forsooth, he may. If he does, that is the time for us to act. [Applause.] I think it would be injudicious and unwise to do this sooner. I do not anticipate that Mr. Lincoln will do anything, to jeopard our safety or security, whatever may be his spirit to do it; for he is bound by the Constitutional checks which are thrown around him, which at this time render him powerless to do any great mischief. This shows the wisdom of our system. The President of the United States is no Emperor, no Dictator—he is clothed with no absolute power. He can do nothing, unless he is backed by power in Congress. The House of Representatives is largely in a majority against him. In the very face and teeth of the majority of the Electoral votes, which he has obtained in the Northern States, there have been large gains in the House of Representatives, to the Conservative Constitutional Party of the country, which I here will call the National Democratic Party, because that is the cognomen it has at the North. There are twelve of this Party elected from New York, to the next Congress, I believe. In the present House, there are but four, I think. In Pennsylvania, New Jersey, Ohio, and Indiana, there have been gains. In the present Congress, there were one hundred and thirteen Republicans, when it takes one hundred and seventeen to make a majority. The gains in the Democratic Party in Pennsylvania, Ohio, New Jersey, New York, Indiana, and other States, notwithstanding its distractions, have been enough to make a majority of near thirty, in the next House, against Mr. Lincoln. Even in Boston, Mr. Burlingame, one of the noted leaders of the fanatics of that section, has been defeated, and a Conservative man returned in his stead. Is this the time, then, to apprehend that Mr. Lincoln,

with this large majority in the House of Representatives against him, can carry out any of his unconstitutional principles in that body?

"In the Senate he will also be powerless. There will be a majority of four against him. This, after the loss of Bigler, Fitch, and others, by the unfortunate dissensions of the National Democratic Party in their States. Mr. Lincoln cannot appoint an officer without the consent of the Senate—he cannot form a Cabinet without the same consent. He will be in the condition of George the Third (the embodiment of Toryism), who had to ask the Whigs to appoint his ministers, and was compelled to receive a Cabinet utterly opposed to his views; and so Mr. Lincoln will be compelled to ask of the Senate to choose for him a Cabinet, if the Democracy or that Party choose to put him on such terms. He will be compelled to do this, or let the Government stop, if the National Democratic Senators (for that is their name at the North), the Conservative men in the Senate, should so determine. Then how can Mr. Lincoln obtain a Cabinet which would aid him, or allow him to violate the Constitution? Why then, I say, should we disrupt the ties of this Union, when his hands are tied—when he can do nothing against us?

"I have heard it mooted, that no man in the State of Georgia, who is true to her interests, could hold office under Mr. Lincoln. But I ask, who appoints to office? Not the President alone; the Senate has to concur. No man can be appointed without the consent of the Senate. Should any man, then, refuse to hold office that was given him by a Democratic Senate?

"Mr. Toombs interrupted, and said, if the Senate was Democratic, it was for Breckinridge.

"Well, then, continued Mr. Stephens, I apprehend that

no man could be justly considered untrue to the interests of Georgia, or incur any disgrace, if the interests of Georgia required it, to hold an office which a Breckinridge Senate had given him, even though Mr. Lincoln should be President. [Prolonged applause, mingled with interruptions.]

"I trust, my countrymen, you will be still and silent. I am addressing your good sense. I am giving you my views, in a calm and dispassionate manner, and if any of you differ with me, you can on some other occasion give your views, as I am doing now, and let reason and true patriotism decide between us. In my judgment, I say, under such circumstances, there would be no possible disgrace for a Southern man to hold office. No man will be suffered to be appointed, I have no doubt, who is not true to the Constitution, if Southern Senators are true to their trusts, as I cannot permit myself to doubt that they will be.

"My honorable friend who addressed you last night (Mr. Toombs), and to whom I listened with the profoundest attention, asks if we would submit to Black Republican rule? I say to you and to him, as a Georgian, I never would submit to any Black Republican aggression upon our Constitutional rights.

"I will never consent myself, as much as I admire this Union, for the glories of the past or the blessings of the present; as much as it has done for civilization; as much as the hopes of the world hang upon it; I would never submit to aggression upon my rights to maintain it longer; and if they cannot be maintained in the Union standing on the Georgia Platform, where I have stood from the time of its adoption, I would be in favor of disrupting every tie which binds the States together. I will have equality for Georgia, and for the citizens of

Georgia, in this Union, or I will look for new safeguards elsewhere. This is my position. The only question now is, can this be secured in the Union? That is what I am counselling with you to-night about. Can it be secured? In my judgment it may be, yet it may not be; but let us do all we can, so that in the future, if the worst comes, it may never be said we were negligent in doing our duty to the last.

"My countrymen, I am not of those who believe this Union has been a curse up to this time. True men, men of integrity, entertain different views from me on this subject. I do not question their right to do so; I would not impugn their motives in so doing. Nor will I undertake to say that this Government of our Fathers is perfect. There is nothing perfect in this world of human origin; nothing connected with human nature, from man himself to any of his works. You may select the wisest and best men for your Judges, and yet how many defects are there in the administration of justice? You may select the wisest and best men for your Legislators, and yet how many defects are apparent in your laws? And it is so in our Government. But that this Government of our Fathers, with all its defects, comes nearer the objects of all good Governments than any other on the face of the earth, is my settled conviction. Contrast it now with any on the face of the earth?

"England, said Mr. Toombs.

"Mr. Stephens. England, my friend says. Well, that is the next best, I grant; but I think we have improved upon England. Statesmen tried their apprentice hand on the Government of England, and then ours was made. Ours sprung from that, avoiding many of its defects, taking most of the good, and leaving out many of its errors, and from the whole our Fathers constructed and

built up this model Republic—the best which the history of the world gives any account of. Compare, my friends, this Government with that of France, Spain, Mexico, the South American Republics, Germany, Ireland—(are there any sons of that down-trodden nation here to-night?)—Prussia; or if you travel further east, to Turkey, or China? Where will you go, following the sun in its circuit round our globe, to find a Government that better protects the liberties of its people, and secures to them the blessings we enjoy? [Applause.] I think that one of the evils that beset us is a surfeit of liberty, and exuberance of the priceless blessings for which we are ungrateful. We listened to my honorable friend who addressed you last night [Mr. Toombs] as he recounted the evils of this Government. The first was the Fishing Bounties paid mostly to the sailors of New England. Our friend stated that forty-eight years of our Government was under the administration of Southern Presidents. Well, these fishing bounties began under the rule of a Southern President, I believe. No one of them during the whole forty-eight years ever set his administration against the principle or policy of them. It is not for me to say whether it was a wise policy in the beginning; it probably was not, and I have nothing to say in its defence. But the reason given for it was to encourage our young men to go to sea, and learn to manage ships. We had at the time but a small navy. It was thought best to encourage a class of our people to become acquainted with seafaring life; to become sailors, to man our naval ships. It requires practice to walk the deck of a ship, to pull the ropes, to furl the sails, to go aloft, to climb the mast; and it was thought by offering this bounty, a nursery might be formed, in which young men would become perfected in these arts, and it applied to

one section of the country as well as to any other. The result of this was, that in the war of 1812, our sailors, many of whom came from this nursery, were equal to any that England brought against us. At any rate, no small part of the glories of that war were gained by the veteran tars of America, and the object of these bounties was to foster that branch of the national defence. My opinion is, that whatever may have been the reason at first, this bounty ought to be discontinued—the reason for it at first no longer exists. A bill for this object did pass the Senate the last Congress I was in, to which my honorable friend contributed greatly, but it was not reached in the House of Representatives. I trust that he will yet see that he may with honor continue his connection with the Government, and that his eloquence unrivalled in the Senate, may hereafter, as heretofore, be displayed in having this bounty, so obnoxious to him, repealed and wiped off from the statute book.

"The next evil that my friend complained of, was the Tariff. Well, let us look at that for a moment. About the time I commenced noticing public matters, this question was agitating the country almost as fearfully as the Slave question now is. In 1832, when I was in college, South Carolina was ready to nullify or secede from the Union on this account. And what have we seen? The tariff no longer distracts the public councils. Reason has triumphed! The present tariff was voted for by Massachusetts and South Carolina. The lion and the lamb lay down together—every man in the Senate and House from Massachusetts and South Carolina, I think, voted for it, as did my honorable friend himself. And if it be true, to use the figure of speech of my honorable friend, that every man in the North, that works in iron and brass and wood, has his muscle strengthened by the pro-

tection of the government, that stimulant was given by his vote, and I believe every other Southern man. So we ought not to complain of that.

"Mr. Toombs. That tariff lessened the duties.

"Mr. Stephens. Yes, and Massachusetts, with unanimity, voted with the South to lessen them, and they were made just as low as Southern men asked them to be, and those are the rates they are now at. If reason and argument, with experience, produced such changes in the sentiments of Massachusetts from 1832 to 1857, on the subject of the tariff, may not like changes be effected there by the same means, reason and argument, and appeals to patriotism on the present vexed question! and who can say that by 1875 or 1890, Massachusetts may not vote with South Carolina and Georgia upon all those questions that now distract the country and threaten its peace and existence? I believe in the power and efficiency of truth, in the omnipotence of truth, and its ultimate triumph when properly wielded. [Applause.]

"Another matter of grievance alluded to by my honorable friend, was the Navigation Laws. This policy was also commenced under the administration of one of these Southern Presidents, who ruled so well, and has been continued through all of them since. The gentleman's views of the policy of these laws and my own do not disagree. We occupied the same ground in relation to them in Congress. It is not my purpose to defend them now. But it is proper to state some matters connected with their origin.

"One of the objects was to build up a commercial American marine by giving American bottoms the exclusive carrying trade between our own ports. This is a great arm of national power. This object was accomplished. We have now an amount of shipping not only

coast-wise but to foreign countries which puts us in the front rank of the nations of the world. England can no longer be styled the mistress of the seas. What American is not proud of the result? Whether those laws should be continued is another question. But one thing is certain, no President, Northern or Southern, has ever yet recommended their repeal. And my friend's effort to get them repealed has met with but little favor North or South.

"These were three of the grievances or grounds of complaint against the general system of our Government and its workings; I mean the administration of the Federal Government. As to the acts of several of the States, I shall speak presently, but these three were the main ones urged against the common Head. Now suppose it be admitted that all of these are evils in the system; do they overbalance and outweigh the advantages and great good which this same Government affords in a thousand innumerable ways that cannot be estimated? Have we not at the South, as well as the North, grown great, prosperous and happy under its operation? Has any part of the world ever shown such rapid progress in the development of wealth, and all the material resources of national power and greatness, as the Southern States have under the General Government, notwithstanding all its defects?

"Mr. Toombs. In spite of it!

"Mr. Stephens. My honorable friend says we have, in spite of the General Government; that without it I suppose he thinks we might have done as well, or perhaps better than we have done. This grand result is in spite of the Government! That may be, and it may not be; but the great fact that we have grown great and powerful under the Government, as it exists, is admitted.

There is no conjecture or speculation about that; it stands out bold, high, and prominent, like your Stone Mountain, to which the gentleman alluded, in illustrating home facts, in his record—this great fact of our unrivalled prosperity in the Union as it is, is admitted—whether all this is in spite of the Government—whether we of the South would have been better off without the Government, is, to say the least, problematical. On the one side we can only put the fact against speculation and conjecture on the other. But even as a question of speculation, I differ from my distinguished friend. What we would have lost in border wars without the Union, or what we have gained, simply by the peace it has secured, is not within our power to estimate. Our foreign trade, which is the foundation of all our prosperity, has the protection of the navy which drove the pirates from the waters near our coast, where they had been buccaneering for centuries before, and might have been still, had it not been for the American navy, under the command of such a spirit as Commodore Porter. Now, that the coast is clear, that our commerce flows freely, outwardly and inwardly, we cannot well estimate how it would have been, under other circumstances. The influence of the Government on us, is like that of the atmosphere around us. Its benefits are so silent and unseen, that they are seldom thought of or appreciated.

"We seldom think of the single element of oxygen, in the air we breathe, and yet, let this simple, unseen, and unfelt agent be withdrawn, this life-giving element be taken away from this all-pervading fluid around us, and what instant and appalling changes would take place, in all organic creation!

"It may be, that we are all that we are, in 'spite of the General Government,' but it may be that without it,

we should have been far different from what we are now. It is true, there is no equal part of the earth with natural resources superior, perhaps, to ours. That portion of this country known as the Southern States, stretching from the Chesapeake to the Rio Grande, is fully equal to the picture drawn by the honorable and eloquent Senator, last night, in all natural capacities. But how many ages, centuries, passed before these capacities were developed to reach this advanced stage of civilization? There, these same hills, rich in ore, same rivers, same valleys and plains, are, as they have been since they came from the hand of the Creator. Uneducated and uncivilized, man roamed over them, for how long no history informs us.

"It was only under our Institutions as they are, that they were developed. Their development is the result of the enterprise of our people under operations of the Government and Institutions under which we have lived. Even our people, without these, never would have done it. The organization of society has much to do with the development of the natural resources of any country or any land. The Institutions of a people, political and moral, are the matrix in which the germ of their organic structure quickens into life, takes root, and develops in form, nature, and character. Our Institutions constitute the basis, the matrix from which spring all our characteristics of development and greatness. Look at Greece! There is the same fertile soil, the same blue sky, the same inlets and harbors, the same Ægean, the same Olympus—there is the same land where Homer sung, where Pericles spoke—it is, in nature, the same old Greece; but it is 'living Greece no more!' [Applause.]

"Descendants of the same people inhabit the country; yet what is the reason of this mighty difference? In the midst of present degradation we see the glorious frag-

ments of ancient works of art—temples with ornaments and inscriptions that excite wonder and admiration, the remains of a once high order of civilization, which have outlived the language they spoke. Upon them all, Ichabod is written—their glory has departed. Why is this so? I answer this, their Institutions have been destroyed. These were but the fruits of their forms of Government, the matrix from which their grand development sprung; and when once the Institutions of our people shall have been destroyed, there is no earthly power that can bring back the Promethean spark to kindle them here again, any more than in that ancient land of eloquence, poetry, and song! [Applause.] The same may be said of Italy. Where is Rome, once the mistress of the world? There are the same seven hills now, the same soil, the same natural resources; nature is the same; but what a ruin of human greatness meets the eye of the traveller throughout the length and breadth of that most down-trodden land! Why have not the people of that heaven-favored clime, the spirit that animated their fathers? Why this sad difference? It is the destruction of her Institutions that has caused it. And, my countrymen, if we shall, in an evil hour, rashly pull down and destroy those Institutions, which the patriotic hand of our Fathers labored so long and so hard to build up, and which have done so much for us, and for the world; who can venture the prediction that similar results will not ensue? Let us avoid them if we can. I trust the spirit is amongst us that will enable us to do it. Let us not rashly try the experiment of change, of pulling down and destroying; for, as in Greece and Italy, and the South American Republics, and in every other place, whenever our liberty is once lost, it may never be restored to us again. [Applause.]

"There are defects in our Government, errors in our administration, and short-comings of many kinds, but in spite of these defects and errors, Georgia has grown to be a great State. Let us pause here a moment. In 1850 there was a great crisis, but not so fearful as this, for of all I have ever passed through, this is the most perilous, and requires to be met with the greatest calmness and deliberation.

"There were many amongst us in 1850 zealous to go at once out of the Union—to disrupt every tie that binds us together. Now do you believe, had that policy been carried out at that time, we would have been the same great people that we are to-day? It may be that we would, but have you any assurance of that fact? Would we have made the same advancement, improvement, and progress, in all that constitutes material wealth and prosperity, that we have?

"I notice in the Comptroller-General's report, that the taxable property of Georgia is six hundred and seventy million dollars, and upwards—an amount not far from double what it was in 1850. I think I may venture to say that for the last ten years the material wealth of the people of Georgia has been nearly if not quite doubled. The same may be said of our advance in education, and everything that marks our civilization. Have we any assurance that had we regarded the earnest but misguided patriotic advice, as I think, of some of that day, and disrupted the ties which bind us to the Union, we would have advanced as we have? I think not. Well, then, let us be careful now, before we attempt any rash experiment of this sort. I know that there are friends whose patriotism I do not intend to question, who think this Union a curse, and that we would be better off without it. I do not so think; if we can bring about a correction

of these evils which threaten—and I am not without hope that this may yet be done. This appeal to go out with all the promises for good that accompany it, I look upon as a great, and I fear, a fatal temptation.

"When I look around and see our prosperity in everything—agriculture, commerce, art, science, and every department of progress, physical, mental, and moral—certainly, in the face of such an exhibition, if we can, without the loss of power, or any essential right or interest, remain in the Union, it is our duty to ourselves and to posterity to do so. Let us not unwisely yield to this temptation. Our first parents, the great progenitors of the human race, were not without a like temptation when in the garden of Eden. They were led to believe that their condition would be bettered—that their eyes would be opened—and that they would become as Gods. They, in an evil hour, yielded—instead of becoming Gods, they only saw their own nakedness!

"I look upon this country with our Institutions as the Eden of the world, the Paradise of the Universe. It may be that out of it we may become greater and more prosperous, but I am candid and sincere in telling you that I fear if we yield to passion, and without sufficient cause shall take that step, that instead of becoming greater or more peaceful, prosperous, and happy—instead of becoming Gods, we will become demons, and at no distant day commence cutting one another's throats. This is my apprehension. Let us, therefore, whatever we do, meet these difficulties, great as they are, like wise and sensible men, and consider them in the light of all the consequences which may attend our action. Let us see first, clearly, where the path of duty leads, and then we may not fear to tread therein.

"Now, upon another point, and that the most difficult,

and deserving your most serious consideration, I will speak. That is, the course which this State should pursue toward those Northern States which, by their legislative acts, have attempted to nullify the Fugitive Slave Law.

"Northern States, on entering into the Federal Compact, pledged themselves to surrender such fugitives; and it is in disregard of their Constitutional obligations that they have passed laws which even tend to hinder or inhibit the fulfilment of that obligation. They have violated their plighted faith. What ought we to do in view of this? That is the question. What is to be done? By the law of nations, you would have a right to demand the carrying out of this article of agreement, and I do not see that it should be otherwise with respect to the States of this Union; and in case it be not done, we would, by these principles, have the right to commit acts of reprisal on these faithless Governments, and seize upon their property, or that of their citizens, wherever found. The States of this Union stand upon the same footing with foreign Nations in this respect.

"Suppose it were Great Britain that had violated some Compact of agreement with the General Government—what would be first done? In that case our Ministers would be directed, in the first instance, to bring the matter to the attention of that Government, or a commissioner be sent to that country to open negotiations with her, ask for redress, and it would only be after argument and reason had been exhausted in vain that we would take the last resort of nations. That would be the course toward a foreign Government, and toward a member of this Confederacy, I would recommend the same course. Let us not, therefore, act hastily, or ill-temperedly in this matter. Let your Committee on the state of the Repub-

lic make out a bill of grievances; let it be sent by the Governor to those faithless States; and if reason and argument shall be tried in vain—if all shall fail to induce them to return to their Constitutional obligations, I would be for retaliatory measures, such as the Governor has suggested to you. This mode of resistance in the Union is in our power.

"Now, then, my recommendation to you would be this: In view of all these questions of difficulty, let a Convention of the people of Georgia be called, to which they may be all referred. Let the Sovereignty of the people speak. Some think that the election of Mr. Lincoln is cause sufficient to dissolve the Union. Some think those other grievances are sufficient to justify the same; and that the Legislature has the power thus to act, and ought thus to act. I have no hesitancy in saying that the Legislature is not the proper body to sever our Federal relations, if that necessity should arise.

"I say to you, you have no power so to act. You must refer this question to the people, and you must wait to hear from the men at the cross-roads, and even the groceries; for the people of this country, whether at the cross-roads or groceries, whether in cottages or palaces, are all equal, and they are the Sovereigns in this country. Sovereignty is not in the Legislature. We, the People, are Sovereign! I am one of them, and have a right to be heard; and so has every other citizen of the State. You Legislators—I speak it respectfully—are but our servants. You are the servants of the people, and not their masters. Power resides with the people in this country. The great difference between our country and most others, is, that here there is popular Sovereignty, while there Sovereignty is exercised by kings or favored classes. This principle of popular Sovereignty, however

much derided lately, is the foundation of our Institutions. Constitutions are but the channels through which the popular will may be expressed. Our Constitutions, State and Federal, came from the people. They made both, and they alone can rightfully unmake either.

"Should Georgia determine to go out of the Union, I speak for one, though my views might not agree with them, whatever the result may be, I shall bow to the will of her people. Their cause is my cause, and their destiny is my destiny; and I trust this will be the ultimate course of all. The greatest curse that can befall a free people, is civil war.

"As to the other matter, I think we have a right to pass retaliatory measures, provided they be in accordance with the Constitution of the United States; and I think they can be made so. But whether it would be wise for this Legislature to do this now, is a question. To the Convention, in my judgment, this matter ought to be referred. Before making reprisals, we should exhaust every means of bringing about a peaceful settlement of the controversy. Thus did General Jackson in the case of the French. He did not recommend reprisals until he had treated with France and got her to promise to make indemnifications, and it was only on her refusal to pay the money which she had promised, that he recommended reprisals. It was after negotiation had failed. I do think, therefore, that it would be best before going to extreme measures with our Confederate States, to make the presentation of our demands, to appeal to their reason and judgment to give us our rights. Then if reason should not triumph, it will be time enough to make reprisals, and we should be justified in the eyes of a civilized world. At least, let these offending and derelict States know what your grievances are,

and if they refuse, as I said, to give us our rights under the Constitution, I should be willing, as a last resort, to sever the ties of our Union with them. [Applause.]

"My own opinion is, that if this course be pursued, and they are informed of the consequences of refusal, these States will recede, will repeal their nullifying acts; but if they should not, then let the consequences be with them, and the responsibility of the consequences rest upon them. Another thing I would have that Convention to do. Re-affirm the Georgia Platform with an additional plank in it. Let that plank be the fulfilment of these Constitutional obligations on the part of those States—their repeal of these obnoxious laws as the condition of our remaining in the Union. Give them time to consider it, and I would ask all States South to do the same thing.

"I am for exhausting all that patriotism demands, before taking the last step. I would invite, therefore, South Carolina to a conference. I would ask the same of all the other Southern States, so that if the evil has got beyond our control, which God in his mercy grant may not be the case, we may not be divided among ourselves; [cheers,] but if possible, secure the united co-operation of all the Southern States, and then, in the face of the civilized world, we may justify our action, and, with the wrong all on the other side, we can appeal to the God of Battles, if it comes to that, to aid us in our cause. [Loud applause.] But do nothing, in which any portion of our people, may charge you with rash or hasty action. It is certainly a matter of great importance, to tear this Government asunder. You were not sent here for that purpose. I would wish the whole South to be united, if this is to be done; and I believe if we pursue the policy which I have indicated, this can be effected.

"In this way, our sister Southern States can be in-

duced to act with us; and I have but little doubt, that the States of New York, and Pennsylvania, and Ohio, and the other Western States, will compel their Legislatures to recede from their hostile attitude, if the others do not. Then, with these we would go on without New England, if she chose to stay out.

"A voice in the assembly—'We will kick them out.'

"Mr. Stephens. No: I would not kick them out. But if they chose to stay out, they might. I think, moreover, that these Northern States, being principally engaged in manufactures, would find that they had as much interest in the Union, under the Constitution, as we, and that they would return to their Constitutional duty—this would be my hope. If they should not, and if the Middle States and Western States do not join us, we should, at least, have an undivided South. I am, as you clearly perceive, for maintaining the Union as it is, if possible. I will exhaust every means, thus, to maintain it with an equality in it. My position, then, in conclusion, is for the maintenance of the honor, the rights, the equality, the security, and the glory of my native State in the Union, if possible; but if these cannot be maintained in the Union, then I am for their maintenance, at all hazards, out of it. Next to the honor and glory of Georgia, the land of my birth, I hold the honor and glory of our common country. In Savannah, I was made to say by the reporters, who very often make me say things which I never did, that I was first for the glory of the whole country, and next for that of Georgia. I said the exact reverse of this. I am proud of Georgia, of her history, of her present standing. I am proud even of her motto, which I would have duly respected, at the present time, by all her sons—'Wisdom, Justice, and Moderation.' I would have her rights, and those of the

Southern States maintained now upon these principles. Her position now is just what it was in 1850, with respect to the Southern States. Her Platform, then established, was subsequently adopted by most, if not all the other Southern States. Now I would add but one additional plank to that Platform, which I have stated, and one which time has shown to be necessary, and if that shall likewise be adopted in substance by all the Southern States, all may yet be well. But, if all this fails, we shall at least have the satisfaction of knowing that we have done our duty, and all that patriotism could require.

"Mr. Stephens then took his seat, amidst great applause."

This speech shows how earnestly devoted I was to the Sovereignty of the several States, as well as to the Union of the States, based upon that Sovereignty. It shows how profoundly I was impressed with the belief, that the happiness and prosperity of all the States depended greatly upon the continued maintenance of the Federal Union, upon the principles upon which it was founded; and that I did not then despair of so maintaining it, if the real and true friends of the Union, on these principles, everywhere, could but be brought to unite their energies and patriotic efforts to that object. It shows also that I then did not despair of the prospect of bringing about such united effort.

So much, therefore, for the views presented in the speech of the 14th of November, 1860.

I come now to the substitute offered for the Secession Ordinance in the Georgia Convention, to which I referred, as a further presentation of the reasons of my course. I shall read only such parts of it in this connection, as clearly set forth that line of policy which I thought the

best for the State to pursue. This paper was drawn up by Mr. Herschel V. Johnson. Of him I may here be permitted to say a few words. His eminent ability is well known. As an orator, he is logical and brilliant. As a jurist, he stands high in the estimation of the legal profession. He was in the Senate of the United States a short time, where he acquired considerable reputation amongst the distinguished men of that body in 1848, and was afterwards Governor of the State twice, in which office he added to that reputation, and gained the distinction in the public mind of a statesman of high order. In the Presidential election, just over, he had been supported for the office of Vice President of the United States, on the same ticket which bore the name of Stephen A. Douglas for President. He was a delegate from his county in the Secession Convention, and after consultation with myself, and other delegates entertaining similar general opinions, he prepared this paper as an embodiment of our joint views on the subjects, as the right policy for the State to adopt under the circumstances. So much in advance by way of explanation. Now, let us look into those parts of this paper to which I have referred:

"The State of Georgia is attached to the Union, and desires to preserve it, if it can be done consistently with her rights and safety; but existing circumstances admonish her of danger: that danger arises from the assaults that are made upon the Institution of domestic Slavery, and is common to all the Southern States. From time to time, within the last forty years, Congress has attempted to pass laws in violation of our rights, and dangerous to our welfare and safety; but they have been restrained by the united opposition of the South and the true men of the North, and thus far the country has

prospered, and the South has felt comparatively secure. Recently, however, events have assumed a more threatening aspect, several of the non-slaveholding States refuse to surrender fugitive slaves, and have passed laws, the most oppressive, to hinder, obstruct, and prevent it, in palpable violation of their Constitutional obligations. The Executive Department of the Government is about to pass into the hands of a sectional, political Party, pledged to principles and a policy which we regard as repugnant to the Constitution. These considerations, of themselves, beget a feeling of insecurity which could not fail to alarm a people jealous of their rights. By the regular course of events, the South is in a minority in the Federal Congress, and the future presents no hope of a restoration of the equilibrium between the sections, in either House thereof. Hence the Southern States are in imminent peril. This peril is greatly augmented by the recent secession of South Carolina, Florida, Alabama, and Missisippi, from the Union, by which the Southern States are deprived of the benefit of their co-operation, and left in a still more hopeless minority in the Federal Congress. Therefore, whilst the State of Georgia will not and cannot, compatibly with her safety, abide permanently in the Union, without new and ample security, for future safety, still she is not disposed to sever her connection with it precipitately, nor without respectful consultation with her Southern Confederates. She invokes the aid of their counsel and co-operation, to secure our rights, in the Union, if possible, or to protect them out of the Union, if necessary. Therefore,

"First. *Be it ordained by the State of Georgia in Sovereign Convention assembled*, That Delaware, Maryland, Virginia, Kentucky, North Carolina, Louisiana, Texas, Arkansas, Tennessee, and Missouri be, and they are

hereby respectfully invited to meet with this State, by delegates, in a Congress, at Atlanta, Georgia, on the 16th of February, 1861, to take into consideration the whole subject of their relations to the Federal Government, and to devise such a course of action as their interest, equality, and safety may require.

"*Be it further ordained, &c.*, That the Independent Republics of South Carolina, Florida, Alabama, and Mississippi, be, and they are hereby cordially invited to send Commissioners to said Congress.

"*Be it further ordained, &c.*, That refraining from any formal demand upon those non-slaveholding States which have passed them, of the repeal of the Personal Liberty, and other Acts, in any wise militating against the rendition of fugitive slaves, or fugitives from justice, yet the State of Georgia, hereby announces her unalterable determination not to remain permanently in confederation with those States, unless they shall purge their statute books of all such Acts.

"*Be it further ordained, &c.*, That if, between now and the time of final action upon the question of her continuance in the Union, the General Government should attempt to coerce any one of the States that have recently withdrawn, or shall hereafter withdraw therefrom, the State of Georgia will make common cause with such States, and hereby pledges all her resources for their protection and defence.

"*Be it further ordained, &c.*, That a Commissioner be appointed by this Convention to each of the slaveholding States, now members of the Federal Union, to inform them of the action of Georgia, and to urge their conformity to the policy herein indicated, and that in response to the request of Alabama, this Convention will also appoint a Commissioner to the Convention,

which she has invited at Montgomery, on the 4th of February next, who is hereby instructed to urge upon that Convention so to shape their action, as to conform to, and co-operate with, that of the proposed Congress at Atlanta, on the 16th day of the same month.

"*Be it further ordained, &c.*, That, if all effort fail to secure the rights of the State of Georgia, in the Union, and she is reluctantly compelled to resume her separate Independence, she will promptly and cordially unite with the other Southern States, similarly situated, in the formation of a Southern Confederacy, upon the basis of the present Constitution of the United States.

"*Be it further ordained*, That this Convention will adjourn, to meet again on the twenty-fifth day of February next, to take such action in the premises as may be required by the proceedings of the Congress, at Atlanta, and the development of intervening events, keeping steadfastly in view the rights, equality, and safety of Georgia, and her unalterable determination to maintain them at all hazards, and to the last extremity."

This paper was drawn up as stated, and moved by Mr. Johnson, at first, on the 18th of January, as a substitute for two Resolutions, on that day submitted by Mr. Eugenius A. Nisbet, as we shall hereafter see. The first of Mr. Nisbet's Resolutions declared, that the State had a right to secede, and ought to secede. The second proposed the appointment of a Committee for the purpose of reporting an Ordinance to that effect. It was in lieu of these Resolutions, Mr. Johnson offered his as a substitute, and moved to refer both sets of Resolutions to a Committee of twenty-one. It was afterwards moved as a substitute for the Secession Ordinance, as we shall see, but it was when it was first offered, at this stage of the proceedings, that I said what I now submit

to your consideration, as a further and last presentation of the reasons and views, as given to the public, while these events were transpiring, by which my action in opposing and voting against Secession was governed.

"Mr. President: It is well known that my judgment is against Secession for existing causes. I have not lost hope of securing our rights in the Union and under the Constitution. My judgment on this point is as unshaken as it was when the Convention was called. I do not now intend to go into any arguments on the subject. No good could be effected by it. That was fully considered in the late canvass, and I doubt not every delegate's mind is made up on the question. I have thought, and still think, that we should not take this extreme step before some positive aggression upon our rights by the General Government, which may never occur; or until we fail, after effort made, to get a faithful performance of their Constitutional obligations, on the part of those Confederate States which now stand so derelict in their plighted faith. I have been, and am still opposed to Secession as a remedy against anticipated aggressions on the part of the Federal Executive, or Congress. I have held, and do now hold, that the point of resistance should be the point of aggression.

"Pardon me, Mr. President, for trespassing on your time but for a moment longer. I have ever believed, and do now believe, that it is to the interest of all the States to be and remain united under the Constitution of the United States, with a faithful performance by each of all its Constitutional obligations. If the Union could be maintained on this basis, and on these principles, I think it would be the best for the security, the liberty, happiness, and common prosperity of all. I do further feel confident, if Georgia would now stand firm, and unite

with the Border States, as they are called, in an effort to obtain a redress of these grievances on the part of some of their Northern Confederates, whereof they have such just cause to complain, that complete success would attend their efforts; our just and reasonable demands would be granted. In this opinion I may be mistaken, but I feel almost as confident of it as I do of my existence. Hence, if upon this test vote, which I trust will be made upon the motion now pending, to refer both the propositions before us to a committee of twenty-one, a majority shall vote to commit them, then I shall do all I can to perfect the plan of united Southern co-operation, submitted by the honorable delegate from Jefferson, and put it in such a shape as will, in the opinion of the Convention, best secure its object. That object, as I understand it, does not look to Secession by the 16th of February, or the 4th of March, if redress should not be obtained by that time. In my opinion, it cannot be obtained by the 16th of February, or even the 4th of March. But by the 16th of February we can see whether the Border States and other non-seceding Southern States will respond to our call for the proposed Congress or Convention at Atlanta. If they do, as I trust they may, then that body, so composed of representatives, or delegates, or commissioners as contemplated, from the whole of the slaveholding States, could, and would I doubt not, adopt either our plan or some other, which would fully secure our rights with ample guarantees, and thus preserve and maintain the ultimate peace and Union of the States. Whatever plan of peaceful adjustment might be adopted by such a Congress, I feel confident would be acceded to by the people of every Northern State. This would not be done in a month, or two months, or perhaps short of twelve months, or even longer. Time would necessarily

have to be allowed for a consideration of the question submitted to the people of the Northern States, and for their deliberate action on them in view of all their interests, present and future. How long a time should be allowed, would be a proper question for that Congress to determine. Meanwhile, this Convention could continue its existence, by adjourning over to hear and decide upon the ultimate result of this patriotic effort.

"My judgment, as is well known, is against the policy of immediate Secession for any existing causes. It cannot receive the sanction of my vote; but if the judgment of a majority of this Convention, embodying as it does the Sovereignty of Georgia, be against mine; if a majority of the delegates in this Convention shall, by their votes, dissolve the Compact of Union which has connected her so long with her Confederate States, and to which I have been so ardently attached, and have made such efforts to continue and perpetuate upon the principles on which it was founded, I shall bow in submission to that decision."

You thus, Major, have a very full exposition of the views, motives, and reasons by which I was governed in my opposition to Secession at the time, and under the circumstances then existing. I will add that I did not attach any serious importance to the fact that the equality which had so long been maintained in the number of the non-slaveholding and slaveholding States no longer existed. It is true the loss of that equilibrium, or balance of power, as it was called, caused many at the time to come to the conclusion that the slaveholding States could not, with safety to themselves, remain longer in the Union without some additional guarantee. This we have seen was the belief of Mr. Calhoun. In this view I did not concur. The only true equilibrium, or balance of

power, in my opinion, under our system, which it was essential to maintain, was the recognized Sovereignty of the several States. This was the all powerful check against aggression upon the rights of any State. This was the complete Regulator of the entire system This was my view on the admission of California as it was on the admission of Oregon. The result showed, that so far from the admission of those States working injuriously to the interests of the slaveholding States, by the loss of this balance of power, so-called, California and Oregon became their allies on all these great Constitutional questions. California and Oregon were as strongly opposed to the doctrines of the Centralists as the Southern States were. The Party which supported Mr. Breckinridge in the election of 1860, looked chiefly to Oregon in the last resort for the success of their candidate. The Southern States had been in a minority in the House of Representatives, under the three-fifths clause of the Constitution, from the beginning, yet they, by uniting with the Anti-Centralists of the Northern States, had controlled the action of the General Government, in the main, for sixty years out of the seventy two of its existence; not by bluster, but by prudent and wise statesmanship.

In this way they had united in the election, and sustained most of the leading measures of the administration of Washington for eight years, that of Jefferson for eight, Madison for eight, Monroe for eight, Jackson for eight, Van Buren for four, Tyler for four, Polk for four, Fillmore for four, Pierce for four, and Buchanan for four; and with the same wise statesmanship, I saw no reason why they might not thus preserve the Federal system for as many more years to come, or for all time to come, by this continued concert of action between the true friends of this system, in opposition to the Consolidationists. The

doctrine of the "Irrepressible Conflict" between the Institutions of the several States, was, in my view, itself the embodiment of Centralism. The Federal Government, in my judgment, so far from being *weakened*, was *strengthened* by the heterogeneous interests of the several States. Nothing tends more to Centralization of power, even in a separate State or Nation, than homogeneousness of interests on the part of its constituent elements. All progress in Governments, as well as progressive developments in everything else, is marked by successive steps from the "*simplex to the complex*," from the homogeneous to the heterogeneous. This is the true law of progress in all things. In nature, in art, and in science in all their departments. The chief safe-guards of liberty, in every political organization, owe their origin to a diversity of pursuits and a conflict of interests between its various members.

But I forbear on the present occasion to enlarge upon this idea. What I have said is all that I have to give you in answer to your inquiry. With this I submit the matter. Whether I was right, or whether my reasons were sufficient to justify my course, at the time, in the judgment of mankind, I will leave without any reflections upon the course of those who differed with me on these subjects, for you and others to determine.

COLLOQUY XIX.

CONSIDERATION OF THE MAIN SUBJECT RESUMED—ACTION OF THE OTHER SECEDING STATES BEFORE THE FALL OF SUMTER REVIEWED—THE CONVENTION OF GEORGIA—HER ORDINANCE OF SECESSION—COURSE OF THE UNION MEN OF THE STATE—OTHER ORDINANCES OF THIS CONVENTION—ACTION OF OTHER SECEDING STATES SIMILAR—THE CONGRESS OF MONTGOMERY—PROVISIONAL AND PERMANENT CONSTITUTIONS—ELECTION OF PRESIDENT AND VICE PRESIDENT OF THE CONFEDERACY—MR. DAVIS'S INAUGURAL—COMMISSIONERS SENT TO WASHINGTON—CORRESPONDENCE WITH MR. SEWARD—EFFECT OF THE "BREACH OF FAITH" AS TO SUMTER AND THE INAUGURATION OF THE WAR UPON THE SOUTHERN PEOPLE.

MR. STEPHENS. Well, gentlemen, if none of you have anything further to say upon these matters which have occupied our attention so long, since our first digression in considering the defence, made by Judge Bynum, for the acknowledged dereliction and breach of faith of several of the non-slaveholding States, we will now again return to the point at which we had then arrived, and proceed in our consideration of the grand drama of the war—that "physical conflict" inaugurated, as we have seen; and which grew out of that "conflict of principles," which we have so fully discussed and are now through with.

This war or terrible "conflict" of physical forces is the greatest of the kind, in many respects, which has disturbed the peace of the world since the Christian era. Its general conduct, in a political and Constitutional view, is the next object of our inquiry. The exciting scenes and stirring events of the battle-fields which marked its progress do not come within the limits of the special

objects of our investigation. These have been quite graphically described by many writers, but by none, so far as I have seen, with greater ability or more impartiality than by Mr. William Swinton in his two works: the one entitled "The Army of the Potomac;" and the other, "The Twelve Decisive Battles of the War." It is true, he was attached to the Federal side, and therefore not without bias, but in his general account he has not shown himself to be incapable, as several others have, of doing justice to the merits of an opposing and gallant foe—"to that body of incomparable infantry"—"that array of 'tattered uniforms and bright muskets,'" which for four years, under Lee, carried the "*revolt*," as he terms it, "on its bayonets, opposing a stout front to the mighty concentration of power brought against it; which receiving terrible blows, did not fail to give the like; and which, vital in all its parts, died only with its annihilation!"

I do not intend, by any means, to say that either of his works alluded to, are faultless, or even without some grave errors, which, perhaps, were owing to a want of access to correct information on matters which belonged to the Confederate side; but, I mean simply to state, that upon the whole, I regard these two works from his pen, as the best and most accurate chronicle of the military operations, which he undertook to describe, that I have met with from any quarter.

With these ever so interesting and thrilling scenes, however, it is not our purpose to deal so directly, as with the principles, aims, and motives, which gave impulse to these most wonderful and heroic exploits on both sides while the conflict raged; and then to take a survey of the ultimate results, of the intermediate vicissitudes of victory and defeat, and the final fortunes of this uncertain arbitrament

of arms. In pursuit of these, our main objects, a slight retrospect is necessary to understand clearly the position of both Parties politically as well as physically, or in other words, the principles in the maintenance of which each was enlisted—the organizations under them, and the material resources of each for maintaining their principles at the fall of Fort Sumter. This, I was about to enter upon at our last conversation, when interrupted by the question of Major Heister.

To this point in our investigation of these subjects, we will now return.

After the secession of South Carolina, then, as we have seen, let it be borne in mind, that the other six States, before named, followed, by passing similar Ordinances of Secession. Mississippi, on the 9th of January, 1861; Alabama on the 11th; Florida on the 10th; Georgia on the 19th; Louisiana on the 26th; and Texas on the 1st of February. It is unnecessary to examine all these. One other only, that of Georgia, I call your attention to. An examination of the action of this State on this subject must suffice with the general remark, that the action of the other six States in the premises was of like import in principle and in substance.

The Convention of Georgia had been called by an Act of the Legislature, in the month of November, 1860, soon after the speech made by me before that body, which I have read. The election of delegates took place, on the first Monday in January, 1861. The representation of the counties in this Convention was, by the Act referred to, equal to their Senators and Members of the House, in the Legislature. The election was held in conformity to the laws regulating all public elections in the State as far as applicable. I was chosen as one of the delegates to which this county was entitled. The Convention met at

Milledgeville, the Seat of Government, on the 16th day of January, 1861. The whole number of delegates was three hundred and one.

George W. Crawford, Ex-Governor of the State, and Ex-Secretary of War under General Taylor's Administration, was chosen President of the Convention by acclamation, and Albert R. Lamar, a journalist of considerable repute, was chosen Secretary.

On the 18th of January, Mr. Nisbet, as stated in our last conversation, offered his two resolutions; the first declaring that the State had a right to secede and ought to secede, and the second authorizing the appointment of a committee to report an ordinance to that effect. It was as a substitute for these resolutions that the paper prepared by Mr. Johnson, before alluded to, was offered. A vote on this paper, at that stage of the proceedings, was cut off under the operation of the previous question, and Mr. Nisbet's resolutions were adopted. This Committee, of which he was Chairman, consisted of seventeen.

Mr. Nisbet was himself a gentleman of great distinction in the State. He had been brought up in the Jeffersonian States' Rights' school of politics. He had, however, opposed the doctrine of Mr. Calhoun upon Nullification. He was a member of the Congress of the United States, from 1839 to 1843. He supported the election of Mr. Clay for the Presidency in 1844, with great zeal and ability; and was among the most prominent actors in procuring his nomination to that office by the Whig Party, as then constituted in this State. He had occupied for a number of years a seat upon the Bench of our Supreme Court, where he had acquired the well-earned reputation of an eminent jurist. He was a warm supporter of the position assumed by Georgia upon the Compromise Measures of 1850. He was afterward a prominent leader in

what was known as the American Party, and gave his support to Mr. Fillmore in 1856. In religion and politics, from the time he entered public life, he had been regarded as the embodiment of Conservatism. For all those virtues and excellencies which constitute what is recognized as real worth in private character, no man was esteemed higher. Such is but a glimpse at the antecedents distinguishing the head and heart of the mover of the Ordinance of Secession in Georgia. On the 19th of January, he, as Chairman of the Committee of Seventeen, reported that measure in these words:

"An Ordinance to dissolve the Union between the State of Georgia and other States united with her under a Compact of Government, entitled 'the Constitution of the United States of America.'

"*We, the people of the State of Georgia, in Convention assembled, do declare and ordain, and it is hereby declared and ordained:*

"That the Ordinance adopted by the people of the State of Georgia, in Convention, on the second day of January, in the year of our Lord, seventeen hundred and eighty-eight, whereby the Constitution of the United States of America was assented to, ratified and adopted; and also all acts and parts of acts of the General Assembly of this State ratifying and adopting amendments of the said Constitution, are hereby repealed, rescinded and abrogated.

"*We do further declare and ordain,* That the Union now subsisting between the State of Georgia and other States, under the name of the 'United States of America,' is hereby dissolved, and that the State of Georgia is in the full possession and exercise of all those rights of Sovereignty which belong and appertain to a Free and Independent State."

It was, now, when this Ordinance of Secession was before the Convention, that Mr. Benjamin H. Hill renewed the motion that the paper offered the day before by Ex-Governor Johnson be adopted in lieu of the proposed measure. The object was to get a *test* vote between the advocates of the two respective lines of policy. It was still a matter of doubt or uncertainty how the majority really stood. On agreeing to Mr. Hill's motion the vote was one hundred and thirty-three yeas to one hundred and sixty-four nays. This showed a decided majority of thirty-one in favor of the Ordinance for immediate Secession; and upon the direct vote on the passage of the Ordinance, taken immediately afterwards, there were two hundred and eight yeas for its adoption, to eighty-nine nays against it. Whereupon the President said it was his privilege and pleasure to declare that the State of Georgia was Free, Sovereign and Independent. My name was amongst the nays, as well as that of Ex-Governor Johnson and a large majority of those who agreed with us, in the main, on the line of policy indicated in those parts of his paper which I have read. After this a motion was made for all the delegates to sign the Ordinance. Before the question was put on this motion, Mr. Linton Stephens, my brother and junior by eleven years, who was a delegate from the county of Hancock, and a prominent actor in all these events, and who had voted against the Ordinance of Secession, drew up and submitted to me a preamble and resolution which he deemed proper to be passed before the question should be taken on the motion for the signatures of the delegates to the Ordinance, or rather as a substitute for it. It met my full concurrence, and upon my suggestion that it had better come from Mr. Nisbet, if it met his like approval, it was so submitted to him, and being highly approved, was

presented by him to the Convention, in lieu of that other motion. This Preamble and Resolution were in these words:

"*Whereas*, The lack of unanimity in the action of this Convention, in the passage of the Ordinance of Secession, indicates a difference of opinion amongst the members of the Convention, not so much as to the rights which Georgia claims, or the wrongs of which she complains, as to the remedy and its application before a resort to other means of redress:

"*And whereas*, It is desirable to give expression to that intention which really exists among all the members of this Convention, to sustain the State in the course of action which she has pronounced to be proper for the occasion, therefore:

"*Resolved*, That all members of this Convention, including those who voted against the said Ordinance, as well as those who voted for it, will sign the same as a pledge of the unanimous determination of this Convention to sustain and defend the State, in this her chosen remedy, with all its responsibilities and consequences, without regard to individual approval or disapproval of its adoption."

This Preamble and Resolution met with general favor, and was carried without a count. The Ordinance was accordingly signed by every delegate present except six. These six entered upon the journal a statement wherein they declared their purpose to "yield to the will of the majority of the people of the State as expressed by their Representatives" and "pledged their lives, their fortunes, and their sacred honor to the defence of Georgia," etc. The names of these six are James P. Simmons, of Gwinnett, James Simmons, of Pickens, Thomas M. McRae, F. H. Latimer, Davis Whelchel, and P. M. Byrd.

Thus the Convention became unanimously committed

to the maintenance of the Sovereignty of Georgia, however much they had disagreed upon the policy or expediency of her thus resuming the full exercise of her Sovereign powers under the circumstances.

As a portion of the history of the times, and for the purpose of throwing additional light upon the general objects of Mr. Linton Stephens, as well as my own, aimed at by the Preamble and Resolution drawn up by him, and which the Convention adopted with so much unanimity, and for the purpose also of throwing additional light upon what were the prevailing sentiments and views of the Union Party of the State, who were then styled Co-operationists, in contradistinction to Secessionists, it may not be out of place here to present a letter which he wrote during the canvass for delegates to this Convention. It was addressed to Hon. Eli H. Baxter, a distinguished citizen of his county, who belonged to what was then called the American Party, and who had supported the Bell and Everett ticket in the Presidential election then just over. The letter was written on the 29th of November, 1860, and after usual caption and address, is in these words:

"With a view to the nomination of a ticket, on next Tuesday, to be run in this county for the approaching State Convention, allow me to interchange views with you in relation to the proper policy to be pursued by that Convention. The greatness of the occasion, and the incalculable mischief of divided counsels, call, in an eminent degree, for unanimity among the people of Georgia, and among the people of the South, in whatever policy may be adopted. Distraction among ourselves is the worst possible calamity that can befall us. *Perfect* unanimity I know to be unattainable, but the concurrence of our people can be attained with the exception

of a few extreme Union men on the one hand, and a few extreme Disunion men on the other. I have an abiding faith that the great bulk of Georgia and of the South, can be united upon a policy which lies between the two extremes, and which for that very reason commends itself to men of 'Wisdom, Justice, and Moderation.' Neither a majority of the Southern States nor a majority of the people of Georgia, can unite upon *any* line of policy, unless there shall prevail a spirit of *concession*—a willingness on the part of each man to sacrifice somewhat of his own chosen policy in order that a *common* policy may be adopted on which all can stand. The true wisdom in all emergencies, whether in private life or in statesmanship, is to strive for that which is the *best attainable;* and not for that which, while it appears absolutely the best, if it could be achieved, yet is plainly unattainable. And especially should an effort for the unattainable be avoided, when that effort must result, as in this case, in the defeat of the good that is attainable.

"A very few men, perhaps, may be found who think it best to do *nothing*. That policy is out of the question, and those who hold to it ought to abandon it for something that can be accomplished. Another large class think that retaliatory laws would be the best remedy. It is possible that Georgia would be content to try this remedy, and my own opinion is, that she would be so, if herself alone were concerned. The tendency of a large majority of Georgia is to Conservatism. But then she has got to act, not only so as to satisfy herself, but also, (if possible,) to reconcile her sister Southern States to the policy she may adopt. She must either tender them such a lead as her more fiery sisters will accept, or she must accept an extreme lead from them—or there must inevitably be

division and confusion and discord in the Southern Sisterhood. I think the only remedy which will be acceptable to some two or three of our Sisters is *Secession;* and for the very reason that none other will suffice them, I believe that Georgia will and ought to tender that remedy for their acceptance. They desire to apply it *immediately.* Georgia will not consent, I think; and surely Virginia, North Carolina, Maryland, Kentucky, and Tennessee will not consent to apply it, except as an *ultimatum.* If Georgia should declare Secession to be her remedy, but that she will not apply it, until a fair opportunity shall have first been given to the Northern States to recede from the obnoxious laws which now blacken the faith of some of them, and should pledge herself to apply it, after such an opportunity given and rejected, and should earnestly urge all of her Southern Sisters to co-operate with her on that line of policy, I have strong faith that the more extreme States would fall one step back, and the more Conservative States would come one step forward, and thus all would stand united upon ground which would preserve our honor and preserve our rights, and which would certainly be *maintained,* because it would be defended by a United South. If this policy should result in our continuance in the Union, we would remain under a flag which would then be purified from stain, and would afford protection alike to all over whom it might wave. If it should result in our going out of the Union, we would go in *solid column,* go *peacefully* and without let or hindrance, to make for ourselves the best new destiny of which we are capable. I will frankly say, that I do not consider the policy thus indicated to be the best for the emergency, but I do firmly believe it to be the best that is attainable. Therefore, I go for it,

heart and soul. I think it will be about the policy adopted by the Convention, and that it is acceptable to a very large majority of the people of Hancock, without regard to any former Party divisions. Those of us who concur in it have called a meeting for next Tuesday, to nominate a ticket which will represent a policy that will be substantially such as I have sketched.

"Now, the question is, who shall compose that ticket? To avoid all occasion for exciting any Party jealousy, it is deemed best to have one Bell man, one Douglas man, and one Breckinridge man, if a man of each class can be had, who will be a fit representative of the county on so great an occasion, and who will be a faithful adherent to the general line of policy indicated in our call, and more fully explained in this letter.

"Your name has been suggested as one of the ticket. I need not assure you, that your *personal* qualifications are entirely acceptable to me, and to all those who know you, and it will give me great pleasure to learn that your views are such as to justify me in using my efforts to have you put on the ticket. This letter is written without consultation with anybody except Mr. Lane. [Col. Andrew J. Lane.] He was absent when the call for a meeting was signed, but he heartily approves of it. It was he who suggested your name. I enclose you a copy of the call as it has appeared in the newspapers. Please let me hear from you by Saturday's mail."

I read this letter, though hastily written by him at the time, and not at all intended for the public in any way, as one of the best and most reliable *indicia* of the general views and sentiments of the Union or Co-operation Party of this State, during the very heated canvass for delegates to the Convention, and the views and sentiments by which they were governed in that body, after the Ordinance of

Secession was adopted. They were earnest, zealous, and unremitting in their efforts in support of what they deemed the best course of policy for the State and the Southern States to pursue, so long as that was an open question. But a great object with them, throughout, was harmony after that question was settled, and a perfect concert of action by a thoroughly united people, in the vindication and maintenance of the chosen remedy of the State, when that was determined upon by her Representatives in Sovereign Convention assembled.

The truth is, in my judgment, the wavering scale in Georgia was turned by a sentiment, the key-note to which was given in the words—"We can make better terms out of the Union than in it." It was Mr. Thomas R. R. Cobb who gave utterance to this key-note, in his speech before the Legislature, two days anterior to my address before the same body. This one idea did more, in my opinion, in carrying the State out, than all the arguments and eloquence of all others combined. Two-thirds, at least, of those who voted for the Ordinance of Secession, did so, I have but little doubt, with a view to a more certain Re-formation of the Union, on the general principles of its Rectification, as set forth in the paper of Mr. Johnson. In other words, they acted under the impression and belief that the whole object, on that line of policy, could better be accomplished by the States being out of the Union, than in it. So much upon that point.

We will now proceed with some further action of the Convention. Another Ordinance, to which there was very little, if any opposition, was passed in these words:

"An Ordinance to resume jurisdiction over those places within the limits of Georgia, over which jurisdiction has

been heretofore ceded to the late United States of America, and to provide for compensation to the said United States for the improvements erected thereon.

"*The people of Georgia in Convention assembled do hereby declare and ordain,*

"That the cessions heretofore made by the General Assembly of this State, granting jurisdiction to the United States of America, over specified portions of the territory within the present limits of the State of Georgia, be, and the same are hereby revoked and withdrawn, and the full jurisdiction and sovereignty over the same, are hereby resumed by said State.

"*Be it further ordained,* That the buildings, machinery, fortifications, or other improvements erected on the land so heretofore ceded to the said United States, or other property found therein belonging to the United States, shall be held by this State, subject to be accounted for in any future adjustment of the claims between this State and the said United States."

On the 23d of January, a Resolution was passed for the election, by the Convention, of ten delegates to represent the State of Georgia in the proposed Congress of such States as might secede from the Union, to be held at Montgomery, in the State of Alabama, on the 4th of February ensuing. The number of delegates, so determined to be sent, was equal to the number of the Senators and Members of the House to which the State was then entitled in the old Congress. It was under this Resolution, very much to my surprise I may state, that I was unanimously elected a delegate to the Montgomery Congress. It was a matter of several days' serious reflection with me, whether I would accept the trust or not. My final determination was not made until after the Convention on the 28th of January, with great unanimity, adopted the

following Resolutions which I had drawn up and offered for their consideration on that day.

"*Resolved*, That the delegates sent from this State, by this Convention, to the proposed Congress to assemble at Montgomery, Alabama, on the 4th day of February next, be fully authorized and empowered, upon free conference and consultation with delegates that may be sent from other Seceding States, to said Congress, to unite with them in forming and putting into immediate operation, a temporary or Provisional Government, for the common safety and defence of all the States represented in said Congress. Such temporary or Provisional Government not to extend beyond the period of twelve months from the time it goes into operation, and to be modelled as nearly as practicable on the basis and principles of the Government of the United States of America. The powers of the delegates so appointed by this Convention, in this particular, being hereby declared to be full and plenary.

"*Be it further Resolved*, That said delegates be likewise authorized, upon like conference and consultation with the delegates from the other States in said Congress, to agree upon a plan of permanent Government for said States, upon the principles and basis of the Constitution of the United States of America, which said plan or Constitution of permanent Government shall not be binding or obligatory upon the people of Georgia, unless submitted to, approved, and ratified by this Convention."

The conclusion I finally came to was, that it was my duty to do all I could to preserve and perpetuate the principles of our model Federal system.

The Convention also sent Commissioners to Virginia, North Carolina, Maryland, Delaware, Tennesese, Kentucky, Missouri, Arkansas, Louisiana, and Texas to make

known to the Governors and Legislatures of these States the position of Georgia, and to invoke their co-operation with her. The Commissioners so sent to these States, respectively, and in the order in which they are named, were Henry L. Benning, Samuel Hall, Ambrose R. Wright, D. C. Campbell, H. P. Bell, William C. Daniel, Luther J. Glenn, D. P. Hill, W. J. Vason, and John W. A. Sanford. Mr. Henry R. Jackson was first appointed to Kentucky; but upon his resignation, W. C. Daniel was appointed in his place. So much for the action of the Georgia Secession Convention at present.

The Senators from this State, and Members of the House, immediately severed their connection with the Congress of the United States upon being informed of the passage of her Ordinance of Secession. The same is true of the Senators and Members of all the other States named, respectively, with a single exception. Mr. John E. Bouligney, of Louisiana, continued to hold his seat in the House of Representatives, notwithstanding the Ordinance of Secession of his State. His case is the only exception. We will now turn our attention to events elsewhere.

The Congress of Seceded States, called at the instance of South Carolina, as we have seen, met accordingly, at the time and place stated. The first day of its session, six of the States only were present. The delegates from Texas had not arrived, and did not arrive until after the organization of a Provisional Government. They came in soon afterwards, however, and here is a list of the seven States which, in compliance with the call so made, did so meet in Congress, with the names of the delegates by whom they were represented:

Alabama:—Richard W. Walker, Robert H. Smith, Colin J. McRae, Jno. Gill Shorter, William Parish Chil-

ton, Stephen F. Hale, David P. Lewis, Thomas Fearn, and Jabez L. M. Curry.

Florida:—Jackson Morton, James B. Owens, and J. Patton Anderson.

Georgia:—Robert Toombs, Francis S. Bartow, Martin J. Crawford, Eugenius A. Nisbet, Benjamin H. Hill, Howell Cobb, Augustus R. Wright, Thomas R. R. Cobb, Augustus H. Kenan, and Alexander H. Stephens.

Louisiana:—John Perkins, Jr., Alexander de Clouét, Charles M. Conrad, Duncan F. Kenner, Edward Sparrow, and Henry Marshall.

Mississippi:—W. P. Harris, Alexander M. Clayton, W. S. Wilson, James T. Harrison, Walker Brooke, William S. Barry, and J. A. P. Campbell.

South Carolina:—R. Barnwell Rhett, R. W. Barnwell, Lawrence M. Keitt, James Chesnut, Jr., Charles G. Memminger, W. Porchér Miles, Thomas J. Withers, and William W. Boyce.

Texas:—Thomas M. Waul, Williamson S. Oldham, John Gregg, John H. Reagan, W. B. Ochiltree, John Hemphill, and Louis T. Wigfall.

Of the *personnel* of this body of men, I may be excused for saying, in passing, that, taken collectively, I never was associated with an abler one. There was in it no one who, in ability, was not above the average of the members of the House of Representatives of any one of the sixteen Congresses I had been in at Washington; while there were several who may be justly ranked, for intellectual vigor, as well as acumen of thought and oratorical powers, amongst the first men of the Continent at that time.

They were not such men as revolutions or civil commotions usually bring to the surface. They were men of substance, as well as of solid character—men of

education, of reading, of refinement, and well versed in the principles of Government. They came emphatically within the class styled by Carlyle, "earnest men." Their object was not to tear down, so much as it was to build up with the greater security and permanency. The debates were usually characterized by brevity, point, clearness, and force.

On assembling, Howell Cobb, of Georgia, who had filled the Speaker's chair in the Thirty-first Congress with such rare ability, was chosen the presiding officer of the body, and J. J. Hooper, of Alabama, who had acquired an extensive reputation from his connection with the press and literary publications, was elected Secretary.

The first subject which engaged attention, after organization, was the rules by which the body should be governed, and, especially, the manner of voting on all questions which should come before it. The number of delegates which each State had sent was, as in the case of Georgia, a number equal to the Senators and Members to which each State had been entitled in the Congress of the United States, according to the then Federal ratio of representation. The question was, how should the votes be taken? *Per capita*, or by States? A Committee was appointed to report upon this point, as well as upon the subject of the general rules for the government of the body in its deliberations. The Chairmanship of this Committee was assigned to me. The report was that, as it was a Congress or Convention of States, the vote should, upon all questions, be taken and decided by States, without regard to the number of delegates from the States respectively. The Rules for the government of the body also introduced a new feature in Parliamentary law, which deserves special attention. It is

that one which does away with the Previous Question; but substitutes another one for it, which effects all the good of the Previous Question, and obviates numerous objections to it. This new Rule established what was styled "The Question," in lieu of the Previous Question. Under general Parliamentary law, the Previous Question, when called and sustained, not only stops debate, but cuts off all amendments, and brings the House to a direct vote on the main or first proposition. By the modification of this principle of the general Parliamentary law, as made by the Rules of the House of Representatives of the United States, when the call for the Previous Question is sustained by a majority of the House, the effect is to stop all debate and bring the House to a vote, first, upon the pending amendments, and, then, upon the main or first proposition, as it may, or may not be amended by the votes thus taken. In this way, its operation is to cut off all amendments, except those pending at the time the call is sustained. Great inconvenience often results from this. But by the new Rule referred to, no such effect follows. Under its operation, when the House is not inclined to hear further debate on any pending motion, any member may call for "The Question," on which the sense of the House must be immediately taken without debate, and if the call is sustained by a majority of the House, the vote is then taken without further debate on the pending question, whatever it may be. In this way, the majority of the House can secure a vote upon any matter they please, in the speediest manner. This Rule worked well in all the deliberations of this Montgomery Convention, and aided greatly in the expedition with which its business was transacted. The Rules thus reported were unanimously adopted.*

* See *Appendix* F.

The next subject which engaged the attention of the body was the formation of a Temporary or Provisional Government for the States thus assembled. This matter was referred to a Committee of which Mr. Charles G. Memminger, of South Carolina, was constituted Chairman. I was a member of this Committee. The result of their labors was the draft of a Constitution for the Provisional Government of these States, to be known as The Confederate States of America. The original draft of this Constitution, so reported, is substantially the same as that which was finally adopted. A few changes only in the report was made by the House. As it now stands it received the unanimous sanction of the States on the 8th of February.*

The next step was the election of officers under that Provisional Government. The Provisional Constitution was adopted at a late hour on Friday night the 8th. A motion was then made to go immediately into the election of officers, but upon suggestion that it would be better to allow each of the State delegations time to confer among themselves, it was resolved to defer the election until next day, Saturday the 9th. On that day, as is known, Mr. Jefferson Davis, of Mississippi, received the unanimous vote of the six States then present, for the office of President; and in like manner I was elected to the office of Vice President. Mr. Davis was not at Montgomery. He was in Mississippi. It was generally understood from statements made by the Mississippi delegation, as well as from others who knew his personal views upon the subject, that he did not desire the office of President. He preferred a military position, and the one he desired above all others was the chief command

* See *Appendix* G.

of the Army, which the States might deem it necessary to organize.

Major Heister. Pray tell us, Mr. Stephens, if you have no objection, how this came about—how Mr. Davis came to be chosen President, and you Vice President, under these circumstances?

Mr. Stephens. I have no objection to giving you my opinion on the subject, as to how Mr. Davis came to be chosen under the circumstances. It is, however, only an opinion. I was somewhat surprised myself at both results as they occurred, but as I took only a very small part in the elections any way, I cannot speak of my own knowledge as to but few facts connected with either. The conclusion I came to, from all the facts I learned from others before and afterwards, was that the selection of Mr. Davis grew out of a misapprehension on the part of some of the delegates of one, or, perhaps, two or three of the States, in their consultations of the night before, as to the man that the Georgia delegation had determined to present. A majority of the States, as I understood, and afterwards learned, were looking to Georgia for the President.

Major Heister. Who was the man Georgia had determined to present?

Mr. Stephens. Georgia, at the time, had not acted in the matter. Her delegation did not hold their consultation until next morning. Mr. Toombs was the man whom they then unanimously agreed to present; at least there was perfect unanimity on the subject, with all the delegates in attendance. Two, Mr. Hill and Mr. Wright, were absent. I now speak of my own knowledge. I was at this meeting of the Georgia delegation, and therein was acted the only part I took in the matter. That was by making the motion for Mr. Toombs's nomination

to the Convention, supposing that it would be unanimously acceptable to that body; but in this meeting, it was stated after my motion was made, that two or three of the States in their consultations, which had been held the night before, had determined to present the name of Mr. Davis. The fact only, without any reason for it, was stated. It was stated also, only as something which had been heard, but not positively known. On this announcement, a committee of our delegation, of which Mr. Crawford was chairman, or perhaps he alone, (I am not certain whether any or how many more were united with him), was appointed, to ascertain if what had been heard in relation to the action of the delegations of the other States referred to, was true; and if it was, it was understood, at the instance of Mr. Toombs, that his name was not to be presented by Georgia, and that our delegation would vote for Mr. Davis, and have no contest on the subject.

In this meeting of our delegation, after the announcement alluded to had been made, and the course in reference to it had been resolved upon, Mr. Kenan moved, that in case what had been stated as rumor should be found to be true, and the name of Mr. Toombs should not be presented for the first office, then mine should be for the second. This motion was cordially seconded by Mr. Nisbet, and was unanimously agreed to, after a distinct understanding arrived at, by what I said in reference to it, which was, that in no event was my name to be presented, unless it was first ascertained positively, that Mr. Davis's name was to go before the Convention, and not that of Mr. Toombs, and further, that my name would be unanimously acceptable to the States and their respective delegations. These points the committee of our delegation was instructed speedily to inquire into and report

upon, to the delegation at the Capitol, before the hour of the meeting of the Convention. Soon after the adjournment of our delegation, Mr. Crawford reported to me, that upon inquiry, what had been stated in our meeting was found to be true, and that Mr. Toombs had forbidden the presentation of his name, and further that my name was acceptable to all the States, and to every member of the Convention, as far as he could ascertain, and he believed it to be acceptable to every one. Being thus informed of these facts, I did not that day go to the Convention. The election, however, as is known, was made by ballot. On the call of each State, the chairman of the delegation presented the vote of the State for each officer to be chosen, and upon counting out the votes, the result was as before stated.

What I learned afterwards from others, upon which I have expressed the opinion I have, was that some members of the delegations from South Carolina and Florida, and I believe Alabama too, had heard that Georgia intended to present the name of Mr. Howell Cobb, whom these members, from old feelings of some sort, produced in some way in past Party conflicts, were unwilling to support. The same objections did not apply to Mr. Toombs. They were perfectly willing to vote for him. As all these members were willing, however, to harmonize upon Mr. Davis, it was thought best and determined by these delegations, therefore, to present his name, notwithstanding his known preference for another position.

I will here state that Mr. Cobb is a man of very marked and positive character. There is nothing negative about him. His convictions are always strong, and his action is governed by them. When he determines upon any line of policy, he pursues it with all his ener-

gies, openly and boldly, without regard to opposition, and with very little inclination to win by conciliation those who differ with him, whether in or out of his own Party. His joining the Constitutional Union organization in 1850–51, and other like acts, had caused strong personal opposition to him in the Democratic Party, even when there was no disagreement upon a common line of policy. This kind of opposition existed not only in this State, but in the adjoining States. From his general course and characteristics stated, there was generally more opposition to him, on bare personal considerations, in the ranks of his own Party than out of it. But for him and his influence, I think the Georgia Platform would not have been adopted in 1850; and, but for him and his influence, I also think that Secession would not have been carried in Georgia, in 1861. Apart from his own active agency in this latter matter, his influence I have no doubt controlled the action of his brother Thomas R. R. Cobb, and brought to bear upon this question his tremendous agency, to which I have alluded. He and I have been on the kindest personal relations all our lives, ever since our college days at least. We have often been thrown in concert of action politically, and often in opposition. We have often discussed questions during the most exciting times before the people, occupying opposite sides, but never did a word pass from the lips of either, on such occasions, to interrupt even for a moment our personal kind feelings. In all our differences, I considered him a truly honorable and magnanimous opponent, and not only esteemed him personally very highly, but regarded him as one of the ablest men in the United States. His election as President of the Confederate States would have received my cordial approval, as did that of Mr. Davis. But of all the

men in the Confederate States, I thought Mr. Toombs was by far the best fitted for that position, looking to all the qualifications necessary to meet its full requirements.

Whether what I learned about the matter in reference to this indisposition on the part of some of the delegates to support Mr. Cobb, which thus induced the presentation of the name of Mr. Davis, was really true or not, I do not know. I did not inquire specially into it, but from what I heard and the sources from which I heard it, I believed it to be true, at the time, and hence the opinion I have given you. There was, however, no canvassing or electioneering in the usual sense of these words, I think, by any one. Of this, indeed, I feel quite confident. General harmony next to the obtainment of a competent man was the object of all. By all Mr. Davis was regarded as eminently a Conservative man.

This embraces substantially all the facts I know about the election of both President and Vice President, and how in each case it came to be made as it was.

Returning from this digression, therefore, we will proceed. Mr. Davis was immediately sent for by a special messenger, Mr. William M. Browne, former editor of the Constitution newspaper in Washington. Meanwhile the Convention went to work on the second great object before them—the formation of a Constitution for a Permanent Government. Mr. R. Barnwell Rhett, of South Carolina, was constituted Chairman of the Committee appointed for this purpose. This Committee consisted of two from each State. The members from Georgia, on this Committee, were Mr. Toombs and Mr. Thomas R. R. Cobb. This remarkable man deserves special notice. He was a brother of Howell Cobb, and his junior by several years, but in natural ability and intellectual culture was

his inferior in no respect. He had never taken any active part in politics until after Mr. Lincoln's election. Before that he had confined himself exclusively to business connected with his profession—that of the law—with the exception of such portions of his time as he devoted to ecclesiastical matters and to the duties of a Professorship in the Lumpkin Law School, which he held at the time. He was by nature profoundly religious. He was an elder in the Presbyterian Church, and was a most devout worshipper, according to the creed of the Old School General Assembly. At the law, he had acquired a considerable estate, and was in the full tide of successful practice. Very few men were capable of performing the amount of physical labor he did. He had done more in the way of book-making than any man of his age in the Southern States. This is seen in the Reports of our Supreme Court, in his Digest of the laws of Georgia, and in his part of the Georgia Code, besides a very learned work he had published on the Law of Slavery. So much as a brief outline of his general character.

Politics, as I have said, he eschewed until Mr. Lincoln's election, but hardly had the news of this result reached the State, before he became thoroughly changed in this respect. A new spirit and life seemed to enter into him. He then, all at once, became enlisted, soul and body, in the cause of Secession. He was seized with a sort of religious enthusiasm upon the subject, as much so, almost, as Peter the Hermit was for the rescue of the Holy Sepulchre. Through the press and on the hustings, he was unremitting in his efforts. He canvassed various parts of the State, and aroused the people by the most stirring appeals. It was he who gave the key-note to the sentiment that really carried immediate Secession

in Georgia, as I have stated. He was a prominent actor in the Convention at Milledgeville, and also in the Convention at Montgomery. In the formation of the Permanent Government, its Constitution and laws, however, four leading ideas seemed to be his favorites. One was the name of the new Confederacy, another was the recognition of the Providence of God in the fundamental law, another was the suppression of the foreign African Slave Trade, and the other was the prohibition of carrying the mails on Sunday. He failed in his first object, after many earnest and eloquent appeals. His wish was that the Confederate States should be known as "The Republic of Washington." In his second and third objects, he was entirely successful, greatly to his gratification; and he came exceedingly near the accomplishment of his fourth intensely cherished wish. His motion to prohibit Sunday mails was at one time lost by a tie vote only.

But let us proceed to examine this instrument. Here is the Constitution for the Permanent Government as finally unanimously adopted by the seven States.* It is, as will be seen, based on the general principles of the Federal Constitution, framed by the Philadelphia Convention, in 1787, with the amendments thereafter adopted. Several changes in the details appear. Some of the more prominent of these may very properly be specially noted.

The first is in the Preamble. In this, the words "each State acting in its Sovereign and Independent character" were introduced to put at rest forever the argument of the Centralists, drawn from the Preamble of the old Constitution, that it had been made by the people of all the States collectively, or in mass, and not by the States in their several Sovereign character.

* See *Appendix* H.

The official term of the President was extended, in the new Constitution, to six years instead of four, with a disqualification for re-election.

The question of the "Protective Policy," as it was called, under the old Constitution, was put to rest under the new, by the express declaration that no duties or taxes on importations from foreign nations should be laid to promote or foster any branch of industry. Under the new Constitution, Export duties were allowed to be levied with the concurrence of two-thirds of both Houses of Congress.

In passing acts of Bankruptcy, it was expressly declared that no law of Congress should discharge any debt contracted before the passage of the same. Considerable controversy had existed on this point under the old Constitution.

The President, under the new Constitution, was empowered to approve any appropriation, and disapprove any other appropriation in the same bill, returning to the House those portions disapproved as in other like cases of veto.

The impeachment of any judicial, or other Federal officer, resident and acting solely within the limits of any State, was allowed by a vote of two-thirds of both branches of the Legislature thereof, as well as by the House of Representatives of Congress. The Senate of the Confederate States, however, still having the sole power to try all such impeachments.

No general appropriation of money was allowed, unless asked and estimated for by some one of the Heads of Departments, except by a two-thirds vote in both branches of Congress. The object of this was to make, as far as possible, each Administration responsible for the public expenditures.

All extra pay or extra allowance to any public contractor, officer, agent, or servant, was positively prohibited as well as all bounties. Great abuses had grown up under the old system in this particular.

Internal improvements by Congress, another subject which had given rise to great controversy under the old, were prohibited by the new Constitution, but Congress was empowered to lay local duties, to support lights, beacons, buoys, and for the improvement of harbors, the expenses to be borne by the navigation facilitated thereby.

The general power of the President to remove from office was restricted to the extent that he could remove for special cause only, and in all cases of removal, he was required to report the same to the Senate, with his reasons, except in the case of the principal officer in each of the Executive Departments, and all persons connected with the Diplomatic service. These, and these only, he could remove at pleasure, and without assigning any reasons therefor.

Citizens of the several States, under the new Constitution, were not permitted to sue each other in the Federal Courts, as they are under the old Constitution. They were left to their actions in the State Courts.

The right of any citizen of one State to pass through or sojourn in another with his slaves or other property, without molestation, was expressly guaranteed.

The admission of other States into the Confederacy required a vote of two-thirds of the whole House of Representatives, and two-thirds of the Senate, the Senate voting by States, instead of a bare majority in each.

A Convention of the States to consider proposed amendments of the Constitution was to be assembled for that purpose upon the call of any three States legally assembled in their several Conventions; and if a Conven-

tion so called should agree to the proposed amendments, the vote on them being taken by States, and the same should afterwards be ratified by the Legislatures of two-thirds of the several States, or by Conventions in them, then the proposed amendments were to form a part of the Constitution.

Congress was authorized by law to grant to the principal officer in each of the Executive Departments a seat upon the floor of either House, with the privilege of discussing any measures appertaining to his Department.

And, lastly, the power of Congress over the Territories was settled, in express language, in opposition both to the doctrine of the Centralists and the doctrine of "Squatter Sovereignty," so called.

These are the more prominent of the changes made. Several others will be seen upon a close examination. Some of them, however, verbal merely. Most of the prominent ones noticed emanated from Mr. Rhett, the Chairman. A few of them from Mr. Toombs. Those proposed by Mr. Toombs were the ones prohibiting bounties, extra allowances, and internal improvements, with some others of less importance. The leading changes proposed by Mr. Rhett, were the ones in relation to the Protective policy, the Presidential term, the modification upon the subject of removal from office, and the mode provided for future amendments. The clause in relation to the admission of new States occupied the special attention of Mr. Perkins, of Louisiana. The change in the old Constitution, which authorized Congress to pass a law to allow Cabinet Ministers to occupy seats in either House of Congress, and to participate in debates on subjects relating to their respective Departments, was the one in which I took most interest. The clause, as it stands, did not go so far as I wished. I wanted the

President to be required to appoint his Cabinet Ministers from Members of one or the other Houses of Congress. This feature in the British Constitution, I always regarded as one of the most salutary principles in it. But enough on this subject.

All of these amendments were decidedly of a conservative character. It is true, I did not approve of all of them. They were all, however, such as in the judgment of a majority of these States, the experience of seventy years had shown were proper and necessary for the harmonious working of the system. The whole document utterly negatives the idea which so many have been active in endeavoring to put in the enduring form of history, that the Convention at Montgomery was nothing but a set of "Conspirators," whose object was the overthrow of the principles of the Constitution of the United States, and the erection of a great "Slavery Oligarchy," instead of the free Institutions thereby secured and guaranteed. This work of the Montgomery Convention, with that of the Constitution for a Provisional Government, will ever remain not only as a monument of the wisdom, forecast and statesmanship of the men who constituted it, but an everlasting refutation of the charges which have been brought against them. These works together show clearly that their only leading object was to sustain, uphold, and perpetuate the fundamental principles of the Constitution of the United States.

The Constitution for the Permanent Government was adopted unanimously by the seven States represented, on the 11th of March, 1861. In the meantime, however, and while the Convention was going on with their work, Mr. Davis, the President elect under the Provisional Government, had arrived. He reached Montgomery on Saturday evening, the 16th of February, and was regularly inau-

gurated on Monday, the 18th. In his inaugural, he used this language, which shows the feelings and sentiments with which he assumed the high trust confided to him:

"*Gentlemen of the Congress of the Confederate States of America; Friends and Fellow-Citizens:*

"Called to the difficult and responsible station of Chief Executive of the Provisional Government which you have instituted, I approach the discharge of the duties assigned to me, with an humble distrust of my abilities, but with a sustaining confidence in the wisdom of those who are to guide and aid me in the administration of public affairs, and an abiding faith in the virtue and patriotism of the people.

"Looking forward to the speedy establishment of a Permanent Government to take the place of this, and which, by its greater moral and physical power, will be better able to combat with the many difficulties which arise from the conflicting interests of separate Nations, I enter upon the duties of the office, to which I have been chosen, with the hope that the beginning of our career, as a Confederacy, may not be obstructed by hostile opposition to our enjoyment of the separate existence and independence which we have asserted, and, with the blessing of Providence, intend to maintain. Our present condition, achieved in a manner unprecedented in the history of Nations, illustrates the American idea that Governments rest upon the consent of the governed, and that it is the right of the people to alter or abolish Governments whenever they become destructive of the ends for which they were established.

"The declared purpose of the Compact of Union from which we have withdrawn, was to 'establish justice, insure domestic tranquillity, provide for the common de-

fence, promote the general welfare, and secure the blessings of liberty to ourselves and posterity;' and when, in the judgment of the Sovereign States now composing this Confederacy, it had been perverted from the purpose for which it was ordained, and had ceased to answer the ends for which it was established, a peaceful appeal to the ballot-box declared that, so far as they were concerned, the Government created by that Compact should cease to exist. In this, they merely asserted a right which the Declaration of Independence of 1776, had defined to be inalienable. Of the time and occasion for its exercise, they, as Sovereigns, were the final judges, each for itself. The impartial and enlightened verdict of mankind will vindicate the rectitude of our conduct, and He who knows the hearts of men, will judge of the sincerity with which we labored to preserve the Government of our Fathers in its spirit. The right, solemnly proclaimed at the birth of the States, and which has been affirmed and re-affirmed in the Bills of Rights of States subsequently admitted into the Union of 1789, undeniably recognizes in the people the power to resume the authority delegated for the purposes of Government. Thus the Sovereign States, here represented, proceeded to form this Confederacy, and it is by abuse of language that their act has been denominated a Revolution. They formed a new alliance, but within each State its Government has remained, and the rights of persons and property have not been disturbed. The agent, through whom they communicated with foreign nations, is changed; but this does not necessarily interrupt their international relations.

"Sustained by the consciousness that the transition from the former Union to the present Confederacy, has not proceeded from a disregard on our part of just obli-

gations, or any failure to perform any Constitutional duty; moved by no interest or passion to invade the rights of others; anxious to cultivate peace and commerce with all nations, if we may not hope to avoid war, we may at least expect that posterity will acquit us of having needlessly engaged in it. Doubly justified by the absence of wrong on our part, and by wanton aggression on the part of others, there can be no cause to doubt that the courage and patriotism of the people of the Confederate States, will be found equal to any measures of defence which honor and security may require.

"An agricultural people, whose chief interest is the export of a commodity required in every manufacturing country, our true policy is peace and the freest trade which our necessities will permit. It is alike our interest, and that of all those to whom we would sell and from whom we would buy, that there should be the fewest practicable restrictions upon the interchange of commodities. There can be but little rivalry between ours and any manufacturing or navigating community, such as the Northeastern States of the American Union. It must follow, therefore, that a mutual interest would invite good will and kind offices. If, however, passion or the lust of dominion should cloud the judgment or inflame the ambition of those States, we must prepare to meet the emergency, and to maintain, by the final arbitrament of the sword, the position which we have assumed among the Nations of the earth. We have entered upon the career of Independence, and it must be inflexibly pursued. Through many years of controversy with our late associates, the Northern States, we have vainly endeavored to secure tranquillity, and to obtain respect for the rights to which we were entitled. As a necessity, not a choice,

we have resorted to the remedy of separation; and henceforth our energies must be directed to the conduct of our own affairs, and the perpetuity of the Confederacy which we have formed. If a just perception of mutual interest shall permit us peaceably to pursue our separate political career, my most earnest desire will have been fulfilled; but if this be denied to us, and the integrity of our territory and jurisdiction be assailed, it will but remain for us, with firm resolve, to appeal to arms, and invoke the blessings of Providence on a just cause.

"With a Constitution differing only from that of our Fathers, in so far as it is explanatory of their well-known intent, freed from the sectional conflicts which have interfered with the pursuit of the general welfare, it is not unreasonable to expect, that States from which we have recently parted may seek to unite their fortunes with ours, under the Government which we have instituted. For this, your Constitution makes adequate provision; but beyond this, if I mistake not the judgment and will of the people, a re-union with the States from which we have separated is neither practicable nor desirable.

"Should reason guide the action of the Government from which we have separated, a policy so detrimental to the civilized world, the Northern States included, could not be dictated by even the strongest desire to inflict injury upon us; but if otherwise, a terrible responsibility will rest upon it, and the suffering of millions will bear testimony to the folly and wickedness of our aggressors.

"We have changed the constituent parts, but not the system of our Government. The Constitution formed by our Fathers is that of these Confederate States, in their exposition of it; and, in the judicial construction it has received, we have a light which reveals its true meaning.

"Thus instructed as to the just interpretation of the instrument, and ever remembering that all offices are but trusts held for the people, and that delegated powers are to be strictly construed, I will hope, by due diligence in the performance of my duties, though I may disappoint your expectations, yet to retain, when retiring, something of the good-will and confidence which welcomed my entrance into office."

This address affords additional evidence, if any were wanting, to show the objects aimed at by the Confederate States in their separation from their former associates. It clearly shows, as the Acts of the Convention show, that these States had quit the Union only to preserve for themselves, at least, the principles of the Constitution. It shows, also, that there was no purpose, wish, design, or intention, on the part of Mr. Davis, to make war, commit aggression, or do any wrong to those States, or the people of those States which remained in the old Union, or to interfere improperly in any way, with the Government of their choice.

At an early day Mr. Davis organized his Cabinet.

The Department of State was filled by Mr. Toombs, of Georgia.

The Department of War by Mr. Leroy P. Walker, of Alabama.

The Treasury Department by Mr. Charles G. Memminger, of South Carolina.

The Post-Office Department by Mr. John H. Reagan, of Texas.

The Navy Department by Mr. Stephen R. Mallory, of Florida.

The Department of Justice [a new Department which Congress had created, and which was quite an improvement on the Washington organization,] was filled by

Mr. Judah P. Benjamin, of Louisiana, under the title of Attorney-General.

On the 15th of February, before the arrival of Mr. Davis, Congress had passed a Resolution declaring its sense, "that a Commission of three persons be appointed by the President elect, as early as may be convenient after his inauguration, and sent to the Government of the United States of America, for the purpose of negotiating friendly relations between that Government and the Confederate States of America, and for the settlement of all questions of disagreement between the two Governments, upon principles of right, justice, equity, and good faith."

In pursuance of this Resolution, three Commissioners were appointed and sent to Washington very soon after the inauguration of Mr. Davis. This Commission was constituted of the very best material to accomplish the object, if it could be done. It consisted of Mr. John Forsyth, of Alabama, Mr. Martin J. Crawford, of Georgia, and Mr. A. B. Roman, of Louisiana. Mr. Forsyth was the son of the renowned Georgian of the same name, who had at one time been Envoy and Minister Plenipotentiary to Spain, and had afterwards won such distinction as the leader of General Jackson's Administration in the Senate of the United States, in 1834 and 1835, against the combined assaults of the great trio, Mr. Clay, Mr. Calhoun, and Mr. Webster. This Commissioner had also, himself, been in the Diplomatic service of the United States, as Minister to Mexico. Mr. Crawford was a member of the Provisional Congress from this State. He had served several years in the old Congress with marked ability and distinction. Mr. Roman was Ex-Governor of Louisiana, and was a gentleman of fortune, of education, and most agreeable manners. These Com

missioners were clothed with plenary powers to open negotiations for the settlement of all matters of joint property, Forts, Arsenals, arms, or property of any other kind within the limits of the Confederate States, and all joint liabilities with their former associates, upon principles of right, justice, equity, and good faith. Mr. Forsyth and Mr. Crawford reached Washington just upon the eve of Mr. Buchanan's retirement from office. As soon after the inauguration of Mr. Lincoln, and the organization of his Cabinet, as convenient, they addressed a communication to Mr. William H. Seward, the newly appointed Secretary of State, upon the subject of their mission. Here is that communication and the whole correspondence connected with their mission.* It deserves special notice, as it must ever be regarded as one of the most interesting portions of the history of the times. The whole conduct of the Commissioners was marked with perfect frankness and integrity of purpose, while they were met with an equivocation, a duplicity, a craft, and deceit, which, taken altogether, is without a parallel in modern times! It was to this correspondence I alluded before, and to see that the remarks then and now made about it are justified by the facts, we have only to examine the papers themselves. In their first note the Commissioners amongst other things say:

"Seven States of the late Federal Union, having, in the exercise of the inherent right of every free people to change or reform their political Institutions, and through Conventions of their people, withdrawn from the United States, and resumed the attributes of Sovereign Power delegated to it, have formed a Government of their own.

"With a view to a speedy adjustment of all questions growing out of this political separation, upon such terms

* See *Appendix* I.

of amity and good-will as the respective interests, geographical contiguity, and future welfare of the two nations may render necessary, the undersigned are instructed to make to the Government of the United States overtures for the opening of negotiations, assuring the Government of the United States that the President, Congress, and people of the Confederate States earnestly desire a peaceful solution of these great questions; that it is neither their interest nor their wish to make any demand which is not founded in strictest justice, nor do any act to injure their late Confederates."

No direct answer was received to this communication by the Commissioners, until the 8th of April, twenty-three days after it was delivered to the Secretary of State. But an *indirect* and *informal* answer was given in this way. Two days after Secretary Seward had received the note from the Commissioners, and while he was being pressed for a reply by Mr. John T. Pickett, their Secretary, Mr. Justice Nelson, of the Supreme Court of the United States, a personal friend of the Secretary of State, called upon Mr. Justice John A. Campbell, of the same Court, and informed him of Mr. Seward's "strong disposition in *favor of peace*, and that he was greatly oppressed with a demand of the Commissioners of the Confederate States for a reply to their letter, and that he desired to avoid making any at *that time*, if possible." Upon this intimation, Judge Campbell immediately had a personal interview with Mr. Seward, hoping he might be useful as an intermediate, in bringing about a peaceful adjustment of the questions at issue, as he was a citizen of Alabama and on terms of personal friendship with the Commissioners. This interview with Mr. Seward, which was evidently sought by him, in the way stated, was had without any conference on the part of Judge Campbell

with the Commissioners. On the evening of the same day, after the interview was had, Judge Campbell gave to the Commissioners in writing, the following statement:

"I feel entire confidence that Fort Sumter will be evacuated in the next ten days. And this measure is felt as imposing great responsibility on the Administration. I feel entire confidence that no measure changing the existing *status*, prejudiciously to the Southern Confederate States, is at present contemplated. I feel an entire confidence that an immediate demand for an answer to the communication of the Commissioners will be productive of evil, and not of good. I do not believe that it ought at this time to be pressed."

Mr. Seward was immediately informed by Judge Campbell of what he had communicated to the Commissioners. On this assurance the Commissioners relied, and ceased to urge a formal reply to their communication. Mr. Seward in his interview with Judge Campbell used stronger language than that employed by him in his written statement to the Commissioners. The assurance given to Judge Campbell, supposing it would be given by him to the Commissioners, was, that there was no design to re-enforce Fort Sumter, and that it would be evacuated in *less* than ten days, *even* before a letter could go from Washington to Montgomery. It was in this way, the Commissioners were given to understand that the United States forces at Fort Sumter would be peacefully withdrawn in a few days; and hence they did not press their demand for an immediate answer to their note, but communicated the information they had received to President Davis, and the substance of it was communicated by him to General Beauregard.

After a sufficient time had elapsed, General Beauregard telegraphed to the Commissioners at Washington,

that Fort Sumter was not evacuated, but that Major Anderson was at work making repairs. On receipt of this, Judge Campbell had another interview with Mr. Seward, and was assured by him "that the failure to evacuate Sumter was not the result of bad faith, but was attributable to causes consistent with the intention to fulfil the engagement, and that as regarded Fort Pickens, in Florida, notice would be given of any design to alter the existing *status* there." This renewed assurance was immediately communicated to the Commissioners, and by them communicated to President Davis, and by him to General Beauregard.

On the 7th of April, after the movement of the Relief Squadron from New York had caused a general alarm, Judge Campbell addressed a letter to Mr. Seward, and "asked if the assurances he had given, were well or ill founded?" The reply he received was, "Faith as to Sumter fully kept—wait and see." This was after the Fleet had put to sea, and when it was near the harbor of Charleston, for the purpose of provisioning and reinforcing Fort Sumter "peaceably," if permitted; "otherwise by force." The way faith was kept as to Sumter, was by notifying the Governor of South Carolina, Francis W. Pickens, of the intention to reinforce the Fort, after the Fleet had set out for Charleston!

The actual state of things was not known to the Commissioners, until the 8th of April. They had been most "atrociously" imposed upon and deceived! On the 9th of April they addressed to Mr. Seward another communication in which, besides giving a recapitulation of the facts at which I have glanced, they used the following language:

"Your Government has not chosen to meet the undersigned, in the conciliatory and peaceful spirit in which

they are commissioned. Persistently wedded to those fatal theories of construction of the Federal Constitution, always rejected by the Statesmen of the South, and adhered to by those of the Administration School, until they have produced their natural and often predicted result of the destruction of the Union, under which we might have continued to live happily and gloriously together, had the spirit of the ancestry who framed the common Constitution animated the hearts of all their sons. * * * Had you met these issues with the frankness and manliness with which the undersigned were instructed to present them to you and treat them, the undersigned had not now the melancholy duty to return home and tell their Government and their countrymen, that their earnest and ceaseless efforts in behalf of peace had been futile, and that the Government of the United States meant to subjugate them by force of arms. Whatever may be the result, impartial history will record the innocence of the Government of the Confederate States, and place the responsibility of the blood and mourning that may ensue, upon those who have denied the great fundamental doctrine of American Liberty, that 'Governments derive their just powers from the consent of the governed,' and who have set naval and land armaments in motion, to subject the people of one portion of the land to the will of another portion.

"Your refusal to entertain these overtures for a peaceful solution, the active Naval and Military preparations of this Government, and a formal notice to the Commanding General of the Confederate forces in the harbor of Charleston, that the President intends to provision Fort Sumter by forcible means, if necessary, are viewed by the undersigned, and can only be received by the world, as a declaration of war against the Confederate States," etc.

It was indeed more than a mere declaration of war. It was an act of war itself!

Whatever change of views may have taken place in the mind of Mr. Lincoln, as to the line of policy he intended to pursue in relation to Fort Sumter and the other United States Forts within the Confederate States, after the assurance given, can in no way excuse or palliate the duplicity and fraud practiced afterwards on the Confederate Commissioners. My own opinion from all the facts, as they have been subsequently disclosed, is, that Mr. Lincoln did change his policy on this subject, and that at the time the assurance was given to the Commissioners, he did intend in good faith to withdraw the troops from Fort Sumter at an early day. How far he may have been aware of the extent of the assurance given to the Commissioners, I have no means of knowing; but it is known that this policy of withdrawing the troops was recommended by General Winfield Scott, then in chief command of the Army of the United States. He thought it the best under the circumstances. In his opinion the proper course for the Federal Government to take, that indicated by true wisdom and statesmanship, was, in his own language, to "let the wayward sisters [the Confederate States] depart in peace."

Moreover, the Senate, which was convened in extra session on Executive business, had taken up the subject and given it serious discussion. In this body every Democrat or Anti-Centralist was understood to be in favor of the withdrawal of the United States troops from all these Forts, except those at Key West and Tortugas. Mr. Douglas himself offered a Resolution to that effect, on the 15th of March. In support of it, he said:

"We certainly cannot justify the holding of Forts there, much less the re-capturing of those which have

been taken, unless we intend to reduce those States, themselves, into subjection. I take it for granted no man will deny the proposition that whoever permanently holds Charleston and South Carolina, is entitled to the possession of Fort Sumter. Whoever permanently holds Pensacola and Florida, is entitled to the possession of Fort Pickens. Whoever holds the States in whose limits those Forts are placed, are entitled to the Forts themselves, unless there is something peculiar in the location of some particular Fort that makes it important for us to hold it for the general defence of the whole country, its commerce and interests, instead of being useful only for the defence of a particular city or locality. It is true that Forts Taylor and Jefferson, at Key West and Tortugas, are so situated as to be essentially national, and therefore important to us without reference to our relations with the seceded States. Not so with Moultrie, Johnson, Castle Pinckney, and Sumter, in Charleston Harbor; not so with Pulaski, on the Savannah River; not so with Morgan, and other Forts in Alabama; not so with those other Forts that were intended to guard the entrance of a particular harbor for local defence.

"Mr. Doolittle. Will the Senator allow me to ask a question? How is it with the Forts at the mouth of the Mississippi River?

"Mr. Douglas. Well, sir, I will say that those do not form an exception to my remark, for this reason; we have no use for the Forts at the mouth of the Mississippi River, if we allow the Southern Confederacy to hold the State of Louisiana and command both sides of the River. * * * We cannot deny that there is a Southern Confederacy, *de facto*, in existence, with its Capital at Montgomery. We may regret it. *I* regret it most profoundly; but I cannot deny the truth of the fact, painful

and mortifying as it is. * * * I proclaim boldly the policy of those with whom I act. We are for peace. There is no concealment on this side. * * * I repeat, it is time that the line of policy was adopted and that the country knew it. In my opinion, we must choose, and that promptly, between one of three lines of policy:

"1. The restoration and preservation of the Union, by such amendments to the Constitution as will insure the domestic tranquillity, safety, and equality of all the States, and thus restore peace, unity, and fraternity to the whole country.

"2. A peaceful dissolution of the Union, by recognizing the Independence of such States as refuse to remain in the Union without such Constitutional amendments, and the establishment of a liberal system of commercial and social intercourse with them, by treaties of commerce and amity.

"3. War, with a view to the subjugation and military occupation of those States which have seceded, or may secede from the Union.

"I repeat that, in my opinion, you must adopt and pursue one of these three lines of policy. The sooner you choose between them and proclaim your choice to the country, the better for you, the better for us, the better for every friend of Liberty and Constitutional Government throughout the world. In my opinion, the first proposition is the best, and the last the worst. Why cannot we arrive at some amicable adjustment of the questions in dispute?" *

His Resolution was laid upon the table by a vote of twenty-three to eleven, as the Senate was left in possession of the Centralists, on the retirement therefrom of the

* *Congressional Globe, Part* 2, 36*th Congress*, 2*d Session*, p. 1459-60.

fourteen Senators from the Confederate States. Besides this Resolution of Mr. Douglas, other resolutions were offered, one by Mr. Thomas L. Clingman, then a Senator from North Carolina, and another by Mr. John C. Breckinridge, who took his seat as Senator-elect from Kentucky, on the expiration of his term of office as Vice President, on the 4th of March, recommending and advising the withdrawal of the United States troops, from the limits of the Confederate States. Neither of these Resolutions was acted upon before the adjournment of this special Executive Session of the Senate, which took place on the 28th of March. But the understanding in the city, at the time of Mr. Douglas's speech, and the time the assurance was given, was that Fort Sumter was to be immediately evacuated. This intelligence was telegraphed throughout the country on the 14th of March, the second day after the date of the Commissioners' letter to Mr. Secretary Seward, and the day before the first interview he had with Judge Campbell. I have but little doubt, therefore, that, at that time, Mr. Lincoln had determined to withdraw all United States forces from the limits of the Confederate States.

It was at this juncture, however, when this news reached the North, that the seven Governors from the seven Northern States referred to, hastened to Washington, and then and there organized their "Conspiracy," and by appeals to Mr. Lincoln, and tendering to him their organized military forces, caused him to change his policy, and to adopt theirs, which aimed at an entire overthrow of the Constitution of the United States, and the Federative principles of Government on which it was based. This conspiracy is the Seven Headed Monster, or "Apocalyptic Beast," to which I have alluded before. It was by and through its active agency Mr. Lincoln's

policy was changed. This change, however, was not communicated to the Commissioners. They were still kept uninformed and left to rest upon the assurances given, while the most energetic measures and active preparations for war and subjugation were being concocted and executed. The sequel, so far as relates to the striking of the first blow and the fall of Fort Sumter, we have seen.*

It is, perhaps, needless to speak of the effect of this great event, either at the North or South. I will here only say that, within my observation, the first general feeling produced by it, was one of surprise, accompanied with deep regret. The duplicity of the Washington authorities was, it is true, the cause of general indignation; for the informal assurance on the subject of the early evacuation of that Fort, was extensively known to the intelligent in all parts of the country. President Davis immediately summoned an extra session of Congress, at Montgomery. This body, after having gotten through with their labors on the Constitution for the Permanent Government, on the 11th of March, and having adopted such general measures as they thought proper and sufficient, in view of the peaceful prospect before them, had, on the 16th, adjourned, subject to the call of the President, in case of need, to report their action to their respective State Conventions. The Sovereign State Conventions all promptly, and with great unanimity, ratified the Constitution proposed for their Permanent Government. Alabama ratified it, on the 13th of March, by a vote of eighty-seven yeas to five nays; Georgia, on the 16th of March, without a dissentient voice—two hundred and seventy-six voted for the ratification, and not one against it; Louisiana, on the 21st of March, by one

* *Ante*, page 39.

hundred and one yeas to seven nays; Texas, on the 25th of March, by sixty-eight yeas to two nays; Mississippi, on the 30th of March, by a vote of seventy-eight yeas to seven nays. The exact vote in South Carolina and Florida I do not know, but the action of both these States on the ratification, was not less decisive. The call for the extra session was made on the fall of Fort Sumter; but hardly had that summons reached the country by the telegraphic wires, before these mystic messengers, with the wings of lightning, brought Mr. Lincoln's celebrated Proclamation of the 15th of April.

The effect of this upon the public mind of the Southern States cannot be described or even estimated. The shock was not unlike that produced by great convulsions of nature—the upheavings and rocking of the earth itself! It was not that of fright. Far from it! But a profound feeling of wonder and astonishment! Up to this time, a majority, I think, of even those who had favored the policy of Secession, had done so under the belief and conviction that it was the surest way of securing a redress of grievances, and of bringing the Federal Government back to Constitutional principles. Many of them indulged hopes that a Re-formation, or a Re-construction of the Union would soon take place on the basis of the new Montgomery Constitution, and that the Union, under this, would be continued and strengthened, or made more perfect, as it had been in 1789, after the withdrawal of nine States from the first Union, and the adoption of the Constitution of 1787. This proclamation dispelled all such hopes. It showed that the Party in power intended nothing short of complete Centralization. There was no longer any divisions amongst the people of the Confederate States. This proclamation, with its doctrines and principles, we will examine hereafter. What I have said

clearly shows the political position of both Parties to the war, at the time of its inauguration and the fall of Fort Sumter, so far as concerns the principles on which they acted. The principles actuating the Washington authorities were those aiming at Consolidated Power; while the principles controlling the action of the Montgomery authorities were those which enlisted devotion and attachment to the Federative system as established by the Fathers in 1778 and in 1787. The object on the one side—the aggressive side—the *Federal* side, so *miscalled*—was to overthrow the very principles upon which every Federal system is based; while, on the other, it was to defend and maintain those principles. In short, the cause of the Confederates was State Sovereignty, or the Sovereign Right of local Self-Government on the part of the States severally. It was the same cause, to maintain which all the Colonies at first, and all the States afterwards, united, in the ever memorable conflict with the Mother Country, in 1776; and on the success of which, in that contest, depended the whole fabric of American Free Institutions. The cause of their assailants involved the overthrow of this entire fabric, and the erection of a Centralized Empire in its stead! This is the issue, in a Constitutional point of view, fairly presented.

Judge Bynum. Do you maintain that the United States by putting down Secession became a Centralized Empire?

Mr. Stephens. No. I do not maintain that they have as yet reached that point; but I do mean to maintain that the principles upon which they waged the war, involved that final result, and will, unless abandoned, necessarily and inevitably lead to that ultimate result.

Judge Bynum. I should like to know the grounds upon which you found such an opinion?

Mr. Stephens. These we will come to hereafter, in our consideration of the results of the war. The present object was to present these organic principles clearly, and the position of the Parties towards them in the beginning, as well as the comparative physical ability, or material resources of each to sustain and maintain its side. What has been said is sufficient on the first of these points; before proceeding further on the main line, however, it is not only proper, but necessary, to examine somewhat in detail Mr. Lincoln's Proclamation referred to, of the 15th of April, and the effect it produced upon the public mind throughout all the Southern States. This, if again agreeable, we will postpone to another occasion.

But before suspending just now, it may be proper to add, that amongst the general measures adopted by the Confederate Congress before its adjournment, was the full assumption of jurisdiction over and control of the Forts, Arsenals, and all other joint property of the United States, in each of the Confederate States, which had by them, severally, been transferred to the Confederate States.

All the existing Federal laws, so far as applicable, were adopted, and everything was done that was necessary for the complete organization of the Confederate States Government, under the Provisional Constitution, in its Judicial and Military Departments, as well as in its Legislative and Executive. The whole machinery of a regularly organized Government was put into complete and practical operation in all its functions. Ways and means for raising funds for present and prospective needs were provided.

The navigation of the Mississippi River had also been declared to be open and free. Besides the Commission sent to Washington, another very able one had been

sent to Europe to present the Confederate cause and position to England and France, with the view of opening negotiations with those Powers. At the head of this latter Commission was placed, Mr. William L. Yancey, of Alabama, a man of brilliant genius, with many eminent qualities of natural as well as acquired ability. He it was, who took the lead on the policy of Mr. Buchanan, in the Charleston Convention, which, in 1860, led to the rupture of that body. He was amongst the ablest men of the South who zealously espoused the cause of Secession at an early day, and no one felt a deeper interest in its success. With him were associated in this Commission, Mr. A. Dudley Mann, of Virginia, and Mr. A. P. Rost, of Louisiana. Mr. Mann had already become distinguished in the Diplomatic service of the United States. But enough for the present.

COLLOQUY XX.

CHARACTER OF THE WAR DISCUSSED BY JUDGE BYNUM AND MR. STEPHENS—CONSIDERATION OF MAIN SUBJECT RESUMED—CONDITION OF PUBLIC SENTIMENT THROUGHOUT THE SOUTHERN STATES ON THE ELECTION OF MR. LINCOLN BEFORE THE FALL OF SUMTER—EFFECT OF THE PROCLAMATION OF 15TH APRIL—THIS PROCLAMATION AND SUBSEQUENT ONES REVIEWED—THEIR USURPATIONS EXHIBITED—SECESSION OF VIRGINIA—CONVENTION WITH CONFEDERATE STATES—GENERAL LEE—SECESSION OF ARKANSAS, TENNESSEE, AND NORTH CAROLINA—USURPATIONS OF MR. LINCOLN DISCUSSED—JUDGE BYNUM'S DEFENCE AND MR. STEPHENS'S REPLY.

MR. STEPHENS. Well, gentlemen, we will now proceed from the point where we left off.

JUDGE BYNUM. I do not wish to interrupt you in the line of remarks you propose to pursue, but, as you seem to be ignoring the idea that there was, in the action of the people of the Seceding States, anything like a rebellion or a resistance to lawful authority, I wish barely to enter my protest, before you go any further, against being considered as yielding my assent to any such view of that matter. For whether the war was actually inaugurated when the Relief Squadron was sent to provision and reinforce Fort Sumter, or when the first blow was struck, as you say, to prevent the execution of that purpose, it was, nevertheless, so far as the Government at Washington was concerned, a resort to force, on their part, to maintain lawful authority. It was, even considered in the light in which you present it, a war to maintain lawful authority on one side, and to resist it on the other. This is what, by common consent, is meant by Rebellion. The war, therefore, on the part of the

Confederates, under all the circumstances, looked at in any light, must be considered a Rebellion. This is the Constitutional view of the subject, fairly presented, as I understand it. I wish now, however, only to enter my dissent from the position which you seem to consider as established.

Mr. Stephens. Well, we can only agree to disagree on this point, as was our understanding in the beginning. We are, I believe, fully agreed upon all the essential facts. The point of disagreement is only one of conclusion, or the logical sequence which properly follows from undisputed facts. If all the great facts of our history be as I have set them forth, and which you have not been able successfully to assail, then the conclusion which *I draw* from these facts, it seems to me, according to all correct principles of reasoning, is not only *legitimate*, but *irresistible!* This conclusion, on my part, on the point of our disagreement, is, that the Sovereign Right of each State, within the limitations mentioned, to withdraw from a Union formed as ours is admitted to have been, was perfect, considered either morally or politically. On the same principles, too, the Sovereign Right of all the States so withdrawing, to enter into a new Confederation, as they had done, was equally perfect. Where any party has a perfect right to perform an act, no other party can have a right, either legal or moral, to prevent the doing of it. This seems to me to be a perfectly rational conclusion. In the domain of reason, moreover, the conclusions of logic are inexorable!

The whole question, whether the acts of the people of the Seceding States are to be considered a Rebellion, depends upon the fact of whether the United States was a Federal Republic or not. In other words, it depends upon the true answer to the question, where

under the system does ultimate Sovereignty reside? Is it lodged in the General Government, or has it passed to the whole people of the United States as one aggregate mass, or does it still remain unimpaired with the people of the several States as distinct political organizations, just where and as it did when the Constitution was formed? This question, I think, has been clearly and fully answered and settled by the facts established, and, according to these principles, I do maintain there was no rebellion, no resistance to lawful authority in the action of the Confederates in what occurred at Fo t Sumter, but, on the contrary, I maintain that their resistance there was a resistance to open and palpable usurpations of power by the authorities at Washington, and in the maintenance of that rightful authority to which both their obedience and allegiance were due.

This point, however, as the one relating to the justifiableness of my course in the premises, we, not being able to agree upon it, will leave to the impartial judgment of mankind. With the understanding that we do thus agree to disagree on this point, I will proceed now to the consideration of the subject postponed to this occasion. That was the Proclamation of Mr. Lincoln, of the 15th of April, and the effect it produced on the other Southern States not then embraced in the new Confederacy, with the events which immediately followed.

Let it be borne in mind then, that in all these States, movements of some sort had been made after the election of Mr. Lincoln, to take the sense of the people in Sovereign Conventions, respectively, upon the question of Secession, as had been taken in the States which did secede, and at about the same time. These movements it is proper to notice, and to these we will now direct our attention in a brief review.

On the 16th of January, 1861, the Legislature of Arkansas passed an Act submitting to the people of that State the question whether there should be a Sovereign Convention assembled or not. The vote on this question was ordered to be taken on the 18th of February. The vote for the Convention on that day was 27,412 in favor, and 15,826 against it. The majority for the Convention was 11,586. A Convention, regularly elected, accordingly assembled on the 4th of March. In this, an Ordinance for Secession was defeated by a vote of thirty-five yeas in favor of it, and thirty-nine nays against it. On the 17th of March, the question was disposed of by the unanimous adoption, by the Convention, of a measure providing that the question of "Secession" or "Co-operation" with the Border States should be submitted to the people, to be decided by a vote to be taken on the first Monday in August thereafter, and providing for the appointment of delegates to a Convention of the Border States, which was to be held in the meantime, and also that the Convention when it adjourned, should re-assemble on the 17th of August thereafter. This was the state of things in Arkansas.

The Legislature of Missouri met 31st December, 1860. Early in January 1861, both Houses were addressed in the Hall of the Representatives by Mr. D. R. Russell, a Commissioner from the State of Mississippi. On the 16th of January, an Act was passed calling a Convention of the people to be assembled the 28th of February, with a provision that the action of this Convention was to be submitted to a popular vote, for its ratification or rejection. The Convention met. A large majority was against Secession. Mr. Luther J. Glenn, who had been sent as a Commissioner from Georgia to that State, was respectfully heard by the Convention, and a respectful answer

given to the views presented by him, stating the reasons why the Convention did not concur with him in the policy of immediate Secession. Mr. Hamilton R. Gamble was Chairman of the Committee on Federal Relations, in this Convention. The final action of this body, on the general subject, was the adoption of Resolutions expressing an earnest desire for the perpetuation of the Union, and the peaceful adjustment of all the difficulties of the crisis —approving the Crittenden proposition in the Senate— advocating the call of a National Convention of the States; and expressing the opinion that civil war might be avoided, by withdrawing Federal troops from Forts in the Seceded States, and recommending this policy. The last Resolution, recommending this policy, passed by a vote of eighty-nine yeas to six nays. This was on the 19th of March. This Convention also sent delegates to the proposed Convention of the Border States, as well as to the Peace Congress. So matters stood in this State.

In Kentucky, the Governor, Beriah Magoffin, recommended to the Legislature then in session, the calling of a Convention of the people of the State, to whom their Federal relations should be submitted. He advised the policy of uniting with the Border States, in a Covention to be held by them early in February, at Baltimore. The action of the Seceded States was disapproved by him, in very decided language, but in language equally decided, he protested against the Constitutional power or policy of coercing them. The Legislature did not agree to the proposition for the call of a State Convention, but on the 22d of January, passed Resolutions asking the other States to unite in calling for a Convention of all the States to amend the Constitution, and afterwards passed another Resolution pledging the people of Ken-

tucky "to unite with their brethren of the South, in resisting an invasion of their soil at all hazards, and to the last extremity." They also sent delegates to the Peace Congress at Washington, which had been called by Virginia, as we shall see. So matters stood in Kentucky.

In Tennessee, Governor Isham G. Harris called an extra Session of the Legislature, which assembled the 7th of January, 1861. This body passed an act submitting to the people of the State the question whether there should be a State Convention or not; the election to be held on the 9th of February, and the Convention to be assembled on the 25th of February, in case a majority of the voters should be in favor of the call. The vote was 24,749 in favor of calling the Convention, and 91, 803 against it. The popular majority against the Convention was 67,054. So matters stood in Tennessee.

In North Carolina, the Legislature being in regular Session passed an Act on the 24th of January, providing for an election of delegates to a State Convention. This act directed that voters at the same election should express their wish for or against the meeting of the Convention. If a majority should be in favor of the Convention, then the Governor was by proclamation to assemble the delegates on a day to be designated; and if a majority should be against it, then the Convention was not to be assembled. The vote in favor of the Convention was 46,672, and against it 47,323. The majority against the Convention was 651, and it therefore was not convened. So matters stood in North Carolina.

In Virginia an extra Session of the Legislature was convened on the 7th of January. This body, deeply impressed with the perils of the crisis, went earnestly to

work to preserve, if possible, the Union of the States and the Sovereignty of the States upon the principles on which the Constitution was based. On the 19th, Resolutions were passed asking all the States to send delegates to meet in Washington, on the 4th of February, to devise, if possible, some plan for general harmony and pacification. This was the Peace Congress to which twenty States sent delegates in response to this call of Virginia, and which did so assemble. The States which were represented in this Congress, or Conference, as it has been called, were Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Iowa, Delaware, Maryland, Virginia, North Carolina, Kentucky, Tennessee and Missouri. It was in this Congress that Mr. Chase, as a delegate from the State of Ohio, made the speech to which I have referred. To *this* Peace Congress Virginia sent as Delegates, or Commissioners, Ex-President John Tyler, William C. Rives, John W. Brockenbrough, George W. Summers, and James A. Seddon. John Tyler was chosen President of this body.

The Legislature of Virginia also passed an Act calling a State Convention to express the Sovereign will of the people of the State upon their Federal relations. By the Act, the election of delegates was to be on the 4th of February, and the Convention to meet on the 13th.

The Convention met at the time appointed. The whole number of delegates was one hundred and fifty-two. John Janney, of Loudon, a man of renown in the "Old Dominion," and distinguished as much for his devotion to the Union as for anything else, was chosen President. In his address he said, that "Virginia would insist on her own construction of her rights as a condition

of her remaining in the present Union." This Convention watched with the deepest interest the proceedings of the Peace Congress, which had assembled at the instance of the State. After that body adjourned, and its action was known, Mr. Jeremiah Morton, on the 28th of February, made a speech in favor of immediate Secession, viewing, as he did, the result of the Peace Congress as a failure. On the 1st of March, Mr. Goode, of Bedford, offered a Resolution on the line of policy indicated by Mr. Morton, which was referred for consideration. After the inaugural address of Mr. Lincoln, on the 4th of March, reached Richmond, the excitement in the Convention became more intense. A delegation was sent from that body to Washington, to confer with Mr. Lincoln, and to ascertain from him what line of policy he intended to pursue, and to urge upon him the importance of not attempting to coerce the Seceding States. This delegation consisted of William Ballard Preston, Alexander H. H. Stuart, and George W. Randolph. In the Senate of the Legislature, a Resolution had, in the meantime, unanimously passed, declaring "that if all efforts to reconcile the unhappy differences between sections of our country shall prove abortive, then every consideration of honor and interest demands that Virginia shall unite her destinies with her Sister Slave-holding States." To the delegation sent by the Convention to confer with Mr. Lincoln, no satisfactory reply was given by him. So stood matters in Virginia when news reached the Convention of the occurrences at Fort Sumter.

In Maryland, the general popular excitement of the times was not much less intense than in the more Southern States. In the late Presidential election, the vote of this State had been cast for the Breckinridge ticket. Mr. Lincoln, however, received of the popular vote 2,294,

which really tended to increase the excitement in that State. The aggregate vote for the three other candidates was upwards of 90,000. The Legislature not being in session, urgent appeals were made to Thomas H. Hicks, the Governor, to convene an extra session, to consider the questions involved in the crisis. This he persistently refused to do, from apprehensions that measures would be immediately adopted looking to a withdrawal of this State from the Union. Mr. A. H. Handy had been appointed a Commissioner by the Legislature of Mississippi, to present the views of that State to the Legislature of Maryland. He addressed Governor Hicks upon the subject of his mission. To this communication the Governor made a reply on the 19th of December. In this reply he declared his purpose to be "to act in full concert with the other Border States," and said he did "not doubt that the people of Maryland were ready to go with the people of those States for weal or woe." He fully agreed in "the opinion as to the necessity for protection to the rights of the Southern States, and while his sympathies were with the gallant people of Mississippi, he hoped they would act with prudence as well as with courage." In February, he received Mr. Wright, the Commissioner from Georgia, and expressed to him similar sentiments, while he still refused to convene the Legislature. Governor Hicks had also responded to the call of Virginia for the Peace Congress, and gave that movement his cordial approval.

An irregular State Convention was held at Baltimore during the latter part of February, in which most of the counties were represented, and by several of the ablest men in the State. Among these were Ezekiel F. Chambers, the President; Thomas G. Pratt, E. Louis Lowe, Robert M. McLane, T. Parker Scott, William P. Whyte,

S. Teackle Wallis, R. B. Carmichael, I. D. Jones, and John R. Franklin. The object of this Convention was to take into consideration the position of Maryland in her Federal relations. Its final action was the adoption of an address and a series of resolutions strongly Southern in their character. They justified the secession of the seven States of the Confederacy, and maintained that it was caused by aggressions upon their rights. They looked hopefully to the result of the Peace Congress then in session, and declared that if no satisfactory settlement was made by it, then, in the opinion of the Convention, the Governor should call a regular Sovereign Convention of the State to determine on the state of public affairs, as it was understood the Governor intended to do. It was further resolved that in case the State of Virginia should determine to secede, the Convention was to be immediately re-assembled at the call of its President; and if the Governor should decline to call a Sovereign Convention, on the contingency stated, previous to the 12th of March, then this body declared its intention to recommend to the people to proceed of their own accord to the election of delegates to a Sovereign Convention of the State. This irregular Convention then adjourned to the 12th of March, on which day they re-assembled. The Governor had not acted—Virginia had not seceded. They thereupon did nothing further than to adopt Resolutions favoring a Convention of the Border States, and sent a deputation to visit the Virginia Convention upon the subject. Resolutions were also submitted, but not acted upon, declaring that "all attempts upon the part of the Federal Government to re-occupy, repossess, or retake any Forts, or other property, within the limits of the Seceded States, would be acts of war, and that such acts would absolve Maryland and the Border States from

all connection with the United States." So matters stood in the State of Maryland.

In Delaware, the Legislature assembled on the second of January. The next day, Mr. Henry Dickinson, Commissioner from the State of Mississippi, was permitted to address both Houses, in the Representative Chamber, upon the general state of public affairs, with an earnest desire that the State of Delaware would join her Southern Sister States in withdrawing from the Union. After the address, the House passed a Resolution, in which the Senate concurred, stating that, "having extended the Hon. H. Dickinson, the Commissioner of Mississippi, the courtesy due him, as the Representative of a Sovereign State of the Confederacy, as well as to the State he represents, we deem it proper, and due to ourselves and the people of Delaware, to express our unqualified disapproval of the remedy for existing difficulties suggested by the Resolutions of the Legislature of Mississippi." Mr. Campbell, the Commissioner from Georgia, was received by Governor Burton, who gave him a respectful audience, and expressed the opinion that no action would be taken by that State until Virginia moved; that his State would go with Maryland and Virginia. So matters stood in Delaware.

This brief sketch presents very clear indications of the prevailing sentiments on the exciting subject in all the slaveholding States which had not seceded on the 15th of April, when Mr. Lincoln's Proclamation of that date made its appearance. And after this brief but necessary survey, we will now look into that paper itself. Here it is:

"*Whereas*, The laws of the United States have been for some time past and are now opposed, and the execution thereof obstructed, in the States of South Carolina, Georgia,

Alabama, Florida, Mississippi, Louisiana, and Texas, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the Marshals by law:

Now, therefore, I, Abraham Lincoln, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union, to the aggregate number of seventy-five thousand, in order to suppress said combinations, and to cause the laws to be duly executed.

The details for this object will be immediately communicated to the State authorities through the War Department.

I appeal to all loyal citizens to favor, facilitate and aid this effort to maintain the honor, the integrity, and the existence of our National Union, and the perpetuity of popular Government, and to redress wrongs already long enough endured.

I deem it proper to say that the first service assigned to the forces called forth will probably be to re-possess the forts, places, and property which have been seized from the Union; and in every event the utmost care will be observed, consistently with the objects aforesaid, to avoid any devastation, any destruction of or interference with property, or any disturbance of peaceful citizens in any part of the country.

And I hereby command the persons composing the combinations aforesaid to disperse and retire peaceably to their respective abodes within twenty days from this date.

Deeming that the present condition of public affairs presents an extraordinary occasion, I do hereby, in virtue of the power in me vested by the Constitution, convene both Houses of Congress.

"Senators and Representatives are therefore summoned to assemble at their respective Chambers, at 12 o'clock, noon, on Thursday, the fourth day of July next, then and there to consider and determine such measures as, in their wisdom, the public safety and interest may seem to demand.

"In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed. Done at the city of Washington, this fifteenth day of April, in the year of our Lord one thousand eight hundred and sixty-one, and of the Independence of the United States the eighty-fifth. Abraham Lincoln.

"By the President:

"William H. Seward, *Secretary of State.*"

The effect of this extraordinary paper upon the people of the Seceded States, I have already mentioned. It united them almost to a man, while the effect upon the people of the other Southern States which had not seceded, was not much less significant. This is what we are now to look to. First, as a sample of the general feeling produced by it, we need but take a glance at the responses of the Governors of these States to the call made on them for their respective quotas of military force. These quotas were as follows: Delaware was to furnish 780 men; Maryland, 3123; Virginia, 2340; North Carolina, 1560; Kentucky, 3123; Missouri, 3123; and Arkansas, 780.

In reply to the requisition for the quota of Delaware, Governor William Burton responded in substance, that he had no lawful authority for raising the troops.

Governor Hicks, of Maryland, made no direct response for some days, but indirectly urged upon Mr. Lincoln not to have troops sent through the city of Baltimore, as the excitement there produced by the call was so great

that violence would be almost inevitable. On the 18th of April, he issued a Proclamation to the people of Maryland, in which he said, he would not "send any troops in obedience to the call, except to defend the National Capital." On the fourth day after the Proclamation was issued, the 6th Massachusetts Regiment, in its passage through the city of Baltimore, was stopped by barricades in the streets, and was attacked with stones and other missiles by an infuriated mob. This gave rise to a great riot, in which several lives were lost on the part of the troops as well as the citizens. Every effort was made by George W. Brown, Mayor of the city, and George P. Kane, Marshal of Police, to prevent the outbreak, and to restore quiet to the excited multitude. After the Mayor had succeeded in suppressing actual violence, and had got the troops through the city, by going himself in front at the head of the column, he addressed the people publicly in Monument Square, where they had assembled. He there assured them, that he had conferred with Governor Hicks, who had united with him in telegraphing to Washington, that no more Northern troops should be sent through Maryland, and that Governor Hicks concurred with him in opinion against the policy of coercing the Seceded States. Governor Hicks was sent for, and made his appearance in this meeting, and is reported to have said: "I coincide in the sentiment of your worthy Mayor. After three conferences we have agreed, and I bow in submission to the people. I am a Marylander; I love my State, and I love the Union; but I will suffer my right arm to be torn from my body, before I will raise it to strike a sister State."

This gave great satisfaction to the excited crowd, which thereupon dispersed. Mayor Brown also sent three persons of high character and the greatest respectability, to

wit, H. L. Bond, J. C. Brune, and George W. Dobbin, as special messengers to Mr. Lincoln, with a dispatch in these words: "The people are exasperated to the highest degree by the passage of troops, and the citizens are unusually decided in the opinion that no more troops should be ordered to come. The authorities of the city did their best to-day to protect both strangers and citizens, and to prevent a collision, but in vain; and but for their great efforts, a fearful slaughter would have occurred. Under these circumstances, it is my solemn duty to inform you, that it is not possible for more soldiers to pass through Baltimore, unless they fight their way at every step. I, therefore, hope and trust, and most earnestly request, that no more troops be permitted or ordered by the Government to pass through the city. If they should attempt it, the responsibility for the bloodshed will not rest upon me."

The very able and distinguished President of the Baltimore and Ohio Railroad, J. W. Garrett, fully concurred in this policy. He declined to transport any more troops over his road, in the then state of excitement.

The Messengers of the Mayor sent to Washington, telegraphed back the next day that Mr. Lincoln had given them a letter to the Mayor of the city and the Governor of the State, that no more troops would be brought through Baltimore, if, in a military point of view, they could be marched around the city without opposition. So much for the effect of the proclamation upon Maryland.

In reply to the call for the quota of Virginia, Governor Letcher stated that it "would not be furnished for any such purpose"—"an object" which, in his judgment, "was not within the purview of the Constitution or the laws." "You have," said he, "chosen to inaugurate civil war."

Governor Ellis, of North Carolina, replied that he "regarded the levy of troops made for the purpose of subjugating the States of the South, as in violation of the Constitution, and a usurpation of power; and that he could be no party to the wicked violation of the laws of the country, and to this war upon the liberties of a free people."

Governor Magoffin, of Kentucky, replied: "Kentucky will furnish no troops for the wicked purpose of subduing her sister Southern States."

Governor Harris, of Tennessee, replied: "Tennessee will not furnish a man for purposes of coercion, but 50,000, if necessary, for the defence of our rights, and those of our Southern brothers."

Governor Henry M. Rector, of Arkansas, replied: "No troops from Arkansas will be furnished to subjugate the Southern States. The demand is only adding insult to injury."

Governor Claiborne F. Jackson, the recently inaugurated Governor of Missouri, replied: "The requisition is illegal, unconstitutional, revolutionary, inhuman, diabolical, and cannot be complied with."

I give but the substance of these replies. They clearly indicate the tone and temper of the times, and the impression the proclamation made upon the public mind in what were then styled the Border States. The effect upon the North was far different. The "seven Governors" seem to have been ready with troops already organized to send forward in obedience to the call promptly, which they were perhaps daily expecting. Several companies from Pennsylvania reached Washington on the 16th, and reported for duty the day after the call was made. The 6th Massachusetts Regiment left Boston on the evening of the 17th, and left another all

but ready to follow. It was this regiment which reached Baltimore about noon on the 19th, and which was the occasion of the riot.

But to return to the effect upon the Border States. Virginia now took the lead. Her Convention, still in session, two days after this proclamation, passed an Ordinance of Secession. The vote in favor of it was eighty-eight, and against it fifty-five. In it she set forth the fact, that in her Ordinance ratifying the Constitution of the United States, in 1788, she had reserved the right to resume the powers therein delegated, whensoever the same should be perverted to the injury of her people. The Convention also submitted the Ordinance to a popular vote of the State. If the people should reject it, then it was to be of no force; but if they ratified it, then it was to be considered as complete and binding upon all parties. This action of the State was immediately communicated by Governor Letcher to Mr. Davis, at Montgomery, with a request at the instance of the Convention, that a Commissioner should be sent by the Confederate States Government to negotiate an alliance with that Commonwealth. This position was assigned to me by Mr. Davis. I reached Richmond on the 22d of April. In the meantime another most extraordinary proclamation by Mr. Lincoln made its appearance, which should be noticed in this connection. It was in these words:

"*Whereas* an insurrection against the Government of the United States has broken out in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas, and the laws of the United States for the collection of the revenue cannot be efficiently executed therein conformably to that provision of the Constitution which requires duties to be uniform throughout the United States:

"And *whereas*, a combination of persons engaged in such

insurrection, have threatened to grant pretended Letters of Marque, to authorize the bearers thereof to commit assaults on the lives, vessels, and property of good citizens of the country lawfully engaged in commerce on the high seas, and in waters of the United States:

"And *whereas*, an Executive Proclamation has been already issued, requiring the persons engaged in these disorderly proceedings to desist therefrom, calling out a militia force for the purpose of repressing the same, and convening Congress in extraordinary session to deliberate and determine thereon:

"Now, therefore, I, Abraham Lincoln, President of the United States, with a view to the same purposes before mentioned, and to the protection of the public peace, and the lives and property of quiet and orderly citizens pursuing their lawful occupations, until Congress shall have assembled and deliberated on the said unlawful proceedings, or until the same shall have ceased, have further deemed it advisable to set on foot a blockade of the ports within the States aforesaid, in pursuance of the laws of the United States and of the laws of nations in such cases provided. For this purpose a competent force will be posted so as to prevent entrance and exit of vessels from the ports aforesaid. If, therefore, with a view to violate such blockade, a vessel shall approach, or shall attempt to leave any of the said ports, she will be duly warned by the Commander of one of the blockading vessels, who will endorse on her register the fact and date of such warning; and if the same vessel shall again attempt to enter or leave the blockaded port, she will be captured and sent to the nearest convenient port for such proceedings against her and her cargo as prize, as may be deemed advisable.

"And I hereby proclaim and declare, that if any person,

under the pretended authority of said States, or under any other pretence, shall molest a vessel of the United States, or the persons or cargo on board of her, such person will be held amenable to the laws of the United States for the prevention and punishment of piracy.

"In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed. Done at the City of Washington, this nineteenth day of April, in the year of our Lord one thousand eight hundred and sixty-one, and of the Independence of the United States the eighty-fifth."

This was signed and countersigned as the other. These two papers had rendered the Convention of Virginia, and the people of all parts of the State, except the extreme northwestern counties, almost as thoroughly united against the dangerous principles and doctrines they enunciated, as the people in the more southern States were. A Committee of the Convention, consisting of Ex-President John Tyler, William Ballard Preston, Samuel McD. Moore, James P. Holcombe, James C. Bruce, and Lewis Harvie, was appointed to confer with me on the subject of the proposed alliance. This Conference resulted in our agreeing, on the 24th. to the following Articles, entitled:

"CONVENTION BETWEEN THE COMMONWEALTH OF VIRGINIA AND THE CONFEDERATE STATES OF AMERICA.

"The Commonwealth of Virginia, looking to a speedy union of said Commonwealth, and the other slave States, with the Confederate States of America, according to the provisions of the Constitution for the Provisional Government of said States, enters into the following temporary Convention and Agreement with said States, for the purpose of meeting pressing exigencies affecting the com-

mon rights, interests, and safety of said Commonwealth and said Confederacy.

"1st. Until the union of said Commonwealth with said Confederacy shall be perfected, and said Commonwealth shall become a member of said Confederacy, according to the Constitutions of both Powers, the whole military force, and military operations, offensive and defensive, of said Commonwealth, in the impending conflict with the United States, shall be under the chief control and direction of the President of said Confederate States, upon the same principles, basis, and footing, as if said Commonwealth were now, and during the interval, a member of said Confederacy.

"2d. The Commonwealth of Virginia will, after the consummation of the union contemplated in this Convention, and her adoption of the Constitution for a Permanent Government of the said Confederate States, and she shall become a member of said Confederacy under said permanent Constitution, if the same occur, turn over to the said Confederate States all the public property, naval stores, and munitions of war, etc., she may then be in possession of, acquired from the United States, on the same terms and in like manner as the other States of said Confederacy have done in like cases.

"3d. Whatever expenditures of money, if any, said Commonwealth of Virginia shall make before the union, under the Provisional Government, as above contemplated, shall be consummated, shall be met and provided for by said Confederate States.

"This Convention entered into and agreed to in the City of Richmond, Virginia, on the 24th day of April, 1861, by Alexander H. Stephens, the duly authorized Commissioner to act in the matter for the said Confederate States, and John Tyler, William Ballard Preston, Samuel

McD. Moore, James P. Holcombe, James C. Bruce, and Lewis E. Harvie, parties duly authorized to act in like manner for the said Commonwealth of Virginia—the whole subject to the approval and ratification of the proper authorities of both Governments respectively.

"In testimony whereof, the parties aforesaid have hereto set their hands and seals, the day and year aforesaid, and at the place aforesaid, in duplicate originals."

These Articles were ratified by the Convention the next day.

While speaking of this mission and its results, I may here, by way of a short digression, state that it was in connection with it, I for the first time became personally acquainted with Robert E. Lee. The incidents attending this first acquaintance with this distinguished personage, are not without historic interest in themselves, but it is not so much with that view, as for the purpose of illustrating the character of the man, I give them. They very fully exhibited to me, at the time, the distinguishing qualities of the heart as well as of the head of the man who had already won a very honorable distinction in this country, and whose justly merited fame now extends to the limits of the civilized world. As an officer in the United States Army, he had gained a high reputation in the Mexican War. At the time of the secession of Virginia, his native State, and of which he was a citizen, he was in command of the 2d United States Cavalry Regiment, stationed in Texas. He was, however, then temporarily in Washington City, and considering his ultimate allegiance due to his State, after she had resumed the full exercise of her Sovereign Powers, he had promptly, though not without deep regret at the causes which impelled him to do it, resigned his commission, and cast his fortunes with those of the people of his own State. He

accompanied his resignation with a letter to General Scott,* which is a model of its kind, and fully characteristic of the man. He was specially devoted to the Commander-in-Chief of the Army of the United States, and I believe it is generally conceded, that the feelings of personal attachment were reciprocal between the chief and his subaltern.

My becoming acquainted with him occured in this way: The Legislature of Virginia, in view of the great dangers threatening from the position of Mr. Lincoln, had provided by law for raising ten or twenty thousand men to defend the State, and had authorized the Governor to appoint a Commander-in-Chief of all the military forces of the State, with the rank of Major-General. The Governor had appointed him to this position, and the Convention had, with great unanimity, ratified the appointment the day on which I had reached Richmond. The ceremony of General Lee's installation to this high and re-

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* "Arlington, Va., *April* 20, 1861.

"*General:*—Since my interview with you on the 18th instant, I have felt that I ought not longer to retain my commission in the army. I therefore tender my resignation, which I request you will recommend for acceptance. It would have been presented at once but for the struggle it has caused me to separate myself from a service to which I have devoted the best years of my life, and all the ability I possessed.

"During the whole of that time—more than a quarter of a century—I have experienced nothing but kindness from my superiors, and the most cordial friendship from my comrades. To no one, General, have I been as much indebted as to yourself, for uniform kindness and consideration, and it has always been my ardent desire to merit your approbation. I shall carry to the grave the most grateful recollections of your kind consideration, and your name and fame will always be dear to me.

"Save in defence of my native State, I never desire again to draw my sword. Be pleased to accept my most earnest wishes for the continuance of your happiness and prosperity, and believe me, most truly yours,

"R. E. Lee.

'Lieutenant General Winfield Scott,

"*Commanding United States Army.*"

sponsible office, was to take place in the Convention the day after. This came off according to the programme, in a very imposing form.

General Lee was escorted into the Hall of the House of Representatives, in which the members of the Convention were assembled, where I was also by invitation, and, upon being presented to that body, Mr. John Janney, the President, rose and addressed him in a speech of some length, which produced a profound sensation. I will read such parts of it as are pertinent to present purposes. These are as follows:

"Major-General Lee, in the name of the people of your native State here represented, I bid you a cordial and heartfelt welcome to this hall, in which we may almost yet hear the echo of the voices of the statesmen, the soldiers, and sages of by-gone days, who have borne your name, and whose blood now flows in your veins.

"We met in the month of February last, charged with the solemn duty of protecting the rights, the honor, and the interests of the people of this Commonwealth. We differed for a time as to the best means for accomplishing that object; but there never was, at any moment, a shade of difference among us as to the great object itself.

"When the necessity became apparent of having a leader for our forces, all hearts and eyes, by the impulse of an instinct which is a surer guide than reason itself, turned to the old county of Westmoreland. We knew how prolific she had been in other days, of heroes and statesmen. We knew she had given birth to the Father of his Country, to Richard Henry Lee, to Monroe, and last, though not least, to your own gallant father; and we knew well by your deeds, that her productive power was not yet exhausted.

"Sir, we watched with the most profound and intense

R E Lee

interest the triumphal march of the army led by General Scott, to which you were attached, from Vera Cruz to the Capital of Mexico. We read of the sanguinary conflicts, and the blood-stained fields, in all of which victory perched upon our own banners. We knew of the unfading lustre that was shed upon the American name by that campaign, and we knew, also, what your modesty has always disclaimed, that no small share of the glory of those achievements was due to your valor and your military genius.

"Sir, one of the proudest recollections of my life will be to the honor that I yesterday had of submitting to this body, confirmation of the nomination made by the Governor of this State, of you as Commander-in-chief of the military and naval forces of this Commonwealth. I rose to put the question, and when I asked if this body should advise and consent to that appointment, there rushed from the hearts to the tongues of all the Members, an affirmative response, told with an emphasis that could leave no doubt of the feeling whence it emanated. I put the negative of the question for form's sake, but there was an unbroken silence.

"Sir, we have by this unanimous vote, expressed our convictions that you are at this day among the living citizens of Virginia, 'first in war.' We pray to God most fervently that you may so conduct the operations committed to your charge, that it will soon be said of you, that you are 'first in peace;' and when that time comes, you will have earned the still prouder distinction of being 'first in the hearts of your countrymen.'"

At the close of this address, General Lee in a clear, distinct, full volumed, as well as melodious voice, replied as follows:

"Mr. President, and Gentlemen of the Convention:—

Profoundly impressed with the solemnity of the occasion, for which, I must say, I was not prepared, I accept the position assigned me by your partiality. I would have much preferred your choice had fallen upon an abler man. Trusting in Almighty God, an approving conscience, and the aid of my fellow-citizens, I devote myself to the service of my native State, in whose behalf alone will I ever again draw my sword."

All the force which personal appearance could add to the power and impressiveness of the words, as well as sentiments uttered by him, was imparted by his manly form, and the great dignity as well as grace in his every action and movement. All these, combined, sent home to the breast of every one the full conviction that he was thoroughly impressed himself with the full consciousness of the immense responsibility he had assumed. A more deeply interesting or solemn scene of the character I never witnessed.

So much for this ceremony by way of premise, and what occurred at my first *sight* of General Lee. This is not that first *acquaintance* with the man of which I spoke. That occurred on the evening of this memorable day, and at my quarters in the Ballard House, and requires something further still by way of premise.

On my arrival at Richmond, and hearing what had been done by the Governor and the Convention, in relation to the rank of General Lee, I knew full well that every thing pertaining to the success of the mission depended mainly upon this man. For no practical alliance, as matters then stood, could be formed between the Confederate States and the Commonwealth of Virginia, which would not in effect, or might not in effect, *raise* to some extent the high official position and rank just conferred upon him. This I felt quite certain the Con-

vention would be exceedingly reluctant to agree to, and would not agree to unless the members became perfectly satisfied that the measure, having even by possibility this effect, met with his full and cordial approval. If Virginia came into an alliance with the Confederate States, her Commander-in-Chief, by virtue of the State commission, would necessarily have to be subordinate to officers of lower grade or rank in the Confederate Army in certain contingencies. The highest grade in the Confederate Army, at that time, was that of Brigadier-General.

Of the man personally I knew nothing, but feeling assured that all depended in a great degree upon him, my first object was to see how the land lay in that quarter. Upon invitation, he met me at my quarters in a private conference that evening. It was at this conference I first became acquainted with the man. I unfolded to him, with perfect candor, the object of my mission, the nature of the alliance I should propose, and particularly the effect it might have upon his official rank and position. There was on his part equal candor and frankness—no reserve whatever. He understood the situation fully. With a clear understanding of its bearing upon himself individually, he expressed himself as perfectly satisfied, and as being very desirous to have the alliance formed. He stated, in words which produced thorough conviction in my mind of their perfect sincerity, that he did not wish anything connected with himself individually, or his official rank or *personal* position, to interfere in the slightest degree with the immediate consummation of that measure, which he regarded as one of the utmost importance in every possible view of public considerations. From what occurred, I felt quite assured that there was no danger in the quarter from

which I had apprehended that there might probably be the most.

The omission in the Articles to make special provision for General Lee's official rank, was soon discovered in the Convention. The Commissioners on the part of the State were urged to get a change made in this particular. I was appealed to by a number of the members on the subject. Knowing that no such change could be made, and feeling the deepest solicitude in the result, I barely referred all parties approaching me in relation to it, to General Lee himself. I advised them to consult him, and to submit the whole matter to him, as he was the party immediately interested, and assured them that I believed he would cordially approve what had been done; and if he did, I thought the Convention ought to be satisfied. He was thoroughly sounded by several of his most devoted friends in the Convention, who left him feeling as fully assured as I did that he was perfectly satisfied with the Articles as they stood, and that there was no bare affectation on his part in this matter. The truth is, a look, or an intonation of voice even, at this time, which would have *indicated* that his professed satisfaction was not the real and unaffected feeling of his heart, would have defeated that measure. This I knew; but the result was as I believed it would be from the time of our first interview.

General Lee on this occasion, as well as on the occasion of the resignation of his commission in the United States Army, after Mr. Lincoln had made the most tempting offers to him, as has been stated by high authority,*

* "The President of the United States, through one of the Cabinet, offered him the immediate command of the army, and General Scott implored him to remain. Statement of Hon. Montgomery Blair, in the *National Intelligencer*, August 9, 1866." *McCabe's Life of General Lee*, page 29.

showed a personal disinterestedness, and an unselfish devotion to principles and country, rarely to be met with in this world. These are the facts in relation to him, which I have thought not inappropriate to state in this connection. It was on this occasion and in this way, when put to the test in this severe crucible, he exhibited those sterling inner qualities of the man which greatly exalted him in my estimation on our first acquaintance, and which have contributed in no small degree, to the brilliant lustre that crowns his public character throughout his great career, even under the most adverse fortunes of war. But to return from this digression.

The Convention being fully assured, that General Lee was perfectly satisfied with the Articles as they stood, immediately ratified them with an additional Ordinance in these words:

"*An Ordinance for the adoption of the Constitution of the Provisional Government of the Confederate States of America.*

"We, the Delegates of the people of Virginia, in Convention assembled, solemnly impressed by the perils which surround the Commonwealth, and appealing to the Searcher of hearts for the rectitude of our intentions in assuming the grave responsibility of this act, do by this Ordinance adopt and ratify the Constitution of the Provisional Government of the Confederate States of America, ordained and established at Montgomery, Alabama, on the 8th day of February, eighteen hundred and sixty-one: Provided, that this Ordinance shall cease to have any legal operation or effect, if the people of this Commonwealth, upon the vote directed to be taken on the Ordinance of Secession passed by this Convention, on the 17th day of April, eighteen hundred and sixty-one, shall reject the same."

They also elected a delegation to represent the State in the Provisional Congress at Montgomery. This delegation consisted of William C. Rives, Robert M. T. Hunter, John W. Brockenbrough, and Waller R. Staples.

In this connection it is also proper to state, before leaving Virginia, that the popular vote on the ratification of the Ordinance of Secession, which was taken on the fourth Thursday in May, as provided for in the Ordinance itself, resulted in 125,950 being cast in favor of the ratification, and 20,373 against it. This opposition minority was mostly in the Northwestern counties. The Eastern and Southwestern portions of Virginia were almost unanimous in favor of it. In the central portion of the State, there were very few against it, and even in Alexandria, one of the strongest Union populations in the State before this, there were only 106 votes against the Ordinance, while there were 900 in favor of it. The impression attempted to be made, that this election was carried by the soldiery, or by threats or intimidation, is utterly without foundation in fact. The true solution of it is to be found in such appeals as that put forth by Alexander H. H. Stuart, a Union Delegate to the State Convention, who had opposed Secession to the last. In an address made to the people through the press, amongst other things, he said:

"In my judgment, it is the duty of all good citizens to stand by the action of the State. It is no time for crimination or recrimination. We cannot stop now to inquire who brought the troubles upon us, or why. It is enough to know that they are upon us; and we must meet them like men. We must stand shoulder to shoulder. Our State is threatened with invasion, and we must repel it as best we can."

John B. Baldwin, another man of eminent ability who

occupied a similar position to that of Mr. Stuart, came out with equal decision and earnestness. William C. Rives, formerly United States Senator, twice Minister to France, who stood by the Union as long as there was hope, now went with the State heart and soul. Many more of this class might be named. The feelings and views of the most devoted friends of the Union in Virginia, were in the main not unlike those of the same class in Georgia. But the masses of the people were really ahead of their leaders on this subject in both these States. So much for the general state of things in Virginia for the present.

We will now turn our attention to the progress of events in the other Border States. In North Carolina, Governor John W. Ellis, two days after his reply to the call for troops under Mr. Lincoln's Proclamation, as we have seen, convened the Legislature to meet the 1st of May. He also issued an order for the enlistment of 30,000 men to march at a day's notice. The Legislature, immediately on assembling, passed an Act providing for the election of delegates to another Sovereign Convention of the State. At this election the Delegates were to be clothed with plenary powers. The election was directed to take place on the 13th of May, and the Convention to meet on the 20th of May. This Convention on the day of its meeting, which was the eighty-sixth anniversary of the Mecklenburg Declaration of Independence, passed an Ordinance of Secession with great unanimity. They sent Thomas L. Clingman as special Commissioner to Montgomery, and afterwards elected a full delegation to the Confederate Provisional Congress.

"In Tennessee, Governor Harris, also, immediately after his reply to the call for troops under Mr. Lincoln's proclamation, summoned an extra session of the Legisla-

ture to meet on the 25th of April. In no State perhaps did this Proclamation of the 15th of April, by Mr. Lincoln, produce a greater effect than it did in Tennessee. Many of the strongest Union men in the State, up to this time, then declared themselves thoroughly for Secession. Amongst these was Felix K. Zollicoffer. When the Legislature assembled on the 25th of April, a large majority were found to be in favor of immediate Secession. About this time Neil S. Brown, formerly Governor of the State, who had theretofore strenuously opposed Secession, appeared before the public in a letter, in which he said:

"I have hoped obstinately against such an alternative; but the conviction is forced upon my mind, that it is the settled policy of the Administration, and, so far as I can see, of the whole North, to wage a war of extermination against the South."

Mr. Zollicoffer also appeared in a letter, in which he said:

"We are involved in war, and no mistake, waged for the purpose of humbling the Southern States. It cannot be done. But we must have unity, energy, and action, to save ourselves. Let us drop Party, and Party names. Let us emulate the glorious example of our fathers in arms. We must not, can not, stand neutral, and see our Southern brothers butchered."

On the 30th of April, Henry W. Hilliard, of Alabama, a man of high character, who had been connected with the Diplomatic service of the United States, as *Charge d'Affaires* at Belgium, under President Tyler's Administration, appeared before the Legislature as a Commissioner from the Confederate States, and addressed that body upon the subject of forming an alliance with the State of Tennessee.

On the 1st of May, the Legislature, by Joint Resolu-

tion, directed the Governor to enter into such an alliance. The Governor immediately appointed Gustavus A. Henry, Archibald O. W. Totten, and Washington Barrow, as Commissioners, on the part of the State, for that purpose. On the 7th of May, an alliance, or convention, was entered into between the respective parties in the same language, names and dates being changed, as that which had been entered into by Virginia, which was immediately communicated to the Legislature by the Governor. It was ratified in both Houses. In the Senate, on its adoption, the vote was fourteen in favor to six against it. In the House the vote was forty-two in favor to fifteen against it.

On the day previous, the 6th of May, the Legislature had passed an Ordinance entitled: "An Act to submit to the vote of the people a Declaration of Independence, and for other purposes." This Ordinance, or Act, provided that the Governor should order the respective officers in each county to hold the polls open in their several precincts on the 8th day of June ensuing, and that a certain Declaration therein specifically set forth should be submitted to a vote of the qualified voters of the State for their ratification or rejection. This was an Ordinance of Secession. The Act further provided that the vote should be by ballot, and that those voting for the Declaration, or Ordinance, should have on their ballots the word, "Separation," and those voting against it should have on their ballots the words, "No Separation." The returns were to be made to the Secretary of State by the 24th of June, and if a majority of the votes were given for Separation, the Governor was required immediately to issue his Proclamation, declaring all connection by the State of Tennessee with the Federal Union dissolved, and that Tennessee is a Free, Independent Government, free from

all obligations to, or connection with, the Federal Government.

The Act further set forth specifically, an Ordinance for the adoption of the Constitution of the Provisional Government of the Confederate States, and directed that all voters in favor of that measure, looking to a representation in the Confederate Congress, should have written on their ballots the word "Representation," and those opposed to it should have written on their ballots "No Representation." The Act also provided for an election of delegates to the Confederate Congress, in case the Provisional Constitution should be adopted by the popular vote, so directed to be taken.

This Act, so submitting the question of Secession, and the adoption of the Provisional Constitution of the Confederate States, passed the Senate by a vote of twenty yeas to four nays; and passed the House by a vote of forty-six yeas to twenty-one nays. On the questions so submitted to the people for their decision on the 8th of June, the majority in favor of the adoption of both the Ordinances, so set forth in this Act of the Legislature, was over 57,000.* A full delegation was also chosen at this election, to represent the State in the Confederate Congress.

In Arkansas, the President of the State Convention, upon the publication of Mr. Lincoln's Proclamation of

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* The vote in the several divisions of the State was as follows, on the Ordinance of Separation:

	For Separation.	No Separation.
East Tennessee,	14,780	32,923
Middle Tennesse,	58.265	8,198
West Tennessee,	29,127	6,117
Military Camps,	2,741	
	104,913	47,238
	47,238	
Majority,	57,675	

the 15th of April, immediately issued a call for the reassembling of that Convention on the 6th of May. On that day the Convention met agreeably to the call, and immediately passed an Ordinance of Secession, with only one dissenting vote. On the adoption of the Ordinance, there were sixty-nine votes in the affirmative, and one in the negative. Immediate steps were also taken by the Convention to unite with the Confederate States. They elected a delegation to represent Arkansas in the Confederate Congress. This delegation consisted of Robert W. Johnson, Albert Rust, Augustus H. Garland, W. H. Watkins, and W. F. Thomason.

In Missouri, Governor Jackson, after his reply to the call for troops under the Proclamation, convened the State Legislature, but "declared his policy to be in favor of peace, saying that he convened the Legislature only for the purpose of more perfectly organizing the militia, and putting the State in a proper attitude of defence. He urged the President of the State Convention not to call that body together for the passage of a Secession Ordinance; he was in favor of retaining the present *status* of the State, leaving it to time and circumstances, as they might arise, to determine the best course for Missouri to pursue. He thought the President, in calling out troops to subdue the Seceded States, threatened civil war, and he pronounced the act unconstitutional, and as tending towards the establishment of a consolidated Despotism. He recommended ample preparations against aggressions by all assailants. He appealed to the Legislature to do nothing imprudently or precipitately, but endeavor to unite all for the preservation of the honor of the State, the security of property, and the performance of the high duties imposed by their obligations to their country and to their God." *

* *Appleton's Annual Cyclopædia*, 1861, p. 479.

No further immediate steps were taken for a union of the fortunes of Missouri with those of the Confederate States. The object of Governor Jackson seems to have been to hold Missouri in a position of neutrality. In this, however, his efforts failed. The State was soon plunged into all the horrors of civil war.

In Kentucky, Governor Magoffin, after his reply to the Federal call for troops, convened an extra session of the Legislature, which met on the 6th of May. In the House of Representatives, a series of Resolutions was passed approving the refusal of the Governor to furnish troops to the Federal Government, and "declaring that Kentucky should maintain a strict neutrality during the present contest." Their object in reference to Kentucky was similar to that of Governor Jackson in reference to Missouri. In this policy some of the strongest Union men of the State concurred. An address to the people of Kentucky, on the condition of the country, was made by a Committee of what was called the Union Party of the State, declaring it to be the duty of the State to maintain neutrality, and to take no part either with the Government or the Confederates. "Kentucky," they said, "could not comply with the appeal of the Government without outraging her solemn convictions of duty, and without trampling upon that natural sympathy with the Seceding States, which neither their contempt for her interests, nor their disloyalty to the Union, had sufficed to extinguish. The present duty of Kentucky was to maintain her present independent position, taking sides not with the Government, and not with the Seceding States, but with the Union, against them both; declaring her soil to be sacred from the hostile tread of either, and, if necessary, making the declaration good with her strong right arm. And to the end that she might be fully pre-

pared for this last contingency, and all other possible contingencies, they would have her arm herself thoroughly, at the earliest practicable moment." *

On the 19th of April, Mr. James Guthrie, one of the most distinguished men of the State, who had been Secretary of the Treasury under Mr. Pierce, and who had taken the most prominent lead in the Peace Congress, addressed a Union meeting at Louisville. He opposed the call of the President for troops, and asserted that Kentucky would not take part with either the Federal or Confederate side in the pending contest. He declared her soil sacred against the hostile foot of either. So matters continued to stand in Kentucky for some time.

From this rapid glance at these almost simultaneous as well as most eventful movements, it appears that the effect of these Proclamations of Mr. Lincoln was, in less than thirty days, to drive the inner tier of the four Border States, so-called, from the old into the new Confederacy. Before the 15th of May, Virginia, Tennessee, North Carolina, and Arkansas, were fully united, not only in heart, but in energy and fortunes, politically, with the Confederate States. This accession, besides its moral effect, was of great importance to them in view of the material advantages attending it. These States brought an aggregate increase, in area of territory, of 204,150 square miles; a like aggregate increase of population of 4,134,191; and a like aggregate increase of real and personal taxable property, of the value of $1,260,770,445. Swelling the grand aggregate, in these particulars, of the eleven Confederate States as now organized, to 727,448 square miles of territory—and 9,103,333 of population, White and Black—and $3,441,596,607 of taxable property.

* *Appleton's Annual Cyclopœdia for* 1861, p. 396.

The territory within the actual limits of the other twenty-two States, in January, 1861, covered an area, in the aggregate, of 941,149 square miles. There was, at the same time, outside of the limits of the organized States, 1,294,949 square miles of public domain, to which the Seceded States were jointly entitled with the other States. These other twenty-two States, after the eleven had withdrawn, had an aggregate population, White and Black, of 22,030,159. Their taxable property, real and personal, according to assessment, was of the value of $6,822,493,901.

Prof. Norton. In your estimate of the taxable property of the Seceded States, you have, I suppose, included the assessed value of the slaves? A large portion of the wealth of the Southern States at that time, consisted in slaves. If that element be taken out, it will greatly lessen your grand aggregate in this particular.

Mr. Stephens. No; that element is not in this grand aggregate at all. The $3,441,596,607 representing the assessed value of real and personal property in the eleven Confederate States, is over and above the estimated value of their slaves. That amounted nearly to two thousand million of dollars itself! This, however, is digressing from the point in hand. My object was simply to show, at this stage of our investigation, the effect of these two proclamations of Mr. Lincoln upon the public mind, in the then Border States, and the accessions it secured from them to the Confederate States.

Judge Bynum. A most unaccountable effect it was too, as it seems to me, to have been produced by such a cause; for I can see nothing in either of these Proclamations which was not required of him in the faithful discharge of his duties, under his oath of office.

Mr. Stephens. There again is where we shall, perhaps,

have to agree to disagree, I suppose; for this not being a matter involving a question of fact, so much as the proper conclusion which should be drawn from admitted facts, will, as other like points, have to be left to the judgment of mankind. For myself, I can only say that, so far from his oath of office requiring him to do anything of the sort, its requirements were just the other way. He was sworn to "preserve, protect and defend the Constitution," and "faithfully to execute the office of President of the United States." This oath imposed a solemn obligation on him not to violate the Constitution, or to exercise, under color of his office, any power not conferred upon him by that instrument. He was required to see to the faithful execution of the laws of the United States, as passed by the Congress of States, and as construed by the Judiciary. He said in the first of these Proclamations that he made the call for the militia "in virtue of the power vested in him by the Constitution and the laws." But no such power was vested in him by the Constitution, nor was there any law of the United States authorizing him to call out the militia for any such purposes as those for which he made this call, nor was there any law authorizing him "to set on foot" the Blockade he did in the second of these Proclamations. It is true, he said he did it in pursuance of law, but there was no such law. As these two papers did produce such an effect, they deserve special notice. We will, therefore, take them up in order. In reference to the first, I have this to say, that Congress alone has power, under the Constitution, to declare war and to raise armies. Congress alone has power to provide by law for calling out the militia of the several States. This Congress had done, but had not provided for calling them out under any such state of things as existed when this Proclamation was issued by Mr. Lincoln.

Judge Bynum. He certainly had power to call out the militia to suppress an insurrection in a State?

Mr. Stephens. Not at all! The President under the Constitution has no power to call out the militia to suppress an insurrection in a State, except "on application of the Legislature" of a State, "or of the Executive, when the Legislature cannot be convened." This is one of the provisions of the Constitution, which Mr. Lincoln swore to "preserve, protect and defend." That clause of the Constitution is amongst the mutual covenants* between the States guaranteeing to each a "Republican Form of Government" and "protection against invasion and domestic violence." It contemplated and authorized no interference whatever, on the part of the Federal authorities, with the internal affairs of the several States, unless called upon for that purpose, either by the Legislature of a State, or by the Governor, when the Legislature could not be assembled. Congress had by law, passed in 1795, provided how this guarantee should be made good, and had directed how the President should act in making it good, when so called upon by the State authorities. He had no authority to take any action in the suppression of an insurrection in a State, except in conformity to this provision of the Constitution and the laws which had been passed by Congress for carrying it out. But no application had been made to him by the Legislature of South Carolina, nor any other State. Neither had the Governor of South Carolina, nor any other of the Seceded States, applied to him for aid in this respect, under that clause of the Constitution.

If by insurrection you mean an armed resistance to the execution of the Federal laws, or against the Federal authorities in any particular State, then it is equally

* *Ante*, vol. i, pp. 183-4.

clear that he was not authorized either by the Constitution or laws of the United States, to use military force of any kind, except as "a *posse comitatus*" in aid of the civil authorities. This was provided for by the Act of 1807. In this way, and in this way only, could the President, under his oath, use the military forces at his command in the execution of Federal laws.

On this point, Mr. Douglas, in his speech on the 15th of March, in the Senate, from which I have read before,* in relation to the policy of withdrawing the Federal troops from the Forts in the Seceded States, was so clear, conclusive, and unanswerable, that I will here read a portion of it in further reply to your view. In this speech, on this point, Mr. Douglas said:

"But we are told that the President is going to enforce the laws in the Seceded States. How? By calling out the militia and using the Army and Navy! These terms are used as freely and as flippantly as if we were in a Military Government where martial law was the only rule of action, and the will of the Monarch was the only law to the subject. Sir, the President cannot use the Army, or the Navy, or the militia, for any purpose not authorized by law; and then he must do it in the manner, and only in the manner, prescribed by law. What is that? If there be an insurrection in any State against the laws and authorities thereof, the President can use the military to put it down only when called upon by the State Legislature, if it be in session, or, if it cannot be convened, by the Governor. He cannot interfere except when requested. If, on the contrary, the insurrection be against the laws of the United States instead of a State, then the President can use the military only as a *posse comitatus* in aid of the marshal in such cases as are

* *Ante*, p. 351.

so extreme that judicial authority and the powers of the Marshal cannot put down the obstruction. The military cannot be used in any case whatever, except in aid of civil process to assist the marshal to execute a writ. I shall not quote the laws upon this subject; but if gentlemen will refer to the Acts of 1795, and 1807, they will find that under the Act of 1795, the militia only could be called out to aid in the enforcement of the laws when resisted to such an extent that the marshal could not overcome the obstruction. By the Act of 1807, the President is authorized to use the Army and Navy to aid in enforcing the laws in all cases where it was before lawful to use the militia. Hence the military power, no matter whether Navy, regulars, volunteers, or militia, can be used only in aid of the civil authorities.

"Now, Sir, how are you going to create a case in one of these Seceded States, where the President would be authorized to call out the military? You must first procure a writ from the Judge describing the crime; you must place that in the hands of a Marshal, and he must meet such obstructions as render it impossible for him to execute it; and then, and not till then, can you call upon the military. Where is your Judge in the Seceded States? Where is your Marshal? You have no civil authorities there, and the President, in his inaugural, tells you he does not intend to appoint any. He said he intended to use the power confided to him, to hold, occupy, and possess the Forts, and collect the revenue; but beyond this he did not intend to go. You are told, therefore, in the inaugural, that he is going to appoint no Judges, no Marshals, no civil officers, in the Seceded States, that can execute the law; and hence, we are told that he does not intend to use the Army, the Navy, or the Militia, for any such purpose. Then, Sir, what cause is there for appre-

hension, that the President of the United States is going to pursue a war policy, unless he shall call Congress for the purpose of conferring the power and providing the means? I presume no Senator will pretend that he has any authority, under the existing law, to do anything in the premises except what I have stated, and in the manner I have stated. If I am mistaken in regard to these laws, I shall be obliged to any Senator who will correct me. I have examined them carefully, and I think I have stated them accurately; but if not, I should like to be corrected.

"But it may be said that the President of the United States ought to have the power to collect the revenue on ship-board, to blockade the ports, to use the military to enforce the law. I say, it may be said he ought to have that power. Be that as it may, the President of the United States has not asked for that power. He knew that he did not possess it under the existing laws—for we are bound to presume that he is familiar with the laws which he took an oath to execute. We are bound to presume that he knew, when he spoke of collecting revenue, that he had no power to collect it on ship-board, or elsewhere than at the ports. We are bound to presume that, when he said he would use the power confided to him to hold, occupy, and possess the Forts and other property of the United States, he knew he could not call out the militia for any such purpose, under the existing law. We are bound to presume that he knew of this total absence of power on all these questions." *

In this speech Mr. Douglas was no less accurate in his facts, than he was correct in his position upon the laws and the Constitution. There was not, at the time, a civil officer of the Federal Government of any kind, in any of

* *Congressional Globe, Part* 2, 36*th Congress*, 2*d Session*, p. 1458.

the Seceded States. There was no Federal Collector, or Federal Judge, or Federal Solicitor, or Federal Marshal throughout the limits of the Confederate States, to be resisted or interfered with in any way, by combinations of any sort, either "powerful" or weak! Those in office had all resigned, and no new ones had been appointed. There was, of course, no judicial process to be resisted or obstructed in any way. There were no civil authorities to be aided in the execution of Federal laws. This call for troops, therefore, was neither in aid of the execution of any law, nor in pursuance of the provisions of any law. It was nothing short of a clear and palpable usurpation of power, under color of office! This is enough for the present, in reference to the first of these Proclamations.

We will now briefly examine the second of these extraordinary edicts—the one "setting on foot" a Blockade of the Ports of the Confederate States. This is extraordinary, not only for its clear usurpations of power, but for the strange inconsistencies with itself, which so glaringly appear upon its very face.

First. If the Ordinances of Secession were void, upon which assumption the Proclamation was based, then the Seceded States were still in the Union with all their Ports, and under the Constitution no discrimination could be made between them and other ports of the United States, either by Congress or the President, without a violation of this solemn Compact of Union. This provision of the Constitution, Mr. Lincoln's oath of office required him to "preserve, protect, and defend;" and yet, in this Proclamation, without any regard to the requirement of his oath in this particular, he openly, and avowedly, put under blockade the ports of seven States, which he claimed as still members of the Union! This too, he

said he did in pursuance of law! What law? Did Congress ever pass any law for the blockading of our own Ports? Never!

But, on the other hand, secondly: If the Secession Ordinances were valid, and the Confederate States were, as they claimed to be, a foreign power, so far as concerned their relations to the United States, then this Proclamation was equally a palpable violation of the Constitution, because *it was an act of war*, which the President had no right to resort to, unless first authorized and empowered by Congress.

Viewed in either light, therefore, it was unquestionably a most flagrant usurpation of power! The Blockade was in no sense a measure to aid the civil authorities in the collection of revenues at Charleston, or elsewhere. It was in effect, as well as design, a war measure! Its purpose was to weaken an acknowledged Belligerent. If a blockade had been necessary or proper, either to suppress a rebellion or to weaken a neighboring foreign inimical Power, Congress alone had authority, under the Constitution, to "set it on foot."

Then, again, the Proclamation was itself most strangely utterly inconsistent with the assumption on which it was based. The act of blockading the ports of the Confederate States, by the very laws of nations to which he refers, was an acknowledgment of Public War—*not an Insurrection or Rebellion;* which acknowledgment carried upon its very face a concession to the Confederate States of all the rights of Belligerents, in a Public War, under the laws of nations. This was the necessary effect and legitimate consequence of the measure itself. But this most extraordinary paper, after thus conceding, as it did, *by its very terms*, all the rights of Belligerents, under the laws of nations, went on to declare a purpose to consider and punish as *pirates* any persons who might

engage, under "*letters of marque*," on the high seas, on the opposite side, in this Public War, so recognized by him! By the laws of nations, *Privateers* are not *pirates*, as Mr. Lincoln himself afterwards admitted, at least by his acts. As very pertinent to this subject, so far as relates to Mr. Lincoln's authority to issue this Proclamation, I will read another portion of the same speech of Mr. Douglas. Here is what he said in reference to a Blockade of Southern Ports under the circumstances:

"But we are told the country is to be precipitated into war by blockading all the Southern ports; *blockading ports within the United States; blockading our own ports, with our own Army and Navy! Where is the authority for that?* What law authorizes the President of the United States to blockade Federal ports at discretion? He has no more authority to blockade New Orleans or Charleston than he has to blockade New York or Boston; and no more legal right to blockade Mobile than Chicago. Sir, I cannot consent that the President of the United States may, at his discretion, blockade the ports of the United States or of any other country. He can do only what the Constitution and Laws authorize him to do. He dare not attempt to obstruct commerce at the mouth of the Mississippi river, or at Mobile, or at any other port in the Seceded States, or even those that have remained loyal to the Constitution and to the Union. The intimation that he is to do this, implies a want of respect for the integrity of the President, or an ignorance of the laws of the land on the part of those who are disturbing the harmony and quiet of the country by threats of illegal violence."

In this connection, I will also call your attention to what even Mr. Webster said on the same subject, in 1832, in the days of Nullification. He was addressing

a Massachusetts audience—a Convention of his Party at Worcester. What I propose to read is as follows:

"Now, sir, I think it exceedingly probable that the President may come to an open rupture with that portion of his original Party which now constitutes what is called the Nullification Party. I think it likely he will oppose the proceedings of that Party, if they shall adopt measures coming directly in conflict with the laws of the United States. But how will he oppose? What will be his course of remedy? Sir, I wish to call the attention of the Convention, and of the people, earnestly to this question—How will the President attempt to put down Nullification, if he shall attempt it at all?

"Sir, for one, I protest in advance against such remedies as I have heard hinted. The Administration itself keeps a profound silence, but its friends have spoken for it. We are told, sir, that the President will immediately employ the military force, and at once blockade Charleston! A military remedy, a remedy by direct belligerent operation, has been thus suggested, and nothing else has been suggested, as the intended means of preserving the Union. Sir, there is no little reason to think, that this suggestion is true. We cannot be altogether unmindful of the past, and, therefore, we cannot be altogether unapprehensive for the future. *For one, Sir, I raise my voice beforehand against the unauthorized employment of military power*, and *against superseding the authority of the laws*, by an *armed force, under pretence of putting down Nullification*. The President has no authority to blockade Charleston; the President has no authority to employ military force, till he shall be duly required so to do by law, and by the civil authorities. His duty is to cause the laws to be executed. His duty is to support the civil authority. His duty is, if the laws be resisted,

to employ the military force of the country, if necessary, for their support and execution; but to do all this in compliance only with law, and with decisions of the tribunals." *

It is useless to multiply arguments or authorities on this point. It seems to me there ought to be, and can be no rational controversy upon the subject. In the forum of reason, these Proclamations of Mr. Lincoln must be considered as gross violations of the Constitution, and most unscrupulous usurpations of power. The people of the Southern States were too well versed in Constitutional doctrines, and too thoroughly wedded to the principles of Liberty derived from their ancestors, not to be thoroughly aroused by the dangers thus portentously threatened against the very foundations of Free Institutions. They looked upon these Proclamations, and rightly too, as I think, as their English ancestors looked upon the royal edicts of Charles I, for ship money, and other equal outrages upon their well established Rights. Even the strongest Union men, as Mr. Zollicoffer, Neil S. Brown, and John Bell, of Tennessee, John Janney, Robert Scott, and William C. Rives, of Virginia, to say nothing of others of the same class in that State, and thousands of others of the same class in other States, who resisted Secession to the last, now saw that this claim of Executive power unless checked, sooner or later, would lead inevitably to a centralized Despotism. These are the considerations which produced the wonderful effect of these most extraordinary papers. And to show that these apprehensions were right, that they were well founded, and that the Administration at Washington was aiming at a complete overthrow of the Institutions of the country, I may, as well here as elsewhere, call

* *Works of Daniel Webster*, vol. i, p. 273.

attention to three other Presidential Proclamations, which followed each other in quick succession, and all on the same line of progress towards Despotic Power. First, the one of the 27th of April extending the Blockade to Virginia and North Carolina, after they had taken steps to ally themselves with the Confederate States. Then the one of the 3d of May, which is in these words:

"Whereas, existing exigencies demand immediate and adequate measures for the protection of the national Constitution and the preservation of the national Union, by the suppression of the insurrectionary combinations now existing in several States for opposing the laws of the Union, and obstructing the execution thereof, to which end a military force in addition to that called forth by my Proclamation of the fifteenth day of April, in the present year, appears to be indispensably necessary, now, therefore, I, Abraham Lincoln, President of the United States, and Commander-in-Chief of the Army and Navy thereof, and of the militia of the several States, when called into actual service, do hereby call into the service of the United States forty-two thousand and thirty-four volunteers, to serve for a period of three years, unless sooner discharged, and to be mustered into service as infantry and cavalry. The proportions of each arm, and the details of enrolment and organization, will be made known through the Department of War; and I also direct that the regular army of the United States be increased by the addition of eight regiments of infantry, one regiment of cavalry, and one regiment of artillery, making altogether a maximum aggregate increase of 22,714 officers and enlisted men, the details of which increase will also be made known through the Department of War; and I further direct the enlistment, for not less than one nor more than three years, of 18,000 seamen, in addition to the

present force, for the naval service of the United States. The details of the enlistment and organization will be made known through the Department of the Navy. The call for volunteers, hereby made, and the direction of the increase of the regular army, and for the enlistment of seamen hereby given, together with the plan of organization adopted for the volunteers and for the regular forces hereby authorized, will be submitted to Congress as soon as assembled.

"In the meantime, I earnestly invoke the co-operation of all good citizens in the measures hereby adopted for the effectual suppression of unlawful violence, for the impartial enforcement of constitutional laws, and for the speediest possible restoration of peace and order, and with those of happiness and prosperity throughout our country.

"In testimony whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed. Done at the City of Washington, this third day of May, in the year of our Lord one thousand eight hundred and sixty one, and of the Independence of the United States the eighty fifth."

He still speaks of "insurrectionary combinations" in the Seceded States to "oppose" and "obstruct" the Federal officers in the execution of the laws, as if there was a single Federal civil officer to execute any law within their entire limits, for whose aid the force was to be used. It was under the pretence that there were such officers that the force was called out, but really for very different purposes. In this Proclamation, moreover, Mr. Lincoln actually increased the Army 64,748 men, and the Navy 18,000 men, by his own act, without the shadow of lawful or Constitutional authority. No ukase of the Autocrat of Russia was ever more imperial or absolute in its character!

Even before this, as early as the 27th of April, he had, by an order to the Commanding General of the Army, authorized him to suspend the Privilege of the Writ of *Habeas Corpus* in certain localities, but it was not until the 10th of May that the *initiative Proclamation* for the general suspension of the privilege of this Writ made its appearance. This seems to have been a feeler to test public sentiment in the "*loyal* States," so-called. It was evidently experimental in its character; and as an experiment, it was tried first on the Islands, on the coast of Florida. Seeing by this experiment thus made, that he might, with impunity, proceed further in the same direction, this initiative step was not long afterwards followed by the bolder one of a virtual general suspension of the privilege of this Writ throughout the United States, by like orders to commanding Generals. By these acts successively, the most direct blows were struck at the very vitals of civil liberty as secured by England's Great Charter, and which was the priceless heritage of the people of all these States!

It was in the full exercise of this despotic power that Mr. Seward boasted, in conversation with Lord Lyons, that he could do what her Majesty, Queen Victoria, could not do. In this conversation with the British Minister, Mr. Lincoln's Secretary of State is reported to have said: "I can touch a bell on my right hand and order the arrest of a citizen of Ohio. I can touch the bell again and order the arrest of a citizen of New York. Can Queen Victoria do as much?"* He well knew that she could not, and that no Crowned Head in Europe, not even the Czar of Russia, could do more!

This Proclamation of the 10th of May, being, as it was, the initiative public step to the more general assumptions

* *Fowler's Sectional Controversy*, page 350.

of power which followed subsequently on the same line, deserves special notice at this time. Here it is:

"*Whereas*, An insurrection exists in the State of Florida, by which the lives, liberty, and property of loyal citizens of the United States are endangered:

"And *whereas*, It is deemed proper that all needful measures should be taken for the protection of such citizens, and all officers of the United States in the discharge of their public duties in the State aforesaid:

"Now, therefore, be it known, that I, Abraham Lincoln, President of the United States, do hereby direct the Commander of the forces of the United States on the Florida coast, to permit no person to exercise any office or authority upon the Islands of Key West, the Tortugas, and Santa Rosa, which may be inconsistent with the laws and Constitution of the United States, authorizing him at the same time, if he shall find it necessary, to suspend there the writ of *Habeas Corpus*, and to remove from the vicinity of the United States fortresses all dangerous or suspected persons.

"In witness whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed. Done at the City of Washington, this tenth day of May, in the year of our Lord one thousand eight hundred and sixty-one, and of the Independence of the United States the eighty-fifth."

In this, as in his previous orders referred to, he not only assumed publicly the power to suspend the privilege of the writ of *Habeas Corpus*, but assumed to confer that power upon a commanding General of the Army!

Judge Bynum. If it was an extraordinary exercise of power, it was completely justified by the necessity of the occasion. "*Necessitas non habet legem*"—"Necessity has no law," is an old and time-honored maxim. "*Salus pop-*

uli suprema est lex"—"To consult the safety of the people, is the first great law," is also a maxim with all statesmen. It is much older than the Constitution. In all such cases, the public safety is the supreme law, and all Constitutions, as well as all laws, must yield to it. Upon these principles, it was necessary for Mr. Lincoln to exercise the powers he did, to save the life of the Nation; and it was upon these principles, he was both justified and sustained in what he did.

Mr. Stephens. Necessity is always the usurper's, as well as the tyrant's plea. It is never tolerated for an instant, by those who are jealous and watchful of their rights and liberties. The "*salus populi*," or "safety of the people," in all free governments, is to be "consulted" by those entrusted with delegated powers, by a strict observance of those barriers and safeguards which the people have themselves erected for their own protection and safety. The well-being of every Body-Politic, like the well-being of every physical organism, is to be consulted by a rigid conformity with the laws of its existence. These laws in the Body-Politic are to be found in its Constitution. The object of all written Constitutions established for the security of the ultimate safety of the people is, as Mr. Jefferson says, "to bind down their rulers" "with the chains" of the fundamental law, "to prevent them from doing mischief" in the exercise of their individual judgment, upon what concerns the safety of the people. Of this, the people themselves are the only proper judges in the last resort.

The maxims you quote, I admit, are older than the Constitution. So is Tyranny! The latter sprung from the former. The object of written Constitutions is to put an end to both. No Statesman should ever be trusted in this country in the exercise of any power under the

"*plea of necessity*," or who "consults" the "safety of the people," or attempts "to preserve the life of the Nation" upon any maxims outside of the Constitution. The life of the Nation is the Constitution! From this springs all the life our wonderful Nation, constituted as it is, ever had. In it alone this Conventional Nation, as we have seen it is, lives, and moves, and has its being! It is this alone which gave it existence, and it is this alone which can give it immortality! Of all the absurdities, (you will please excuse the expression,) I ever heard uttered, the strangest to me is that set forth in the proposition, that the *preservation* of the life of anything can be effected by its *destruction* or *extinguishment!* I know nothing approximating it, unless it be that other most preposterous notion from which all these proceedings sprung, that a *voluntary* Union of separate Independent States could be preserved and maintained by coercion! The life of the Nation can only be preserved, as the life of anything else, by maintaining the principles of its organic law!

Let us examine the practical workings of the maxims you quote in their preservation of the "life of the Nation." Under these acts, suspending the privilege of the writ of *Habeas Corpus*, Northern prisons were soon filled with hundreds, if not thousands, of the best and truest citizens of the country, for no reason except that of raising their voice against these utterly indefensible assumptions of Executive power which Mr. Douglas, and even Mr. Webster, had clearly stated would be crimes for which an impeachment should be made. Fort McHenry, Fort La Fayette, and Fort Warren were turned into Bastiles! Strange means these to preserve the liberties of the people, except upon the *maxim*, that the best way to preserve Liberty, as well as life, is to destroy it!

The Members of the Legislature of Maryland were prevented from assembling for the performance of their public duties by arrests and imprisonments under military orders issued in pursuance of these Executive edicts.* The Mayor and Marshal, and most, if not all the civil officers of Baltimore, besides many other of the most respectable and worthy citizens of that State and other States, were seized and immured in prison without any charge of crime or violation of law against them. Not only was the freedom of speech denied, but the liberty of the press was openly assailed and effectually suspended throughout all the Northern States. Here is a list of a hundred and seventy-five of some of the best citizens in this country, who were thus seized and imprisoned in Fort La Fayette alone,† in less than one hundred days,‡ without any charge of crime against them, and in open violation of an express clause of the Constitution! Maryland, of all the States, however, suffered most from these arbitrary and tyrannical proceedings. The general sympathy and feeling of the people of the Southern States for this "down-trodden" sister, at the time, found expression in the stirring poetic utterances of James R. Randall, one of her "exiled" sons, in the ever memorable stanzas beginning: "The despot's heel is on thy

* The order for these arrests was in these words to General Banks:

"WAR DEPARTMENT, *Sept.* 11, 1861.

"GENERAL:—The passage of an Act of Secession by the Legislature of Maryland must be prevented. If necessary, all or any part of the members must be arrested. Exercise your own judgment as to the time and manner, but do the work effectually.

"Very respectfully, your obedient servant,

"SIMON CAMERON, *Secretary of War.*"

† *Appleton's Annual Cyclopædia*, 1861, p. 361.

‡ The express terms of the cession or grant of the State of New York by which the United States held this Fort, were openly violated by refusing to those persons thus imprisoned the privilege of the writ of *Habeas Corpus* issued from the State Courts.

shore, Maryland!"* These stanzas were set to music, and became one of the most popular songs of the period in all classes of society. The tender voices of young maidens were often united with the full tones of hardy warriors in giving increased effect to the soul-inspiring chorus. "The despot's heel," however, pressed none the lighter!

It was in vain, that the venerable Taney at the head of the Judiciary was appealed to. All that he could do, during this reign of terror, was to proclaim to the world, and enter on the Records of his Court, his judicial condemnation of these monstrous outrages upon the liberties of his country. In this he evinced a firmness and integrity, in resisting the encroachments of Executive power at this crisis in our history, not surpassed by Sir Edward Coke, in the days of the Stuarts in England! I wish I had time to read this decision in the case of John Merryman.† I can now barely refer to it, with a special commendation of it to your careful perusal hereafter. In it you will find what should put to blush every one in authority in this country, whether in high or low position, who assumes, either under the plea of *necessity*, or what he may consider the "*maxims* of statesmen," "to consult" the safety of the people, by tearing down those barriers, and removing those guards which the people themselves have established in their organic laws, for their own protection and safety. In it, also, will be found those vital principles of our Federal Compact—made for War as well as for Peace—which should ever be the guide of all in authority, whether in the civil or military service; and which will remain forever to be studied and cherished by every true friend of Constitutional Liberty in this country, in whatever position, or so long, at least, as an

* *Appendix* J. † See *Appendix* K.

enlightened votary shall live to do homage at its hallowed shrine!

Judge Bynum. Well, pray tell us what Mr. Lincoln was to do under the circumstances? Was he to do nothing but to remain still and let the Government go to pieces, and even to permit himself to be driven from Washington, when the purpose of the Confederate Government was officially announced, on the day Fort Sumter was fired upon, by Mr. Leroy P. Walker, the Secretary of War, to be to overthrow the United States Government, and to plant the Confederate States flag "over the dome of the old Capitol at Washington before the first of May," and "eventually over Faneuil Hall itself?" Was Mr. Lincoln to sit still and take no action to prevent the consummation of this openly declared purpose?

What you have read from Mr. Douglas's speech, and from Mr. Webster's, all sounds well enough in peaceful times; but you should recollect that Mr. Douglas virtually took back all that he said in this speech, when the hour of real danger came—when the National Capital and the very existence of the Government was thus boastingly threatened. Notwithstanding his political differences, he then cordially united with Mr. Lincoln, in support of these measures which you have commented on with so much severity, and have even quoted him as authority to sustain you in the comments you have made.

Mr. Stephens. How this is, we shall see. Your remarks open a wide field, and require several distinct replies. These I will make in as regular order, and as briefly, as the subject admits. First, in reply to your inquiry as to what Mr. Lincoln ought to have done, I have a two-fold answer. I will, in the first place, state what, in my opinion, he ought not to have done; and in the second place, what he ought to have done. He ought

not, then, to have ordered the forcible supply of the troops at Fort Sumter. He ought to have withdrawn those troops, as advised by Mr. Douglas, General Scott, and all the leading real friends of the Union, under the Constitution, in all parts of the country. In other words, he ought not to have inaugurated the war as he did. If he really believed that the Union of the States under the Constitution was such as could and ought to be maintained by force, then he ought to have convened the Congress of the Non-Seceding States, and asked that body by law to put at his command the military force necessary to meet the exigencies of the crisis. He ought not to have assumed the exercise of this power himself, for it is clear the Constitution vested no such power in him. This is what he ought not to have done, as well as what he ought to have done, in that view of the powers of the Federal Government.

But, in my view of the powers of the Federal Government, I will say that, on the withdrawal of the Seceding States, when there was not a Federal officer left in any of them to be aided by the military in the execution of the laws, he ought to have convened the Congress and taken their judgment upon the proper course to be pursued, in a case which was clearly not within any of the provisions of the Compact of Union. This was clearly a "*casus non fœderis*;" and he should have left it to the Congress to determine the proper action to be taken in relation to it. So much for what he ought not to have done, as well as what he ought to have done under the circumstances, in both views of the question, in my opinion.

I will now go further, and tell you what I think the Congress of States ought to have done under the circumstances, if they had been so convened by him. They

should have called a Convention of all the States, with a view to a readjustment of their relations. If the Seceded States had responded to that call, well and good. In that event, I have but little doubt that the result would have been a peaceful adjustment of all matters in controversy, by the derelict States heretofore referred to—those which had openly and avowedly refused to perform their obligations under the Constitution—receding from their position, (Judge Chase's opinion to the contrary, notwithstanding,*) and that upon this redress of grievances and righting of the wrong complained of, the Seceded States would have returned to their positions; and the whole Federal machinery, at no distant day, would have been restored to its normal and harmonious action in all its parts, as peacefully and joyously as when it first went into operation.

But in the event that the Seceded States had not responded to the call, or in the event that the derelict States had refused to renew their pledges of fidelity in the matter complained of, from *conscientious scruples* or

* As evidence that Judge Chase's opinion was not well founded, see Resolutions of the House of Representatives, passed 27th of February, 1861, declaring the Acts of the derelict States, in regard to the return of fugitives from service, to be in "derogation of the Constitution, and inconsistent with the comity and good neighborhood that should prevail among the several States," and recommending the States to cause their Statutes in this particular, to be revised, etc. Every Republican in the House, except thirty-one, voted for these Resolutions. Mr. Charles Francis Adams, of Massachusetts, headed the list of those who voted for them. This is a clear indication that these States would have receded on that question. If this indication had been given the first week of the Session, before the Southern States had withdrawn, Secession might not have taken place. As it was, it came too late to prevent that, but not too late to have led to a restoration of the Union, through a Convention of the States. Perhaps it was to prevent this apprehended ultimate result of their thus receding on this question, that the war was inaugurated as it was.

See Resolutions, *McPherson's "History of the Rebellion,"* page 58

other considerations, then in either of these alternatives the fact would have been demonstrated, that we had arrived at that period in our history spoken of by Mr. John Quincy Adams.* In either of these contingencies it would have appeared that the different States of the Union were "no longer attached by the magnetism of conciliated interests and kindly sympathies." With this fact demonstrated, this Convention of States should have come to the same conclusion in reference to it that Mr. Adams did. He said that if that day in our history should ever arrive, it would be far better for the people of the several States "to part in friendship from each other, than to be held together by constraint," and "to leave the separated parts to be re-united by the law of political gravitation" to their respective centres. This is the wise and patriotic conclusion to which that Convention should have come, if it had been called under the circumstances, and the fact of irreconcilable difference between the States had been thus demonstrated. The result whichever way it might have been, whether a restoration of the Union of all the States as before, each State faithfully performing all its obligations under the Constitution, or a peaceful separation, would have been in strict conformity with the great principles upon which our entire system of Free Institutions is based. There would have been no war, nor any of those outrages upon public liberty to which I have alluded, and which have brought so much reproach upon our Institutions of Self-government throughout the world, and which have but one inevitable end, if not abandoned, and that is absolute Despotism!

My own opinion, as I have said, is, that if Mr. Lincoln had pursued the course which I think he ought to have

* *Ante*, vol. i, p. 527.

done, there would have been a speedy restoration of the Union, by all the States returning to their duties and obligations under the Constitution, and the Federal Government would have entered upon a new and a grander career of greatness.

So much by way of answer to your inquiry. Now, a few words in reply to what you say of Mr. Douglas, and what you style the official announcement of the purpose of the authorities at Montgomery. Either you are greatly mistaken, or I am, if you suppose Mr. Douglas ever took back or modified, in the slightest degree, a single phrase or word in the speech from which I have quoted. It is true, as I understand, that, under the influence or impression produced by the telegram to which you refer, purporting to give the substance of what Mr. Walker said, on the occasion alluded to, Mr. Douglas did advise Mr. Lincoln to convene Congress, and did approve of all proper steps being taken for *the defence of the Capital* against, what he considered, a threatened attack upon the Government of the United States, and a war of invasion. He did not, however, as far as I have ever seen, utter a word in modification of what he had said, as to the powers or duties of the President, under the circumstances.

He certainly did not give these measures I have been commenting upon, or the general policy of Mr. Lincoln, either before or after the events at Fort Sumter, his cordial endorsement or support; for, on his return to Illinois, a few days afterward, he assured his political friends that he did not know what Mr. Lincoln's policy was. He was soon stricken with disease, attended with delirium, and died on the 3d of June. The last intelligent words uttered by him, as reported, conveyed a message to his sons, Robert and Stephen, then at college, "to

obey the laws and support the Constitution of the United States." In this dying declaration there was no taking back, but a reaffirmance of the sentiments and principles of the speech which I have quoted.

He never could have held that Mr. Lincoln was obeying either the laws or the Constitution, in these usurpations of power to which I have referred. He may have held, for aught I know, with you and many eminent men in the country, what seems to me to be so irrational a position, that the Federal Government did possess the abstract rightful power to maintain the Union by force, but I never saw anything from him which warrants the belief that he endorsed or approved the policy of exercising the power, even though, in his judgment, it existed, in case any of the States should see fit peaceably to withdraw without any aggression upon the rights and interests of the others. In October, 1860, he did most emphatically endorse the Georgia Platform of 1850, before at least twenty thousand freemen at Atlanta!

This Platform distinctly claimed the right, in the contingency of a breach of faith of the other Confederates, to sever, in the last resort, every tie that bound her to the Union. This right he fully recognized. Whether he considered it a revolutionary right, as did Mr. Webster, is immaterial for all practical purposes. If the *right* existed, it is immaterial therefore from what source it sprung. There could be no opposing *right* to prevent its peaceful exercise. He certainly never did utter a sentiment, so far as I have seen, advocating the power of the President to do, without the authority of Congress, what Mr. Lincoln did in the matters I have referred to. My opinion is, that his position on this subject was very similar to that of Mr. Adams.

Mr. Douglas was no changeling in principles or opinions.

Of all the men I ever knew, he was about the last who might have been expected to take back anything he had said. I knew him well for sixteen years. We went into Congress together, in December, 1843, and a more unyielding and inflexible man in his positions and matured opinions I never met with. His death, at the time, I regarded as one of the greatest calamities, under the dispenpensations of Providence, which befell this country in the beginning of these troubles. So much for Mr. Douglas's position.

Now a word or two in reply to that portion of your remarks which relates to the telegram from Montgomery. Whether Mr. Walker really did make such a speech, as reported by that telegram, or not, I do not know; for I was not there: but I do know that many things were reported by telegraph to have been said by parties, which were never said by them, and I cannot believe it possible that Mr. Walker could have made a speech justly admitting the construction which you and others put upon the words of the telegram referred to. For, if there is anything I do know, it is that such were not the views of the Cabinet, or of the people generally of the Confederate States, nor do the words of the telegram require that construction which you and others put upon them. Another and a very different construction is perfectly consistent with them.

With this view, I will add that it is not at all *improbable* that Mr. Walker, in speaking on that occasion of the war, inaugurated as this was, and of the acts of Mr. Lincoln in bringing it on in such open and palpable violation of the fundamental principles of the Government, may have indulged in the expression of the hope that the people of all the States would be so aroused by its alarming tendency to Centralism and Despotic Power,

that the cry might go forth, the "cause of Charleston is the cause of us all"—and that Maryland, as well as Virginia and the other Border States, would now certainly join her sisters of the South, as Virginia, North Carolina, Tennessee, and Arkansas actually did subsequently.

With these views, and animated with such sentiments as these, it is not improbable that he may have indulged in the belief, and expressed the opinion, that "before the 1st of May," the flag under which he then spoke might wave "over the dome of the old Capitol at Washington," planted there, not by a conquering army, but by the willing hands of a free people, holding the great truth that "all Governments derive their just powers from the consent of the governed," just as the same flag had been planted where he was then speaking. In the same vein and in the indulgence of the same sentiments, it is not improbable that he may have expressed the opinion and hope, that "eventually" the final result of that conflict of principles which we have been tracing, and of that physical conflict growing out of them, that day begun, would be the planting of the same flag—the symbol of the Sovereign Right of local Self-government — the emblem of Federation against Centralism—over Faneuil Hall itself —the Cradle of American Liberty; but planted there in the same way by the voluntary hands of a free people!

That a speech, embodying these sentiments, may have been made by him, is not at all improbable, nor would it have been inconsistent with the words of the telegram itself. But I do not think that he could have made a speech declaring a design or purpose, on the part of the Authorities at Montgomery, to wage a war, as you suppose, with a view to overthrow the Government of the United States, or by conquest to plant their flag anywhere; for war, if it could possibly be avoided, was not

the object, wish, desire, or intention of the Confederate States—much less conquest. Peace was their object. This their every act shows. This, Mr. Walker's telegram to General Beauregard, before the fire upon Fort Sumter was opened, clearly shows.

These remarks bring me to the point I was coming to in the course of what I proposed for this occasion. After the very rapid glance which we have taken at the movements elsewhere, the very next subject, on the line I was pursuing, was a notice of the progress of events in the meantime at Montgomery. To this, therefore, we will now turn our attention.

The Confederate Congress, as stated before, had been summoned by Mr. Davis, immediately after the occurrences at Fort Sumter, to re-assemble on the 29th of April. On their re-assembling, in giving them his views upon the situation, after recounting all his efforts at peace, and the duplicity which had been practised upon the Commissioners sent to Washington, and urging upon them the most energetic measures to repel the invasion, and to defend themselves and their Institutions against the most formidable array of military power which was threatened to be brought against them, Mr. Davis used the following language in conclusion—to which I wish to call your special attention. It is doubly *apropos* from the matters introduced by your interruption. Here is what he said:

"We feel that our cause is just and holy, and protest solemnly, in the face of mankind, that we desire peace at any sacrifice save that of Honor and Independence. We seek no *conquest*, no aggrandizement, no concessions from the Free States. *All we ask is to be let alone*—that none shall attempt *our subjugation by arms*. This we will, and must resist, to the direst extremity. The mo-

ment this pretension is abandoned, the sword will drop from our hands, and we shall be ready to enter into treaties of amity and commerce mutually beneficial. So long as this pretension is maintained, with firm reliance on that Divine Power which covers with its protection the just cause, we will continue to struggle for our *inherent right to freedom, independence, and self-government.*"

This is the official announcement of the purpose and policy of the Authorities at Montgomery in regard to the war. In it Mr. Davis expressed the unanimous views and sentiments of his Cabinet, Mr. Walker included; and in it he announced the feelings, views, and sentiments of an overwhelming majority of the people of the Confederate States. It was, on their part, a war entirely in defence of what they considered the inherent, sovereign, and inalienable Right of Self-government.

Having thus presented, by the survey we have taken of the effect of the Proclamation of Mr. Lincoln of the 15th of April, and of his other acts, the position of the Parties, politically, towards the war, up to the close of April, 1861, and the principles on which they were arrayed in arms against each other, we will now postpone, for another occasion, a further view of its general conduct in reference to these principles on both sides.

COLLOQUY XXI.

CHARACTER OF THE WAR—NEITHER REBELLION NOR CIVIL WAR, BUT WAR BETWEEN STATES—CONDUCT OF THE WAR ON BOTH SIDES AS IT PROGRESSED—ACTION OF CONFEDERATE CONGRESS—ACTION OF FEDERAL CONGRESS—SUBJECT OF PRISONERS—PRIVATEERS—MR. STEPHENS'S OPINION OF MR. LINCOLN DRAWN OUT BY PROF. NORTON—DISCUSSION BETWEEN JUDGE BYNUM AND MR. STEPHENS IN RELATION TO MR. LINCOLN AND HIS ACTS—DANTON—ROBESPIERRE—CÆSAR—HAZAEL—MR. ANDREW JOHNSON'S RESOLUTION AND SPEECH IN U. S. SENATE—MEETING OF CONFEDERATE CONGRESS AT RICHMOND—MR. DAVIS'S MESSAGE—GENERAL JOSEPH E. JOHNSTON—EVENTS TO THE CLOSE OF PROVISIONAL GOVERNMENT, AND ORGANIZATION UNDER PERMANENT CONSTITUTION—COMMISSION TO EUROPE—TRENT AFFAIR—EXCHANGE OF PRISONERS—CONVENTIONS WITH MISSOURI AND KENTUCKY.

MR. STEPHENS. The war now, on both sides, began to assume gigantic proportions. It was no Insurrection or Rebellion, or even Civil War in any proper sense of these terms. A Rebellion or Insurrection is resistance to the Sovereign Power of any Society, Commonwealth, or State by those owing it allegiance, and may be justified or not, according to the facts of the case. A Civil War is but another name for the same sort of resistance, where it assumes so formidable a magnitude as to divide the members of the same Society or Commonwealth into two great Parties, between which ultimate supremacy becomes a matter of uncertainty and doubt. Vattel has well and truly said, that "custom appropriates the term of 'civil war' to every war between the members of *one* and the *same* Political Society."* Further on he says, where such a "war breaks the bands of society and

* *Vattel's Law of Nations*, B. 3, C. xviii, Sec. 292.

Government, or, at least, suspends their force and effect," it produces "two independent parties, who consider each other as enemies, and acknowledge no common judge. These two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate Bodies, two distinct Societies."

But this war, properly and truly considered, was not of this character at all. For, if the facts of our history be, as they appear incontestably to be from the review which we have made of them, the people of the United States never did form or constitute *one Political Society*, or Body-Politic. The Union of the States was a Union of distinct and separate Political Societies or Bodies-Politic. The States held no such relation to the Union as Departments or Provinces do to an Empire, or as Counties and Districts do to a State, as maintained by Mr. Lincoln.* The citizens of each State owed allegiance, as we have seen, to their own separate States.†

The war, therefore, was a war between States regularly organized into two separate Federal Republics. Eleven States on the one side, under the name and style of "The Confederate States of America," and twenty-two States on the other side, under the like name and style of "The United States of America." In our further notice of the conduct of this war, we may properly enough, therefore, designate the Parties to it by the terms "Confederates" and "Federals," though the latter term will by no means correctly represent the principles of those thus designated. In the beginning, and throughout the contest, the object of the "Confederates" was to maintain the separate Sovereignty of each State, and the right of Self-government, which that necessarily carries

* *Speech at Indianapolis, Indiana, 11th Feb.*, 1861.

† *Ante*, vol. i, pp. 70, 76, 492.

with it. The object of the "Federals," on the contrary, was to maintain a Centralized Sovereignty over all the States, on both sides. This was the fundamental principle involved in the Conflict, which must be kept constantly in mind.

The Congress of the Confederate States, we have seen, was in session. The Federal Congress was summoned to meet on the 4th of July. But in advance of this, Mr. Lincoln, by his Proclamation, as we have seen, had ordered an increase to the Regular Federal Army of 64,748 men, and an increase to the Navy of 18,000 men. The Regular Federal Army, besides the volunteer forces called out, before this increase, consisted of about 16,000 men. The new force added by Presidential edict swelled the number of the Regular Army to about 80,748 men. The Federal Navy, before the increase so ordered, consisted of about 10,000 men, exclusive of officers and marines. The total number of vessels of all classes belonging to this Navy was ninety, carrying or designed to carry, about 2,415 guns. The increase of men under the Presidential edict run the aggregate of seamen in service up to nearly 30,000.

The Confederates, on their assembling in Congress, on the 29th of April, as stated, went to work the best way they could to meet this formidable array of power against them. By Act of Congress they simply recognized the existence of the war so inaugurated against them, excluding from their Act the States of Missouri, Kentucky, Maryland, and Delaware. These they did not recognize as Parties to the war. With this recognition of the war so forced upon them, they resorted to all the means at their command to repel it. At their first organization, less than three months before, they were without an Exchequer, an Army, or a Navy of any sort, and without

any munitions of war, except those which had fallen into the hands of the several States in the Federal Forts, and which had been turned over to them, to be used in the common cause. The State of Alabama, on the first assembling of the Convention, at Montgomery, had tendered them, for temporary use, a half million of dollars, and, before the affair at Sumter, the Congress had provided, by law, for making a loan of $15,000,000, to repay Alabama's advance, and to meet other necessary emergencies. But now further means became necessary. To meet the forces arrayed against them a large army was necessary. To raise and equip this required much larger expenditures of money than the amounts at their command. Another loan was authorized to the amount of $50,000,000. This was to be effected by the sale of Confederate States Bonds, redeemable at the expiration of twenty years from their date, bearing an interest of eight *per cent. per annum.* The same act authorized the issuance of twenty millions of Treasury notes, in lieu of a like amount of bonds to answer the same purposes, if the Secretary of the Treasury and the President should deem it better to issue the Treasury notes instead of making a sale of the bonds. Besides this, another measure was adopted, known as the Produce Loan. By this, invitations were given for contributions of cotton, tobacco, corn, wheat, flour, meat, and army subsistence generally, in the way of a loan. By the terms of the act, the articles so contributed were to be sold, and the proceeds to be turned over to the Secretary of the Treasury, who was to issue eight *per cent.* bonds for the same. These were the extraordinary methods adopted for raising means, besides the other regular modes of providing revenue without resorting to direct taxation. So much for the financial measures of the Confederates, at present.

In view of the exigency for an immediate military force in the field, the Congress looked almost exclusively to the volunteer spirit of the people. By Act, they authorized the President to accept the services of one hundred thousand volunteers, either as cavalry, mounted riflemen, artillery, or infantry, in such proportions of these several arms as he might deem expedient, to serve for and during the war, unless sooner discharged. The Congress also provided for the appointment of five General officers, to have the rank of "General," instead of "Brigadier-General" as previously provided. This was to be the highest military grade known in the Confederate States service.

In lieu of a Regular Navy, their only resort was the enlistment of armed ships under *Letters of Marque*. Very soon quite a number of small vessels were thus put in commission, and reached the high seas by running the Blockade. Amongst these may be named the Calhoun, the Petrel, the Spray, the Ivy, the Webb, the Dixey, the Jeff. Davis, the Bonita, the Gordon, the Coffee, the York, the McRae, the Savannah, the Nina, the Jackson, the Tuscarora—besides others. In less than a month, more than twenty prizes were taken and run into Southern Ports. The steamers Sumter and Nashville, fitted out by the Government, and under the command of Naval officers, went to sea at a later date. The Sumter ran the Blockade at the mouth of the Mississippi, on the 30th of June, in charge of Commander Raphael Semmes, a gallant officer who had resigned his position in the Navy of the United States, and who thus entered upon that brilliant career in the Confederate Service which has secured to him a lasting fame and renown. The Nashville was put in command of Captain Robert B. Pegram, another resigned officer of the U. S. Navy, of experience,

skill, and distinction. It was several months later, before Captain Pegram got his vessel out of the Port of Charleston.

This "militia upon the high seas" captured many millions of the enemy's property, and produced a great sensation throughout the Northern States. As many as twenty prizes, and several prisoners, were taken by those which first got to sea, before the end of May. The Congress at Montgomery, by law, immediately provided for their proper treatment, which was in strict accordance with the usage and humanity of the most civilized nations. The Act directed that they should be treated "as prisoners of war," and "furnished with rations in quantity and quality as those furnished to enlisted men in the Army of the Confederacy."

After these measures on the Finances, the Army, and the Navy, the Congress adjourned on the 21st of May, to meet again on the 20th of July, in the City of Richmond, Virginia, which was settled upon as the future Seat of Government.

In the meantime, the call which had been made for volunteers had been most enthusiastically responded to. Before the re-assembling of the Congress in Richmond, more than a hundred thousand men had pressed the tender of their services in the cause, and more than fifty thousand were under arms organized into battalions and regiments, and ready for duty in one part of the country or another. The largest number were collected in different places in Virginia, where the first blow from the enemy was expected. Meantime the Privateer Savannah, under command of T. Harrison Baker, with a crew of twenty men had been captured, on the 3d of June, off Charleston, by the U. S. Brig Perry. Her crew had been placed in irons and sent to New York, where they were to be tried for piracy, under Mr. Lincoln's Proclamation. It was now

that the question about prisoners arose, for the first time, between the Parties Belligerent, which, from the importance this question assumed in the subsequent conduct of the war, deserves special notice here. News of the treatment of these prisoners taken on the Privateer Savannah, having reached Richmond through the public press, Mr. Davis immediately addressed a communication to Mr. Lincoln, and committed it to the hands of a special messenger, Col. Taylor, an officer of the Confederate Army, with directions to obtain, if possible, a passage by flag of truce through the Federal lines, and to deliver it in person. In this communication, dated Richmond, July 6th, 1861, he said to Mr. Lincoln:

"Having learned that the Schooner Savannah, a private armed vessel in the service, and sailing under a commission issued by authority of the Confederate States of America, had been captured by one of the vessels forming the blockading squadron off Charleston harbor, I directed a proposition to be made to the officer commanding that squadron, for an exchange of the officers and crew of the Savannah, for prisoners of war held by this Government, 'according to number and rank.' To this proposition, made on the 19th ultimo, Captain Mercer, the officer in command of the blockading squadron, made answer, on the same day, that 'the prisoners (referred to) are not on board of any of the vessels under my command.'

"It now appears, by statements made, without contradiction, in newspapers published in New York, that the prisoners above mentioned were conveyed to that city, and have been treated, not as prisoners of war, but as criminals; that they have been put in irons, confined in jail, brought before the Courts of Justice on charges of piracy and treason; and it is even rumored that they

have been actually convicted of the offences charged, for no other reason than that they bore arms in defence of the rights of this Government, and under the authority of its commission.

"I could not, without grave discourtesy, have made the newspaper statements above referred to the subject of this communication, if the threat of treating as pirates the citizens of this Confederacy, armed for its service on the high seas, had not been contained in your proclamation of the 19th of April last; that proclamation, however, seems to afford a sufficient justification for considering these published statements as not devoid of probability.

"It is the desire of this Government so to conduct the war now existing as to mitigate its horrors, as far as may be possible; and, with this intent, its treatment of the prisoners captured by its forces has been marked by the greatest humanity and leniency consistent with public obligation. Some have been permitted to return home on parole, others to remain at large, under similar conditions, within this Confederacy, and all have been furnished with rations for their subsistence, such as are allowed to our own troops. It is only since the news has been received of the treatment of the prisoners taken on the Savannah, that I have been compelled to withdraw these indulgences, and to hold the prisoners taken by us in strict confinement.

"A just regard to humanity and to the honor of this Government, now requires me to state explicitly, that painful as will be the necessity, this Government will deal out to the prisoners held by it, the same treatment and the same fate as shall be experienced by those captured on the Savannah; and if driven to the terrible necessity of retaliation, by your execution of any of the officers or crew of the Savannah, that retaliation will be extended,

so far as shall be requisite to secure the abandonment of a practice unknown to the warfare of civilized man, and so barbarous, as to disgrace the nation which shall be guilty of inaugurating it.

"With this view, and because it may not have reached you, I now renew the proposition made to the Commander of the Blockading Squadron, to exchange for the prisoners taken on the Savannah, an equal number of those now held by us, according to rank."

This overture of Mr. Davis was so far respected as to let Col. Taylor, the bearer of it, pass the enemy's lines, and to go to Washington, but a personal interview with Mr. Lincoln was denied. He was permitted to return the next day, with a verbal reply from General Scott, that the communication had been delivered to Mr. Lincoln, and that he would answer it in writing as soon as possible. No answer in writing, or in any other way, however, was ever made by Mr. Lincoln to the communication. The only resort left to Mr. Davis, therefore, was the extreme one of retaliation, recognized by the most civilized nations. A number of Northern prisoners was selected by lot, to meet whatever fate should be measured out to these, and other privateers taken on the high seas. Amongst the Federal prisoners thus selected for retaliation, were Colonels Corcoran, Lee, Cogswell, Wilcox, Woodruff, and Wood; Majors Potter, Revere, and Vogdes; Captains Rockwood, Bowman, and Keffer. Bowman and Keffer were substituted in like manner, by lot, in lieu of Captains Rickett and McQuade who were wounded, and who, in consequence, were exempted from the lot which fell on them in the first instance.

The end of this whole matter, so revolting to the common sentiment of the age, in all enlightened countries, was a *desistance* by Mr. Lincoln, from the position and

doctrines assumed in his Proclamation. These prisoners on both sides, were all subsequently duly exchanged. Whether the authorities at Washington were induced to change their policy and purpose in this particular, by a recognition of the laws of war, or from a sense of humanity, or from fears excited in another quarter, will, perhaps, be left forever to conjecture; for no explanation of it has ever been given to the public, as far as I am aware.

No further reply was ever made to Mr. Davis's communication referred to. Judging, therefore, from the subsequent course of the Federal authorities upon the subject of prisoners generally, about which so much has been said and written, especially about the thousands of Federal prisoners, who were permitted by these authorities to suffer and die in Southern stockades, from wounds and diseases incident to the climate, (to which the men were not accustomed,) rather than to agree upon just terms of exchange, as we shall see, it is not outside of a legitimate presumption to come to the conclusion that the *desistance* in this case was induced from no considerations of the sufferings or impending fate of the gallant officers of their army thus held as hostages. The change of policy evidently came more from fear than from any sense of humanity, or the acknowledgment of the universally recognized principles of civilized warfare. That fear was excited by the position of England on the subject. This was made known by what occurred in the House of Lords of the British Parliament, on the 16th of May, soon after Mr. Lincoln's most extraordinary Proclamation of the 19th of April reached that country. On this day, in that body, the Earl of Derby said:

"He apprehended that if *one thing was clearer than another, it was that privateering was not piracy*, and that

no law could make that piracy, as regarded the subjects of one Nation, which was not piracy by the law of Nations. Consequently the United States *must not be allowed to entertain this doctrine*, and to call upon her Majesty's Government *not to interfere*. He knew it was said that the United States treated the Confederate States of the South as mere Rebels, and that as Rebels these expeditions were liable to all the penalties of high treason. That was not the doctrine of this country, because we have declared that they are entitled to all the rights of Belligerents. *The Northern States could not claim the rights of Belligerents for themselves, and, on the other hand, deal with other parties not as Belligerents, but as Rebels.*"

Lord Brougham said that "it was clear that privateering was not piracy by the law of Nations."

Lord Kingsdown took the same view. "What was to be the operation of the Presidential Proclamation upon this subject was a matter for the consideration of the United States." But he expressed the opinion that the enforcement of the doctrine of that Proclamation "would be an act of barbarity, which would produce an outcry throughout the civilized world."

It is no strain of presumption to assign this change of policy in reference to the privateersmen on the part of the Federal Authorities to apprehensions and fears awakened by this voice from England, especially in view of their subsequent conduct in relation to the exchange of prisoners.

But to go on with a rapid glance at the progress of events.

The Federal Congress convened on the 4th of July, according to the Presidential Proclamation. In the Senate, at an early day, on the 10th, a Joint Resolution was

offered to legalize these extraordinary acts of Mr. Lincoln, to which I have referred. This deserves special notice, and is in these words:

"Whereas, since the adjournment of Congress, on the fourth day of March last, a formidable insurrection in certain States of this Union has arrayed itself in armed hostility to the Government of the United States, constitutionally administered; and, whereas, the President of the United States did, under the extraordinary exigencies thus presented, exercise certain powers and adopt certain measures for the preservation of this Government—that is to say: First. He did, on the fifteenth day of April last, issue his Proclamation calling upon the several States for seventy-five thousand men to suppress such insurrectionary combinations, and to cause the laws to be faithfully executed. Secondly. He did, on the nineteenth day of April last, issue a Proclamation setting on foot a blockade of the ports within the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas. Thirdly. He did, on the twenty-seventh day of April last, issue a Proclamation establishing a blockade of the ports within the States of Virginia and North Carolina. Fourthly. He did, by order of the twenty-seventh day of April last, addressed to the Commanding General of the Army of the United States, authorize that officer to suspend the Writ of *Habeas Corpus* at any point on or in the vicinity of any military line between the city of Philadelphia and the city of Washington. Fifthly. He did, on the third day of May last, issue a Proclamation calling into the service of the United States forty-two thousand and thirty-four volunteers, increasing the regular Army by the addition of twenty-two thousand seven hundred and fourteen men, and the Navy by an addition of eighteen thousand seamen. Sixthly. He did, on the

tenth day of May last, issue a Proclamation authorizing the Commander of the forces of the United States on the coast of Florida to suspend the Writ of *Habeas Corpus*, if necessary. All of which Proclamations and orders have been submitted to this Congress. Now, therefore,

"*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That all of the extraordinary acts, proclamations, and orders, hereinbefore mentioned, be, and the same are hereby, approved and declared to be in all respects legal and valid, to the same intent, and with the same effect, as if they had been issued and done under the previous express authority and direction of the Congress of the United States."

This Resolution deserves to be thus noted, not only from its own extraordinary character in thus attempting to legalize unconstitutional acts and gross usurpations of power by the President, through the means of a joint resolution of both Houses of Congress, but from the fact, also, that up to this time, even a majority of that body was not prepared to sanction or maintain either the monstrous doctrines upon which Mr. Lincoln's acts were based, or this equally monstrous manner of granting him indemnification for them. The resolution was never even acted upon, though parts of the indemnification contained in it, were subsequently inserted in other joint measures, without which even those Senators, who balked at first, saw that the war could not be maintained.

On the assembling of this Congress, Mr. Lincoln in his message did not claim that his previous acts, which we have noticed, were all in pursuance of the Constitution or laws, but said, "whether strictly legal or not," they "were ventured upon under *what appeared* to be a *popular* demand and a *public necessity*, and trusted that

Congress would readily ratify them." In it, however, he called for more men and money.

"It is now," said he, "recommended that you give the legal means for making this contest a short and decisive one; that you place at the control of the Government, for the work, at least four hundred thousand men, and four hundred million dollars!"

In this message he attempted an argument to show that "the Southern movement," as he called it, was a "Rebellion," and that the war to suppress it, and to preserve "the Union," was perfectly justifiable. This was perhaps more for effect abroad than at home. He stated that "the whole movement" was based "upon an ingenious sophism *which if conceded* was followed by *perfectly logical steps* through all the incidents to the complete disruption of the Union."

That was an important admission. It was virtually giving up the argument in the outset. For the "sophism" on which it was based in his view, was the incontestable fact, as we have seen, of the Sovereignty of the several States. If this be a *fact* and not a "*sophism*," then according to his own admission, Secession was necessarily a logical sequence and perfectly justifiable. This fact, however, or sophism as it appeared to him, he attempted to refute after this fashion:

"This sophism derives much, perhaps the whole, of its currency from the assumption that there is some omnipotent and sacred supremacy pertaining to a State—to each State of our Federal Union. Our States have neither more nor less power *than that reserved to them* in the Union *by the Constitution*—no one of them ever having been a State out of the Union. The original ones passed into the Union even before they cast off their British colonial dependence; and the new ones each

came into the Union directly from a condition of dependence, excepting Texas. *And even Texas, in its temporary independence was never designated a State.* The new ones *only took the designation* of States on coming into the Union, while that name was first adopted by the old ones in and by the Declaration of Independence. Therein the 'United Colonies' were declared to be 'free and independent States;' but, even then, the object plainly was not to declare their *independence of one another*, or of the Union, but directly the contrary; as their mutual pledge, and their mutual action, before, at the time, and afterwards, abundantly show. The express *plighting of faith* by each and all of the original thirteen in the Articles of Confederation, two years later, that the Union *shall be perpetual*, is most conclusive. Having never been States, either in substance or in name, outside of the Union, whence this magical omnipotence of 'State rights,' asserting a claim of power to lawfully destroy the Union itself? Much is said about the 'Sovereignty' of the States; but the word, even, is *not in the national Constitution;* nor, as is believed, in any of the State Constitutions. What is 'Sovereignty,' in the political sense of the term? Would it be far wrong to define it 'a political community, without a political superior?' Tested by this, no one of our States, except Texas, ever was a Sovereignty."

This argument, if it may be so considered, needs but little comment in the face of the facts apparent in our review of the history of the States, and the formation of the Constitution. By these it has been clearly and fully demonstrated, that what he styles a "*sophism*," is an impregnable truth! What is said about Texas never having been *designated* during her Independence as a *State*, is altogether puerile. It is wholly immaterial,

whether she was designated as "the Republic of Texas," or "the State of Texas." Every independent, separate, self-existing Body-Politic, by whatever designation known, whether that of Nation, Empire, Kingdom, or Republic, is a State. Texas, therefore, was certainly a separate, Sovereign and Independent State, when she entered into the Compact of Union with the other United States of America. So of what is said of the other new States only *taking the designation* of States on entering the Union! They were all admitted on an equal footing with the original Thirteen, and these we have seen were Sovereign!

The idea that the Articles of Confederation of 1778, by declaring and expressing the plighted faith of each, that the Union thereby entered into was to be perpetual, furnishes "a most conclusive" argument "that the States were never severally Sovereign," is, to say the least, a most singular one; especially in view of the fact that by the very second one of these Articles, it was expressly declared that each State retained its Sovereignty! Such an argument does not rise to the dignity of "an ingenious sophism." It is really unworthy of notice. Not even so much as one which should maintain for a similar reason, that none of the great Powers of Europe which entered into Articles of Perpetual Alliance—"from this day henceforth"—at Paris, in 1815, for the purpose of quieting the Continent, were ever severally Sovereign, because in the latter case, there was no express declaration that the Parties so entering into the perpetual alliance, did so, as separate Sovereign Powers. But the strangest position in this most sophistical attempt to refute an imaginary sophism, is that, wherein it is asserted, that "*the States of the Federal Union have neither more nor less power than that reserved to them* in the Union by the Constitution,"

as proof that the States are not Sovereign. For even according to this statement, every power was reserved which was not delegated by the States, nor prohibited to them in the Constitution.

The States, as we have seen, made the Constitution. They formed it by virtue of their several Sovereignties. It was by virtue of the "omnipotence" of this majestical, if not "magical" Sovereign power, on their part, severally, that the Constitution and the Union under it was formed. The Federal Government has no inherent power whatever. It has no power except what is delegated to it by the Sovereign States. All the inherent powers of Sovereignty itself not delegated in trust to the General Government, nor prohibited to the States, are, it is true, expressly declared in the Constitution to be reserved to the States. This shows that as Sovereignty was not parted with, it remained with the States by this *express reservation!* The States derive no power from the Constitution as his form of expression was intended, perhaps, to imply, while the Federal Government possesses none whatever which is not conferred upon it by the States in the Constitution.

It is true, the word Sovereignty is not in the "national Constitution," nor had it any business there. But the words *State* and *States* abound in it. From its Preamble to its close it shows that it was made "by States" and "for States," and to be binding "between *States*" only; and binding between them only as all Compacts are between States! The word State of itself imports Sovereignty as fully as the word Nation, Kingdom, or Empire. When the Constitution upon its face showed that it was made "by States" and "for States," it was needless to speak of them as Sovereign States; for there cannot be any such thing as a State, known and recognized by public law, without Sovereignty.

But the capping climax of this argument requires more special attention. In this we have an attempted definition of Sovereignty, and a most singular definition it is! As if almost satisfied himself of its inaccuracy, Mr. Lincoln asks "what is Sovereignty in the political sense of the term? Would it be far wrong to define it 'a political community, without a political superior?'" It would certainly be very far from right thus to define it. It would, indeed, be no definition at all. Sovereignty is not "a political community," but in whatever terms it may be defined, it is the controlling attribute of the political community in which it exists. This is ground we have gone over.* With a correct understanding as to what Sovereignty is "in the political sense of the term," according to the highest authorities upon the subject, and the true history of these States, his own imaginary sophism vanishes as a fog before the rays of the sun, and leaves in its place, clearly apparent, a great truth which can never be successfully assailed by the most skilfully applied subtleties of logic.

Further on, in the same argument, he says:

"The principle itself [the Right of Secession] is one of disintegration, and upon which no Government can possibly endure. If all the States, save one, should assert the power to drive that one out of the Union, it is presumed, the whole class of Seceder Politicians would at once deny the power, and denounce the act as the greatest outrage upon State rights. But suppose that precisely the same act, instead of being called, 'driving the one out,' should be called the 'seceding of the others from that one,' it would be exactly what the Seceders claim to do," etc.

In this he was slightly mistaken. It was not exactly

* *Ante*, p. 22, *et sequentes.*

what the Seceders claimed to do. The difference between the cases is the difference between any given number of men getting rid of another one, by driving that one out of a house while they retain it; and the same men, instead of driving the one out, quitting it themselves, and leaving it to him alone. There is a very marked difference in principle between the two cases.

But, however logical Mr. Lincoln may have deemed this view of the question, as showing the absurdity of the position of the "Seceder Politicians," in rightfully breaking up the Union, under the Constitution, is it not strange that it did not occur to him that this was exactly in principle, what eleven of the original thirteen States did towards two, in breaking up that Union to which all stood pledged in plighted faith, that it should be perpetual? If eleven States, in 1788, rightfully seceded or withdrew from the Confederation of 1778, which was so declared, "to be perpetual," and entered into the new Union, under the present Constitution, leaving North Carolina and Rhode Island out, as they did, why could not the same eleven, or any other eleven, in 1861, just as rightfully withdraw from the Union of 1788, which was not declared to be perpetual? If there was no treason or rebellion in the first "Secession movement," it seems to me, that he ought to have seen there could not be in the second, which was based on the same identical principle.

Nor is this principle of a Union of States, formed and held together by a voluntary assent, one of "*disintegration* upon which no Government can endure." Upon it many Governments, as we have seen, have been formed, which did endure, and continued to grow and prosper until this principle was departed from by them. It is the principle of real strength as well as *aggregation* upon

which our Government endured and increased in the number of States, from eleven to thirty-three, and prospered as no other Government ever did, for sixty years, under the teachings of Mr. Jefferson! All such Governments will endure and increase by aggregation and accession, and not go to pieces by disintegration or Secession, so long as the cohesive principle of mutual interests and reciprocal advantages binds the States together. No Federal Government ought to endure or last any longer than this principle is recognized. Mutual interests and reciprocal advantages are the main objects aimed at in the formation of all such Governments. These are the ends for which they are created. It was for these reasons, and to secure these objects, that the original joint Declaration of Independence was made by the several States of our Union. It is true, their joint Declaration was not made with a view of the States being severally independent of each other, but with the view that, by joint and Federal action, all would be better enabled to achieve, establish, and secure, permanently, the Sovereignty of each severally. Continued union on the same principles was doubtlessly expected and desired. But the right of each to its own Sovereignty and Independence was what was achieved. This is the whole of that matter, and with this notice we will leave Mr. Lincoln's refutation of his fancied sophism on which the Right of Secession is based.

In the same message he was as pointed against the "armed neutrality" doctrine of the Union men of Kentucky and other Border States, as he was against the doctrine of the Seceders. "That," said he, "carried out would be disunion completed." Indeed, the whole message was based upon principles and doctrines which tend inevitably to Centralized Despotism!

Prof. Norton. Will you pardon me, Mr. Stephens, for saying that I am very much surprised at hearing you speak as you do of Mr. Lincoln. I always understood that you entertained for him not only a good opinion, but even high personal regard. Besides the rumor to which I referred of his having offered you a place in his Cabinet, I know in a way that gives me full assurance of the fact, that he frequently expressed himself as entertaining for you sentiments not only of kindness, but of the highest esteem. The correspondence between you and him, which you have read, is certainly marked on both sides with terms of respect and esteem. You will, therefore, excuse me for saying that I was not at all prepared to hear you speak of him as you have. I do not see how you could entertain sentiments of esteem towards one, whom you look upon as a public usurper—disregarding his oath, and even wanting in humanity. From what you say, it would seem that you regard him as a man not only of insincerity but of cruelty, and one whose main object was the overthrow of our Free Institutions, and the establishment of a Despotism in their stead. How is this? I always considered Mr. Lincoln, whatever may have been the defects of his character, and no one is exempt from defects of some sort or other, as eminently distinguished for his frankness, good nature and general kindness of heart.

Mr. Stephens. So were many men who have figured in history, and who have brought the greatest sufferings and miseries upon mankind. Danton and Robespierre, the bloodiest monsters in the form of men we read of in history, were distinguished for the same qualities. They both had the personal esteem as well as the strong attachment of some of the best men in France, who were utterly opposed to their public acts and policy.

Major Heister. What! do you say that Danton and Robespierre were distinguished for good nature and kindness of heart?

Mr. Stephens. Yes; this is the character we have of them. Even Danton was distinguished for "his frankness" and "his good nature." It is said of him, that in private life he was capable "of melting into tenderness," and "of spreading the kindly virtues around him as soft, as lucent, and as penetrating as the light of morning." "Nature seemed to prevade him in all her forms, from the woman's heart sleeping in his bosom, to the electric fire of genius which played like a glory around his head," etc. Such were some of the private virtues of the man, who, in his official character at the head of the Department of Justice, thanked the assassins who committed the horrible massacres of September, 1792, when the streets of Paris are said to have run with blood! It is true, he quieted his conscience by a species of "casuistry" which has been styled "atrocious." He did not have the face to pretend that these inhuman deeds were either right or just, and hence, in thanking the infamous perpetrators of them, he said he did it "not as Minister of Justice, but as Minister of the Revolution!"

Of Robespierre it is said that he was devotedly attached to the principles of liberty. "He was deeply read in the history of the Grecian and Roman Republics," and had a high "admiration for the examples set by the free States and heroes of antiquity." "These were the models according to which he had formed the ideal of a State." "Trial by jury, the enfranchisement of the slaves, the liberty of the press, the abolition of capital punishment were among the special subjects advocated by him." These were certainly high and admirable qualities, to say nothing of his many other private

virtues. This, however, is the man who in power made such bloody use of the guillotine, without allowing his victims any hearing whatever, not even by a military commission, much less a jury; and for which his name has been associated with everything cruel, inhuman, and execrable! But, in these acts, it is said, *he* was influenced by "a sense of justice" which was "incorruptible in its nature, but statue-like in its frigid insensibility."

A man may possess many amiable qualities in private life—many estimable virtues and excellencies of character, and yet in official position commit errors involving not only most unjustifiable usurpations of power, but such as rise to high crimes against society and against humanity. This, too, may be done most conscientiously and with the best intentions. This, at least, is my opinion on that subject. The history of the world abounds with apt instances for illustration. Mr. Lincoln, you say, was kind-hearted. In this, I fully agree. No man I ever knew was more so, but the same was true of Julius Cæsar. All you have said of Mr. Lincoln's good qualities, and a great deal more on the same line, may be truly said of Cæsar. He was certainly esteemed by many of the best men of his day for some of the highest qualities which dignify and ennoble human nature. He was a thorough scholar, a profound philosopher, an accomplished orator, and one of the most gifted, as well as polished writers of the age, in which he lived. No man ever had more devoted personal friends, and justly so, too, than he had. And yet, notwithstanding all these distinguishing, amiable and high qualities of his private character, he is by the general consent of mankind looked upon as the destroyer of the liberties of Rome!

The case of Cæsar illustrates to some extent my view both of the private character of Mr. Lincoln, and of his

public acts. In what I have said of him, I have been speaking only of his official acts—of their immediate effects and ultimate tendencies. I do not think that he intended to overthrow the Institutions of the country. I do not think he understood them or the tendencies of his acts upon them. The Union with him in sentiment, rose to the sublimity of a religious mysticism; while his ideas of its structure and formation in logic, rested upon nothing but the subtleties of a sophism! His many private virtues and excellencies of head and heart, I did esteem. Many of them had my admiration. In nothing I have said, or may say, was it, or will it be my intention to detract from these. In all such cases in estimating character, we must discriminate between the man in private life, and the man in public office. The two spheres somehow, and strangely enough too, appear to be totally different, and men in them, respectively, usually seem to be prompted and governed by motives totally different. Power generally seems to change and transform the characters of those invested with it. Hence, the great necessity for "those chains" in the Constitution, to bind all Rulers and men in authority, spoken of by Mr. Jefferson.

Hazael, for all we know, may have been highly distinguished, and perhaps beloved, by the virtuous and good of his acquaintance for many excellent traits of character in private life. He was, unquestionably, an eminently representative man. From his knowledge of himself in the lower, he seemed to have not the slightest conception of what he would or could be induced to do when raised to the higher official sphere! No more than a man in this life can conceive of the impulses by which he will be governed in the life hereafter! When he was told by Elisha, the Prophet, that Benhadad, the King of

Syria, would surely die, and that he would be elevated to the throne in his stead; and when he was further told of "the evil" he would do, and the barbarous iniquities he would commit, in this, to him, new sphere, he was so shocked at the announcement that he exclaimed, "But what, is thy servant a dog, that he should do this great thing?"

So, perhaps it would have been with Mr. Lincoln, if a like prophetic disclosure had been made to him. If, for instance, on the evening of his nomination at Chicago, when the two images* of himself were presented in his mirror at Springfield, which ever afterwards so haunted him, it had been told to him, that the "bright" one of these images was but the true likeness of himself in the sphere of private life, and the other—pale, and "statue-like in its frigid insensibility" to all the gentle promptings of his generous heart—was the future image of himself in that official sphere to which he was soon to be elevated: if the curtain of the future had been further raised, and "Death upon his pale horse" had been seen doing his tragical work on the rugged grounds of Manassas, at Oak Hill, at Corinth, on the battle fields around Richmond—at Sharpsburg, Fredericksburg, Murfreesboro,

* This incident in the life of Mr. Lincoln, as related by himself, is thus alluded to by Doctor Draper:

"As is not unfrequently observed of Western men, there were mysterious traits of superstition in his character. A friend once inquiring the cause of a deep depression under which he seemed to be suffering, 'I have seen this evening again,' he replied, 'what I once saw before, on the evening of my nomination at Chicago. As I stood before a mirror, there were two images of myself—a bright one in front, and one that was very pallid standing behind. It completely unnerved me. The bright one, I know, is my past, the pale one my coming life.' And feeling that there is no armor against Destiny, he added, 'I do not think I shall live to see the end of my term. I try to shake off the vision, but it still keeps haunting me.'"—*The Civil War in America*, by John W. Draper, M.D., LL.D., vol. ii, page 38.

Chancellorsville, Gettysburg, Vicksburg, and Chickamauga: if the scenes of slaughter and carnage in the Wilderness, at Cold Harbor and Atlanta had been exhibited: if the wails of horror that went up from the crater of the volcanic mine at Petersburg had been heard, even at a distance, commingling with like cries from the dying in the Prisons of Camp Douglas, Rock Island, and Elmira as well as Salisbury and Andersonville, and others of less note; if the devastations in the valley of Virginia by Sheridan, and the conflagrations and desolations by Sherman, through Georgia and the two Carolinas, especially at Columbia, had passed in grand panorama before his vision, reflected from that mirror, and he had been then and there told by some inspired prophet, that all these terrible scenes—these sufferings and woes of millions—these convulsive throes of this our "Nation of Nations" in the days of their agony—would soon be the results of his own acts in his official character, in that higher sphere to which he was to be elevated—represented by the second image thus reflected—he would doubtless have heard the announcement with no little horror—he would indeed have been "unnerved," and would have exclaimed, in language of equal surprise and indignation, with that of Hazael to Elisha! He would have believed, and would have said, with all the emphasis he could have commanded, that it was impossible for him to do such things!

We are informed, that notwithstanding all Hazael's indignation, yet he did everything which was told to him that he would do; and it is now our sad task to review all those things in the picture just sketched, with many more of a like character, which did result from the public acts of Mr. Lincoln, who, in private life, was truly distinguished for so many estimable virtues.

Judge Bynum. How can you say that these horrible scenes of blood and death are chargeable to the acts of Mr. Lincoln? They were the necessary consequences of the acts of those who resisted the execution of the laws. The responsibility of them, in no way or view, rests upon him. Mr. Lincoln's earnest desire was for peace. His whole soul was filled with an overflowing benevolence. All he did was to maintain the Government.

Mr. Stephens. That is precisely what Hazael did! All he did was to maintain Government over an unwilling people, though in doing it he put hundreds of thousands to slaughter, because they would not submit to be so governed. Not only this, but in the execution of his high purpose thus to maintain Government over that people, he found it necessary to burn their cities, to destroy their defences, to lay waste their lands, and to show no mercy either to children or "women in travail." Just so with Mr. Lincoln. Hazael, I doubt not, was perfectly conscientious in all that he did. I grant the same to Mr. Lincoln.

But, I ask, what is there about the maintenance of Government, of any sort, which justifies such conduct? Are not Governments made for the security and peace of the people, and not the people for the maintenance of Governments which gives them neither? What other end or object has any just Government, or one that deserves to be maintained, but to afford protection and security to all those for whom it is instituted? The resistance you speak of, was to his acts, and the measures adopted to maintain Government. But for his acts, and these measures thus to maintain Government, this resistance, and the consequences, would not have taken place. These occurrences, therefore, are not to be attributed to

the resistance, but to his acts. The resistance itself was but a consequence of his acts. Had he not acted as he did, there would have been no resistance, and none of these scenes and consequences would have followed. This you must admit.

Judge Bynum. Yes, if Mr. Lincoln had sat still, as I have said before—had done nothing, and let the Government go to pieces—I admit there would have been none of these things, and there would have been no Government left either! General anarchy would have ensued, with burnings, slaughters, and butcheries, *ad libitum*. The worst fate that can befall any society, is that of anarchy. This would have been our fate if Mr. Lincoln had done nothing, as you think he ought to have done.

Mr. Stephens. Not quite so fast. Let us see. You say general anarchy would have ensued. How so? Where would it have commenced and how? Was not everything moving on peacefully and quietly throughout the Confederate States? Were there any indications of anarchy there? Were not the changes in their new Constitution all of a conservative character? Did this furnish any evidence of a tendency to anarchy on their part? How was it in the Northern States? What was there to introduce anarchy there? You say no Government would have been left. How so, I again inquire? Would not the Federal Government of all the States that saw fit to remain in the Union as it then stood, have been left? Was there any hostile resistance or opposition to that? There certainly was not, nor was any designed.

But let us see further: suppose the entire Government —the entire Conventional Federal Government, I mean— had gone to pieces, gone into dissolution temporarily or permanently, who would have been injured even by that? Would anybody have lost anything by it except the office-

holders under it? and would any injury have occurred to them in such a catastrophe, further than the loss of their honors and salaries? Would not all the State Governments at the North have remained intact, clothed with all the powers of inherent Sovereignty, to maintain order and law throughout their respective limits, just as they did before the Union was formed? Is it not to the State Governments, under our system, we look for all necessary protection and security against the approaches of anarchy? Had the General Government any right to interfere in any way to prevent anarchy, or even an insurrection in a State, except at the request of the regularly constituted authorities of that State? Was not this Government made by the States, and for their own several well-being? In the event, therefore, of a total dissolution of the Federal Government—in the event that all the Northern States had quit it as well as the Southern, who would have been hurt by it? Whence would have come the anarchy you speak of, with its burnings, slaughters, and butcheries? Would not the Southern States have had what the Federal Government was instituted to secure—peace and prosperity, with domestic tranquillity? If not, whose business was it but their own? Would not the Northern States have had the same? If not, whose fault would it have been but their own? What was the Government or the Union made for, but the good, the peace, the prosperity, and the happiness of all the States? And who were the proper judges of the best interests of the people of all the States? Were they the officers of the Federal Government, or the States who made it? If the Northern manufacturing and commercial States had been indirectly injured by the withdrawal of the Southern States, to the extent of the benefits of the Union to them secured by their association under it, who could be justly subject to

blame for this loss but themselves, in their breach of the Compact which was the bond of that Union, which had secured these advantages to them?

Judge Bynum. All this sounds very well in talk. But what was to become of the public debt? Would not the Government creditors have sustained loss by such a *felo de se?* Who would have paid that? What would have become of all the public property?

Mr. Stephens. There would have been no *felo de se* in the case. All the States would have continued to live either separately or in a new Confederation or Confederations, as the case might have been. The public debt would have been paid by these living and responsible States. The States were the real debtors. The public debt was not the debt of the officers of the Federal Government, or of that Government apart from the States. It was the debt of the States. It was the debt of the United States contracted by them in Congress assembled through their official agents. The public securities showed upon their face that the obligation to meet them rested upon the States jointly, not upon the Government or its official agents. All the States who were joined or united at the time of the contract of any debt, so made by them jointly, would have been bound to pay their *pro rata* amount of it. All the States would likewise have been entitled to their *pro rata* share of the public property. If any of them had refused, or failed to pay their just part of the public debt or liabilities, *then* would have arisen a *just cause* on the part of the others to make them do it by force, if necessary! But they had no right to resort to such measures, for such an object, in anticipation of such a result, much less had the official agent of these States this right. This is the solution to that problem. But the Confederate States had, *in advance*

offered to make provision for their portion of the public debt and all joint liabilities. No one doubted their ability and perfect willingness promptly to comply with their offer.

There was, therefore, no necessity for Mr. Lincoln to assume unconstitutional power to maintain the Government for the purpose of paying the public debt. No such act is specified amongst the duties of the President as set forth in the Constitution. If he assumed the power he did, for such purposes, it was clearly an usurpation.

In what I say of Mr. Lincoln, I repeat, I speak only of his public acts. With his private character I have nothing to do, nor with those personal qualities of which Prof. Norton spoke. I do not doubt, as I have said, his thorough conscientiousness in all he did. It is quite probable when he surveyed the whole ground, and beheld the scenes to which I have alluded, that he took none of the responsibility of them upon himself. He may have indulged in "a casuistry" after the sort of that indulged by Danton. It may be that he thought that he was not the "Minister of Justice" in these things, but the "Preserver of the Union." He may even have come to the conclusion, as I think not improbable, that he was an instrument specially raised up by Providence to emancipate the Black race in the Southern States—an object so dear to the hearts of so many of his Party, as it was so dear to the heart of Robespierre, towards a like population in other parts of the world. All this may be possible, but his acts like Robespierre's, and the acts of all men of like character, belong to history, and with them as such only I now deal. They must, like the acts of all public men, be held up as beacons to warn the present and future generations.

But let us return to the Federal Congress. Neither

House of this assemblage of the States which remained in the Union, under the Constitution of 1787, granted Mr. Lincoln the indemnity that he supposed would be so readily accorded, but both, without any positive censure, responded with alacrity to his call for men and means. Instead of 400,000 men, they provided for raising and putting in the field 525,000, and appropriated all necessary amounts of money for equipping this immense force, as well as for fitting out a most formidable Navy. One hundred and thirty-seven additional vessels, suitable for war purposes, were immediately purchased, and fifty-two iron clad steamers, after the most improved models, were ordered to be constructed, besides a number of "steam floating batteries," which was an entirely new system of naval warfare. This branch of their service was put upon a footing to compete with any in the world. This Congress, also, by a strange stretch of power, recognized the disaffected counties of Northwestern Virginia as the State of Virginia, and admitted Senators and Members under a Government set up there, claiming to be the legitimate Government of the State of Virginia.

The most important measure, however, adopted at this session of that Congress, in many respects, in that view of the war which we are taking, was a joint resolution which passed both Houses with great unanimity, setting forth the nature and character of the war as they held it to be, and the declaration of the objects for which it was waged. This Resolution was the declaration, not only of the causes of the war in their view, but also the ends for which it was to be prosecuted on their part. It is upon the principles of this Resolution, the whole war must be considered on their side. Hence its great importance in our present view of the conduct of the war and its ultimate results. For this reason, it now requires special notice, and is in these words:

"*Resolved*, That the present deplorable civil war has been forced upon the country by the Dis-Unionists of the Southern States now in revolt against the Constitutional Government and in arms around the Capital; that in this National emergency Congress, banishing all feeling of mere passion or resentment, will recollect only its duty to the whole country; that this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor for the purpose of overthrowing or interfering with the rights or established Institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

This Resolution was introduced into the Senate, by Mr. Andrew Johnson, of Tennessee. He was the only Southern Senator who retained his seat in that Body after the Secession of his State. The Resolution, therefore, was the more remarkable in view of the source from which it came. It was clearly based upon the principle, that a Federal Union of Sovereign States may be maintained and preserved by force. For, whatever may have been the opinion of others, Mr. Johnson certainly held the United States to be a Union of Sovereign States. He had voted on the 24th of May, 1860, for the first of the Resolutions then offered by Mr. Davis, as we have seen, affirming this fact.*

About the same time that this Resolution was introduced, he also made a speech upon the general subject of the war, as well as upon Mr. Lincoln's Proclamations referred to, which should be considered in connection

* *Ante*, vol. i, p. 409.

with this Resolution. This speech was one of the most notable, as it certainly was one of the most effective, ever delivered by any man on any occasion. I know of no instance in history where one speech effected such results, immediate and remote, as this one did. The Resolution referred to, and this speech especially, gave the war a vigor and *real* life it had not before, and never would have had without them, on the Northern side. In the speech, Mr. Johnson fully endorsed the doctrines, principles, and acts of Mr. Lincoln, up to this time, not, however, upon Constitutional grounds, but upon the maxims of public necessity. In it he reviewed at length the denunciations of the usurpations of Mr. Lincoln in the matters I have referred to, which had been made by Senators some days before, when the Indemnity Resolution was up for consideration. In the debate on that Resolution, Mr. Breckinridge, who had not yet resigned his seat in that Body, insisted that "Congress by a joint resolution, had no more right to make valid a violation of the Constitution and the laws by the President, than the President would have by an entry upon the Executive Journal to make valid a usurpation of the Executive power by the Legislative Department. Congress had no more right to make valid an unconstitutional act of the President, than the President would have to make valid an act of the Supreme Court of the United States encroaching upon Executive power; or, than the Supreme Court would have the right to make valid an act of the Executive encroaching upon the Judicial power."

He further said: "Here in Washington, in Kentucky, in Missouri, everywhere where the authority of the President extends, in his discretion he will feel himself warranted, by the action of Congress upon this Resolution, to subordinate the civil to the military power; to imprison

citizens without warrant of law; to suspend the writ of *Habeas Corpus;* to establish martial law; to make seizures and searches without warrant; to suppress the press; to do all those acts which rest in the will and in the authority of a military commander. In my judgment, Sir, if we pass it, we are upon the eve of putting, so far as we can, in the hands of the President of the United States the power of a Dictator.

* * * * * *

"The pregnant question, Mr. President, for us to decide is, whether the Constitution is to be respected in this struggle; whether we are to be called upon to follow the flag over the ruins of the Constitution? Without questioning the motives of any, I believe that the whole tendency of the present proceedings is to establish a Government without limitation of powers, and to change radically our frame and character of Government."

"I deny," said he, "this doctrine of necessity. I deny that the President of the United States may violate the Constitution upon the ground of necessity. The doctrine is utterly subversive of the Constitution; it is utterly subversive of all written limitations of Government; and it substitutes, especially where you make him the ultimate judge of that necessity, and his decision not to be appealed from, the will of one man for a written Constitution. Mr. President, the Government of the United States which draws its life from the Constitution, and which was made by that Instrument, does not rest, as does the Constitution of many other countries, upon usage or upon implied consent. It rests upon express written consent. The Government of the United States may exercise such powers, and such only, as are given in this written form of Government and bond which unites the States; none others. The people of the States conferred upon this agent of

theirs, just such powers as they deemed necessary, and no more; all others they retained. That Constitution was made for all contingencies; for peace and for war. They conferred all the powers they deemed necessary, and more cannot be assumed, to carry on the Government. They intended to provide for all contingencies that they thought ought to be provided for, and they retained to the States all the powers not granted by the Instrument. If in any instance it may be supposed that the powers conferred are not sufficient, still none others were granted, and none others can be exercised. Will this be denied, Sir?"

It was not denied by Mr. Johnson, in his review of this speech, nor by any other Senator, that any power, not delegated in the Constitution, could be rightfully exercised, except upon the plea of necessity. It was, strangely enough, claimed that power not delegated, might be rightfully exercised under this plea. This was the only answer attempted to be made by him, or any one, to Mr. Breckinridge's position on the Constitutional question. But, in his reply to the argument that the usurpation of undelegated power, under the plea of necessity, would, upon principle, lead ultimately and inevitably to the overthrow of State Institutions, and the establishment of a consolidated Despotism, Mr. Johnson insisted, with great earnestness and zeal, that such would not be the consequences. The ultimate result, he maintained, would be nothing but the overthrow of the Rebellion, and the suppression of the insurrection, leaving all the States with all their rights, dignity, and equality, as set forth in his Resolution. Amongst other things of similar import, he asserted:

"I know it has been said that the object of this war is to make war on Southern Institutions. I have been in free States and I have been in slave States; and I

thank God that, so far as I have seen, there has been one universal disclaimer of any such purpose. It is a war upon no section; it is a war upon no peculiar Institution; but it is a war for the integrity of the Government, for the Constitution and the supremacy of the laws. That is what the Nation understands by it."

As to the effect of principles, and the ultimate results of temporary usurpations, as he viewed them—justifiable, as a means to accomplish the great object with him, as it was with Mr. Lincoln, the preservation of an ideal Union—he seems to have been governed far more by impulse than by reason. That the ultimate result would be as he desired it, and not as apprehended by those who took the contrary view, he would not permit himself to doubt, though he confessed that he did not see his way very clearly. This is apparent from the following extract from the same speech:

"Yes, we must triumph. Though sometimes I cannot see my way clear in matters of this kind, as in matters of religion, when my facts give out, when my reason fails me, I draw largely upon my faith. My faith is strong based on the eternal principles of right, that a thing so monstrously wrong as this rebellion cannot triumph. Can we submit to it? Is the Senate, are the American people, prepared to give up the graves of Washington and Jackson, to be encircled and governed and controlled by a combination of traitors and rebels? I say, let the battle go on—it is freedom's cause—until the Stars and Stripes (God bless them!) shall again be unfurled upon every cross-road, and from every house-top, throughout the Confederacy, North and South. Let the Union be re-instated; let the law be enforced; let the Constitution be supreme."

This speech, throughout, was characterized by extra-

ordinary fervor and eloquence, and, in my judgment, did more to strengthen and arouse the war passions of the people at the North than everything else combined. As I have said, the speech had a special power and influence springing from the very source from which it emanated. The author stood solitary and alone—isolated from every public man throughout the Southern States, and from nearly every public man throughout the Northern States attached to the same political Party to which he belonged, upon the questions involved. He had been brought up in the State Rights Jeffersonian School. In this very speech, he styled the Union a "Confederacy." In the late Presidential election, he had supported the ticket headed by Breckinridge and Lane, upon the new Territorial plank incorporated into the Platform. This gave potency to his words and position, not only in Tennessee, but throughout the Northern States.

I do not doubt his perfect honesty and sincerity in everything that he said, but sentiment and declamation, however sincere, high and lofty, form a very small part of true statesmanship. The errors in principle, as well as policy, both in the speech and in the resolution referred to, he may, perhaps, live to see himself, if he has not already lived to see and fully realize them. He now feels constrained to denounce those who acted with him in departing from the Constitution at that time, on his maxims of public necessity, (and whose avowed disloyalty to the Constitution was the cause of Secession,) in terms quite as broad and as harsh as those which he then used against the Secessionists. He now applies to his allies in the beginning of the war, the epithet of "traitors" with as much zeal, sincerity, and earnestness, as he then applied it to the disunionists; while in his present efforts to maintain his ideal State Rights, after

ignoring the Sovereignty of the States, upon which alone all their Rights depend, he in turn is denounced back by them as a traitor of even blacker dye than any of the then Rebels, so-called! The war is over, but the Union is not re-instated; the several members of it are not restored to their proper places with all their dignity, equality, and rights unimpaired! The "Stars and Stripes" float as he hoped to see them, but the Constitution is not supreme! It is not *now* regarded by the others any more than it was *then* regarded by them as well as himself. The same public necessity which in his opinion justified usurpation in the first instance, in their opinion continues still to justify it, and to require them to continue to act "outside of the Constitution;" and with them, this public necessity will continue to exist, until all ends in Despotism, or until they are removed from power by the people, and others are put in their places, who will administer the Government not upon maxims, but strictly in accordance with the Constitution upon its true Federal principles. It is not improbable if Mr. Lincoln had lived, he would have found himself in the same situation. Danton became a victim of the Monster Revolution, of which he conceived himself to be the special Minister. Robespierre also fell by the same bloody instrument which he had so conscientiously, and with such "incorruptible justice," according to his mode of thinking, so frequently and remorselessly applied to others. But enough upon this subject for the present.

We will now turn our attention to events transpiring elsewhere. The Confederate Congress, we have seen, had adjourned to meet in Richmond, the 20th of July. Full Delegations were sent up to this Session of this Congress, from Virginia, North Carolina and Tennessee. The Delegation of Virginia consisted of the following mem-

bers: Ex-President John Tyler, William Ballard Preston, Robert M. T. Hunter, James A. Seddon, William H. Macfarland, Roger A. Pryor, Thomas S. Bocock, William C. Rives, Robert E. Scott, James M. Mason, J. W. Brockenbrough, Charles W. Russell, Robert Johnson, Waller R. Staples and Walter Preston. The Delegation from North Carolina consisted of George Davis, William W. Avery, William N. H. Smith, Thomas Ruffin, Thomas D. McDowell, Abram W. Venable, John M. Morehead, Robert C. Puryear, Burton Craige and Andrew J. Davidson. The Delegation of Tennessee consisted of W. H. De Witt, Robert L. Caruthers, James H. Thomas, George W. Jones, John F. House, John D. C. Atkins and David M. Currin.

There was in these new delegations, as appears from their names, (several of whom stood amongst the most distinguished men in the whole country at the time,) a considerable accession of talent to that body; but there was, at the same time, a considerable loss in this particular. Quite a number of the ablest of the members composing this Congress at Montgomery, had entered the military service. It is true that only a very few of them resigned their seats; but the counsels of those who did not, were lost to a considerable extent, by their absence on their duties in the field. Georgia alone had lost largely in this respect. Howell Cobb, the President, was commanding a Regiment. He afterwards became a Major-General. Francis S. Bartow was also in command of a Regiment. While Thomas R. R. Cobb was at the head of his Legion. Toombs had quit the Department of State, and had taken the commission of Brigadier-General in the Provisional Army. Wigfall, of Texas, was also at the head of a Brigade. Anderson, of Florida, had resigned his seat and gone into the Army soon after the

organization of the Government. G. T. Ward, who filled his place, soon after raised a Regiment himself. A great deal of the talent of other States had likewise sought Military instead of Civic service at this time. Clingman, of North Carolina, for instance, took a command in the Army. So did James L. Orr, Wade Hampton, James Chesnut, Jr., and Milledge L. Bonham, of South Carolina; Felix K. Zollicoffer, of Tennessee; and John B. Floyd and Henry A. Wise, of Virginia—to say nothing of others.

In the meantime, however, before this meeting of the Confederate Congress, extensive military movements had commenced. So soon as it was apparent to the authorities at Washington, from the expression of public sentiment in its most authoritative channels, that the people of Virginia would at the polls, to be opened on the 23d of May, ratify the Ordinance of Secession by an overwhelming majority, arrangements were made, by a skilful disposition of forces, to crush her immediately, by assaults from several points at once. General Cox was to move from Guyandotte, General McClellan from Wheeling, General McDowell from Washington, and General Butler from Fortress Monroe. These movements were all made at nearly the same time, in the latter part of May. When the Confederate Congress assembled on the 20th of July, therefore, the affairs at Barboursville, Scarrytown, Grafton, Philippi, Laurel Hill, Cheat River, Alexandria, and Big Bethel, had all transpired. In all these operations the result had been favorable to the Confederates, except those under the direction of General McClellan. The signal victory of D. H. Hill at Big Bethel, however, on the 9th of June, he having then only the commission of Colonel, more than compensated for these in its moral effect. But there were, on the

20th of July, at least forty thousand Federal soldiers in various parts of Northwestern Virginia, to overawe the majority of the people, and sustain the minority, who were attempting to overthrow the rightful Government of the State. The manner in which these troops executed the purposes for which they were designed, as well as the general conduct of the war by the Federals, up to this period, may be judged of from what Mr. Davis said upon the subject in his Message to the Confederate Congress, upon their assembling at Richmond. Here is an extract from that Message:

"In this war, rapine is the rule; private houses, in beautiful rural retreats, are bombarded and burnt; grain crops in the field are consumed by the torch, and, when the torch is not convenient, careful labor is bestowed to render complete the destruction of every article of use or ornament remaining in private dwellings, after their inhabitants have fled from the outrages of brute soldiery. In 1781 Great Britain when invading the revolted Colonies, took possession of every district and county near Fortress Monroe, now occupied by the troops of the United States. The houses then inhabited by the people, after being respected and protected by avowed invaders, are now pillaged and destroyed by men who pretend that Virginians are their fellow-citizens. Mankind will shudder at the tales of the outrages committed on defenceless families by soldiers of the United States, now invading our homes; yet these outrages are prompted by inflamed passions and the madness of intoxication. But who shall depict the horror they entertain for the cool and deliberate malignancy which, under the pretext of suppressing insurrection, (said by themselves to be upheld by a minority only of our people,) makes special war on the sick, including children and women, by carefully de-

vised measures to prevent them from obtaining the medicines necessary for their cure. The sacred claims of humanity, respected even during the fury of actual battle, by careful diversion of attack from hospitals containing wounded enemies, are outraged in cold blood by a Government and people that pretend to desire a continuance of fraternal connections. All these outrages must remain unavenged [except] by the universal reprehension of mankind. In all cases where the actual perpetrators of the wrongs escape capture, they admit of no retaliation. The humanity of our people would shrink instinctively from the bare idea of urging a like war upon the sick, the women, and the children of an enemy. But there are other savage practices which have been resorted to by the Government of the United States, which do admit of repression by retaliation, and I have been driven to the necessity of enforcing the repression. The prisoners of war taken by the enemy on board the armed schooner Savannah, sailing under our commission, were, as I was credibly advised, treated like common felons, put in irons, confined in a jail usually appropriated to criminals of the worst dye, and threatened with punishment as such. I had made application for the exchange of these prisoners to the commanding officer of the enemy's squadron off Charleston, but that officer had already sent the prisoners to New York when application was made. I therefore deemed it my duty to renew the proposal for the exchange to the Constitutional Commander-in-Chief of the Army and Navy of the United States, the only officer having control of the prisoners. To this end, I dispatched an officer to him under a flag of truce, and, in making the proposal, I informed President Lincoln of my resolute purpose to check all barbarities on prisoners of war, by such severity of retaliation on prisoners held by

us as should secure the abandonment of the practice. This communication was received and read by an officer in command of the United States forces, and a message was brought from him by the bearer of my communication, that a reply would be returned by President Lincoln as soon as possible. I earnestly hope this promised reply (which has not yet been received,) will convey the assurance that Prisoners of War will be treated, in this unhappy contest, with that regard for humanity, which has made such conspicuous progress in the conduct of modern warfare. As measures of precaution, however, and until this promised reply is received, I still retain in close custody some officers captured from the enemy, whom it had been my pleasure previously to set at large on Parole, and whose fate must necessarily depend on that of prisoners held by the enemy. I append a copy of my communication to the President and Commander-in-Chief of the Army and Navy of the United States, and of the report of the officer charged to deliver my communication.

"There are some other passages in the remarkable paper to which I have directed your attention, having reference to the peculiar relations which exist between this Government and the States usually termed Border Slave States, which cannot properly be withheld from notice. The hearts of our people are animated by sentiments towards the inhabitants of these States, which found expression in your enactment refusing to consider them enemies, or authorize hostilities against them. That a very large portion of the people of these States regard us as brethren; that, if unrestrained by the actual presence of large armies, subversion of civil authority, and declaration of martial law, some of them, at least, would joyfully unite with us; that they are, with almost entire unanimity, op-

posed to the prosecution of the war waged against us, are facts of which daily recurring events fully warrant the assertion that the President of the United States refuses to recognize in these our late sister States, the right of refraining from attack upon us, and justifies his refusal by the assertion that the States have no other power than that reserved to them in the Union by the Constitution. Now, this view of the Constitutional relations between the States and the General Government is a fitting introduction to another assertion of the Message, that the Executive possesses power of suspending the writ of *Habeas Corpus*, and of delegating that power to military Commanders at their discretion. And both these propositions claim a respect equal to that which is felt for the additional statement of opinion in the same paper, that it is proper, in order to execute the laws, that some single law, made in such extreme tenderness of citizens' liberty that practically it relieves more of the guilty than the innocent, should to a very limited extent be violated. We may well rejoice that we have forever severed our connection with a Government that thus tramples on all principles of constitutional liberty, and with a people in whose presence such avowals could be hazarded."

But we must now take a brief notice of more exciting scenes, with their results. The military movements before referred to, were only preliminary to one on a much grander scale. The rapine, pillage, and outrages in Northwestern Virginia, the massacres at Fort Jackson, in Missouri, and the thunders at Big Bethel, Laurel Hill, and Philippi, were only the storm-notes of the coming tempest. By the 1st of July, the Federals had an available force in the field, at various points, ready for duty, of upwards of 300,000 men.*

* *Appleton's Annual Cyclopædia*, 1861, p. 26.

Over 60,000 of these were concentrated at or near Washington, constituting a column which was expected to make "short and decisive work" of the Confederates, by an immediate onward march to Richmond, then the "Headquarters of the Rebellion." This "Grand Army" was organized under the direction and inspection of General Scott himself, the Commander-in-Chief. It consisted of nearly sixty regiments, besides several battalions and other organizations, arranged into numerous brigades, and five great divisions. The command of the whole, in the field, however, was assigned to Major-General Irwin McDowell, an officer of great skill and ability. All being ready, this huge command—the largest and best equipped ever before seen in America, perhaps—was put in motion for its intended destination and purpose, on the 16th of July; four days before the time fixed for the meeting of the Confederate Congress in Richmond. The progress of its march, with its immense and unwieldy trains, was slow. On the 18th, the out-posts of the Confederate forces, under the command of General Beauregard, were encountered at Bull Run, a small stream a few miles from Manassas. Here a considerable engagement ensued, which stopped McDowell for two days. The forces under General Beauregard amounted in all to little, if any, over 20,000 men. Affairs were now exceedingly critical.

General Joseph E. Johnston, who had an army of about eight thousand men, in the valley of the Shenandoah, beyond the mountains of the Blue Ridge—was immediately informed, by telegraph from the War Department at Richmond, of the situation; and directed to pursue such course as he might think best under the circumstances. He, by a movement with hardly a parallel in the annals of war, joined General Beauregard

with his command, in time to meet and drive back the advancing, threatening and formidable hosts! It was on this occasion that he displayed those qualities which so distinguished him throughout the war, and which so endeared him to the soldiers and people of the Confederate States. Of this first great battle, between the opposing sides, which may very properly be noticed here somewhat in detail, I will let him give the account himself. He being the senior in command, the control of all subsequent operations devolved on him, so soon as he reached the field. This was on the evening of Saturday the twentieth. The bloody conflict came off on Sunday the twenty-first. In his rapid movement to Manassas, he had pushed forward at the head of only a part of his forces, leaving the others to follow as quickly as possible. Here is his Report of what ensued. I will read such parts as will give a clear and accurate account of the whole:

"In the exercise of the discretion conferred by the terms of the order, I at once determined to march to join General Beauregard. The best service which the Army of the Shenandoah could render, was to prevent the defeat of that of the Potomac. To be able to do this, it was necessary, in the first instance, to defeat General Patterson,* or to elude him. The latter course was the most speedy and certain, and was therefore adopted.

"I found General Beauregard's position too extensive, and the ground too densely wooded and intricate, to be learned in the brief time at my disposal, and therefore determined to rely upon his knowledge of it, and of the enemy's positions. This I did readily, from full confidence in his capacity.

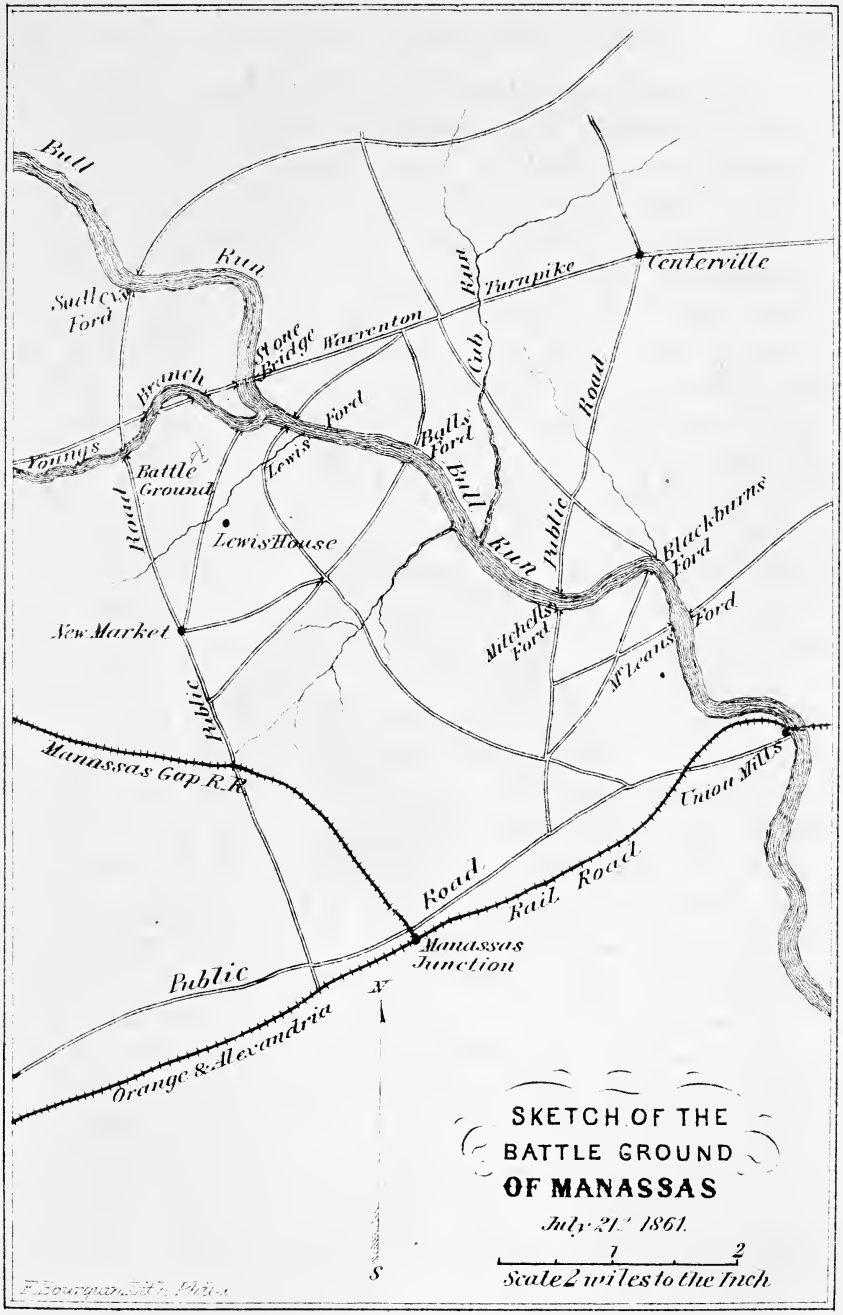
* General Patterson was very much blamed by the Federals, at the time, for not uniting his forces with McDowell's, as Johnston had his with Beauregard; but his vindication completely exonerates him from all just censure in that matter.

"His troops were divided into eight brigades, occupying the defensive line of Bull Run. Brigadier-General Ewell's was posted at the Union Mills Ford; Brigadier-General D. R. Jones's at McLean's Ford; Brigadier-General Longstreet's at Blackburn's Ford; Brigadier-General Bonham's at Mitchell's Ford; Colonel Cocke's at Ball's Ford, some three miles above, and Colonel Evans, with a regiment and battalion, formed the extreme left at the Stone Bridge. The brigades of Brigadier-General Holmes, and Colonel Early, were in reserve, in rear of the right. I regarded the arrival of the remainder of the Army of the Shenandoah, during the night, as certain.

"Soon after sunrise, on the morning of the 21st, a light cannonade was opened upon Colonel Evans's position; a similar demonstration was made against the centre soon after, and strong forces were observed in front of it and of the right. About eight o'clock, General Beauregard and I placed ourselves on a commanding hill in the rear of General Bonham's left. Near nine o'clock the signal officer, Captain Alexander, reported that a large body of troops was crossing the valley of Bull Run, some two miles above the bridge. General Bee, who had been placed near Colonel Cocke's position, Colonel Hampton, with his Legion, and Colonel Jackson, from a point near General Bonham's left were ordered to hasten to the left flank.

"The enemy, under cover of a strong demonstration on our right, made a long detour through the woods on his right, crossed Bull Run two miles above our left, and threw himself upon the flank and rear of our position. This movement was fortunately discovered in time for us to check its progress, and ultimately to form a new line of battle nearly at right angles with the defensive line of Bull Run.

"On discovering that the enemy had crossed the stream


Bull
Run
Sudley's Ford
Stone Bridge
Warrenton
Turnpike
Centerville
Cub
Run
Road
Branch
Young's
Battle Ground
Lewis Ford
Ball's Ford
Bull
Run
Public
Road
Lewis House
New Market
Blackburns Ford
Mitchells Ford
M.Lean's
Ford
Public
Road
Manassas Gap R.R.
Union Mills
Rail Road
Manassas Junction
Public
Road
Orange & Alexandria
Rail Road
SKETCH OF THE
BATTLE GROUND
OF MANASSAS
July 21st 1861.
1
2
Scale 2 miles to the Inch
F. Bourgan, Lith. Phila.

above him, Colonel Evans moved to his left with eleven companies and two field pieces, to oppose his advance, and disposed his little force under cover of the wood, near the intersection of the Warrenton Turnpike and the Sudley Road. Here he was attacked by the enemy in immensely superior numbers, against which he maintained himself with skill and unshrinking courage. General Bee, moving towards the enemy, guided by the firing, had, with a soldier's eye, selected the position near the Henry House, and formed his troops upon it. They were the 7th and 8th Georgia, 4th Alabama, 2d Mississippi, and two companies of the 11th Mississippi Regiments, with Imboden's battery. Being compelled, however, to sustain Colonel Evans, he crossed the valley and formed on the right and somewhat in advance of his position. Here the joint force, little exceeding five regiments, with six field pieces, held the ground against about fifteen thousand United States troops for an hour, until, finding themselves outflanked by the continually arriving troops of the enemy, they fell back to General Bee's first position, upon the line of which, Jackson, just arriving, formed his brigade and Stanard's battery. Colonel Hampton, who had by this time advanced with his Legion as far as the Turnpike, rendered efficient service in maintaining the orderly character of the retreat from that point; and here fell the gallant Lieutenant Colonel Johnson, his second in command.

"In the meantime, I awaited with General Beauregard, near the centre, the full development of the enemy's designs. About eleven o'clock, the violence of the firing on the left indicated a battle, and the march of a large body of troops from the enemy's centre towards the conflict, was shown by clouds of dust. I was thus convinced, that his great effort was to be made with his right. I stated that

conviction to General Beauregard, and the absolute necessity of immediately strengthening our left as much as possible. Orders were, accordingly, at once sent to General Holmes and Colonel Early, to move with all speed to the sound of the firing, and to General Bonham to send up two of his regiments and a battery. General Beauregard and I then hurried at a rapid gallop to the scene of action, about four miles off. On the way, I directed my Chief of Artillery, Colonel Pendleton, to follow with his own and Alburtis's batteries. We came not a moment too soon. The long contest, against five-fold odds and heavy losses, especially of field officers, had greatly discouraged the troops of General Bee and Colonel Evans. Our presence with them under fire, and some example, had the happiest effect on the spirit of the troops. Order was soon restored, and the battle re-established, to which the firmness of Jackson's brigade greatly contributed. Then, in a brief and rapid conference, General Beauregard was assigned to the command of the left, which, as the younger officer, he claimed, while I returned to that of the whole field. The aspect of affairs was critical, but I had full confidence in the skill and indomitable courage of General Beauregard, the high soldierly qualities of Generals Bee and Jackson, and Colonel Evans, and the devoted patriotism of their troops. Orders were first despatched to hasten the march of General Holmes's, Colonel Early's and General Bonham's regiments. General Ewell was also directed to follow with all speed. Many of the broken troops, fragments of companies, and individual stragglers, were re-formed and brought into action, with the aid of my staff, and a portion of General Beauregard's. Colonel (Governor) Smith, with his battalion, and Colonel Hunton, with his regiment, were ordered up to reinforce the right. I have since learned that

General Beauregerd had previously ordered them into the battle. They belonged to his corps. Colonel Smith's cheerful courage had a fine influence, not only upon the spirit of his own men, but upon the stragglers from the troops engaged. The largest body of these, equal to about four companies, having no competent field officer, I placed under command of one of my staff, Colonel F. J. Thomas, who fell, while gallantly leading it against the enemy. These reinforcements were all sent to the right, to re-establish, more perfectly, that part of our line. Having attended to these pressing duties, at the immediate scene of conflict, my eye was next directed to Colonel Cocke's brigade, the nearest at hand. Hastening to his position, I desired him to lead his troops into action. He informed me, however, that a large body of the enemy's troops, beyond the stream and below the bridge, threatened us from that quarter. He was, therefore, left in his position.

"My Headquarters were now established near the Lewis House. From this commanding elevation, my view embraced the position of the enemy beyond the stream, and the approaches to the Stone Bridge, a point of especial importance. I could also see the advances of our troops, far down the Valley, in the direction of Manassas, and observe the progress of the action and the manœuvres of the enemy.

"We had now sixteen guns, and two hundred and sixty cavalry, and a little above nine regiments of the army of the Shenandoah, and six guns, and less than the strength of three regiments, of that of the Potomac, engaged with about thirty-five thousand United States troops, amongst whom, were full three thousand men of the old Regular Army. Yet, this admirable artillery, and brave infantry and cavalry, lost no foot of ground.

For nearly three hours they maintained their position, repelling five successive assaults, by the heavy masses of the enemy, whose numbers enabled him continually to bring up fresh troops, as their preceding columns were driven back. Colonel Stuart contributed to one of these repulses, by a well-timed and vigorous charge on the enemy's right flank, with two companies of his cavalry. The efficiency of our infantry and cavalry, might have been expected from a patriotic people, accustomed, like ours, to the management of arms and horses, but that of the artillery, was little less than wonderful. They were opposed to batteries far superior, in the number, range and equipment of their guns, with educated officers, and thoroughly instructed soldiers. We had but one educated Artillerist, Colonel Pendleton—that model of a Christian soldier—yet they exhibited as much superiority to the enemy in skill as in courage. Their fire was superior, both in rapidity and precision.

"The expected reinforcements appeared soon after. Colonel Cocke was then desired to lead his brigade into action, to support the right of the troops engaged, which he did, with alacrity and effect. Within a half hour, the two regiments of General Bonham's Brigade, (Cash's and Kershaw's) came up, and were directed against the enemy's right, which he seemed to be strengthening. Fisher's North Carolina regiment was, soon after, sent in the same direction. About 3 o'clock, while the enemy seemed to be striving to outflank and drive back our left, and thus separate us from Manassas, General E. K. Smith arrived, with three regiments of Elzey's Brigade. He was instructed to attack the right flank of the enemy, now exposed to us. Before the movement was completed, he fell, severely wounded. Colonel Elzey at once taking command, executed it with great promptitude and vigor.

General Beauregard rapidly seized the opportunity thus afforded him, and threw forward his whole line. The enemy was driven back from the long-contested hill, and victory was no longer doubtful. He made yet another attempt to retrieve the day. He again extended his right, with a still wider sweep, to turn our left. Just as he re-formed, to renew the battle, Colonel Early's three regiments came upon the field. The enemy's new formation exposed his right flank more even than the previous one. Colonel Early was, therefore, ordered to throw himself directly upon it, supported by Colonel Stuart's Cavalry and Beckham's Battery. He executed this attack bravely and well, while a simultaneous charge was made by General Beauregard in front. The enemy was broken by this combined attack. He lost all the artillery which he had advanced to the scene of the conflict. He had no more fresh troops to rally on, and a general rout ensued.

"Our victory was as complete as one gained by infantry and artillery can be. An adequate force of cavalry would have made it decisive.

"It is due, under Almighty God, to the skill and resolution of General Beauregard, the admirable conduct of Generals Bee, E. K. Smith and Jackson, and of Colonels (commanding brigades) Evans, Cocke, Early, and Elzey and the courage and unyielding firmness of our patriotic volunteers. The admirable character of our troops is incontestably proved by the result of this battle; especially when it is remembered that little more than six thousand men of the army of the Shenandoah, with sixteen guns, and less than two thousand of that of the Potomac, with six guns, for full five hours successfully resisted thirty-five thousand United States troops, with a powerful artillery, and a superior force of Regular cavalry.

The brunt of this hard-fought engagement fell upon the troops who held their ground so long, with such heroic resolution. The unfading honor which they won, was dearly bought with the blood of many of our best and bravest. Their loss was far heavier, in proportion, than that of the troops coming later into action.

"Every regiment and battery engaged performed its part well. The commanders of brigades have been already mentioned. I refer you to General Beauregard's report, for the names of the officers of the army of the Potomac, who distinguished themselves most. I cannot enumerate all of the army of the Shenandoah, who deserve distinction, and will confine myself to those of high rank. Colonels Bartow and Fisher, (killed,) Jones, (mortally wounded,) Harper, J. F. Preston, Cummings, Falkner, Gartrell and Vaughan; J. E. B. Stuart, of the cavalry, and Pendleton of the artillery, Lieutenant-Colonel Echols, Lightfoot, Lackland, G. H. Stewart and Gardner. The last named gallant officer was severely wounded.

"The loss of the army of the Potomac was 108 killed, 510 wounded, 12 missing. That of the army of the Shenandoah was, 270 killed, 979 wounded, 18 missing. Total killed, 378; total wounded, 1,489; total missing, 30.

"That of the enemy could not be ascertained. It must have been between four and five thousand. Twenty-eight pieces of artillery, about five thousand muskets, and nearly five hundred thousand cartridges; a garrison flag and ten colors were captured on the field or in the pursuit. Besides these, we captured sixty-four artillery horses, with their harness, twenty-six wagons, and much camp equipage, clothing, and other property, abandoned in their flight."

The result of this battle between forces so unequal in numbers as well as so unequal in arms, and equipments, is to be attributed mainly to the relative spirit by which the officers and men on the opposing sides were moved and animated in the terrible conflict. Great as was the skill of Generals Johnston and Beauregard, in the disposition and movements of their squadrons, that of General McDowell was also very great. His whole plan of operations, from the beginning to the end, showed military genius of the highest order. The result, therefore, did not depend so much upon the superior skill of the commanders on the Confederate side, as upon the high objects and motives with which they, as well as those under them, were inspired. Johnston and Beauregard were both often in the thickest of the fight, leading in person, with colors in hand, on to the charge, regiments whose officers had fallen! They, and those who followed them, were moved by a profound sense of the glaring usurpations of Mr. Lincoln, to which I have referred. They were animated by the sentiments uttered by Mr. Davis in his message at Montgomery, and repeated the day before at Richmond. The struggle with them was not for power, dominion, or dynasty—nor for Fame; but to resist palpable and dangerous assumptions of power, and to repel wanton aggressions upon long established rights. They fought for those Principles and Institutions of Self-government which were the priceless heritage of their ancestors!

On the Federal side, thousands of those who were sent on this expedition, set out, not only with reluctance, but with a consciousness that the whole movement was wrong. They had volunteered for no such purpose. They had tendered their services with the sole view of defending the Capital. It was under the impression and

belief so extensively created at the North, that the Confederates intended to take Washington, that much the greater portion of this immense army had, with very patriotic motives, rushed to the rescue. Their object was to defend their own rights against an expected assault, and not to make aggression upon the rights of others. This entrapping them into this movement, when once mustered into service, and under military control, was but a part of the sinister purposes of the Federal authorities, which marked their policy throughout the war. The first false cry was to save the Capital, and after that came a second equally false one to save the Union; while their real object all the time was to use these popular catch words to mislead a confiding people, and under these specious pretexts to cover their ulterior designs of subverting and overturning the whole structure of the Government. A similar solution is to be given to the subsequent battles, some months afterwards, at Lexington and Oak Hill, near Springfield, in Missouri, under Generals Price and McCulloch; at Belmont in the same State, under Generals Polk and Pillow; and at Leesburg, in Virginia, under General Evans, in all of which great victories were achieved by the Confederates. To this same spirit, indeed, is mainly to be attributed the fact that in no field engagement during the war did the Confederates fail of success, where they were not overwhelmed, if not "annihilated" by numbers. The most signal successes the Federals met with during the first year of the war were at Fort Hatteras, Port Royal, Fort Henry, and Fort Donelson, where, in addition to a vast superiority of numbers, they had also the advantage of bringing their naval forces most efficiently to their aid.

Major Heister. You must except from your remarks about the battles of the first year of the war, General Thomas's great victory in Kentucky, at Mill Springs?

Mr. Stephens. No: that is no exception. You refer to the Battle of Fishing Creek, as the Confederates call it. This, it is true, was a very important victory to the Federals, especially as it opened up to them an ingress into East Tennessee; but they had not only a great superiority in numbers, but also in the character of their arms. Besides this, the victory there achieved was owing, in no small degree, to the fall, in the early part of the engagement, of General Felix K. Zollicoffer, who lost his life by incautiously approaching a Federal Regiment, supposing it to be one of his own. This, therefore, is no exception to my general remark.

But to return to the progress of events at the two Seats of Government, which must necessarily be borne in mind for the purposes of our investigation. After the great defeat of the first "Onward" to Richmond, it must be recollected, then, that the Authorities at Washington set about the organization of another, and a still greater, army at the same place, and for the same purpose. Hundreds of millions of dollars were appropriated.

General Winfield Scott, the Commander-in-Chief of the Army of the United States, at his own request, on account of age and its infirmities, was relieved from all further active duty. The organization of the new army, under the new levies, therefore, was assigned to another. General George B. McClellan was the officer selected. This high distinction was conferred upon him in consideration of his successes in Northwestern Virginia, in the month of July. He was at this time regarded as the "coming man." To him was given the appellation of the "Young Napoleon." He was, indeed, an officer of great ability. Very few ever surpassed him in what may be termed the organizing powers of the mind. He went to work slowly, and, notwithstanding the pressure upon him for another

attack upon Richmond, contented himself with having all things ready for such a movement early in the ensuing spring. The whole fall and winter were spent in preparation.

While this was going on at Washington, the Authorities at Richmond were doing all in their power to bring into the field a force sufficient to repel the second blow, as they had the first. The Congress provided, by law, for calling out four hundred thousand volunteers. To meet the expenses, they directed the issuing of one hundred and fifty millions of Treasury Notes, in addition to those previously ordered, with a war tax of fifty cents upon the hundred dollars' worth of certain taxable property.

They also adopted what was known as the "Paris Agreement of 1856," touching the International Law of Blockade, and sent two other Commissioners to Europe to present this subject, especially to the Courts of England and France; and to place the Confederates in a favorable position in relation to the rights of Neutrals and Belligerents. These Commissioners, Mr. James M Mason, of Virginia, and Mr. John Slidell, of Louisiana, with their Secretaries, Mr. George Eustis and Mr. James E. Macfarland, were seized on board the British Mail Steamer Trent, between Havana and St. Thomas, by Captain Wilkes, of the United States Navy, commanding the San Jacinto, on the 8th of November, and were carried to Fort Warren, Boston Harbor, where they were confined as prisoners. The report of this indignity to the British Flag, by Captain Moir, of the Trent, and Commander Williams, of the Royal Navy, in charge of Her Majesty's mails, created the most intense excitement in England. A war feeling instantly flamed up there. Troops were sent to Canada. A formal demand was im-

mediately made of the Authorities at Washington, by the British Government, for the surrender of the prisoners, and an apology for the outrage upon Neutral Rights in their capture. Both demands were promptly complied with by Mr. Seward, Secretary of State, in a very voluminous parade of not very *impertinent* learning, notwithstanding the House of Representatives had passed a vote of thanks to Captain Wilkes for his conduct in the matter. This affair, therefore, so threatening for a short time, soon passed off quietly, without any serious results. The Commissioners reached their respective destinations, but met with no success in the accomplishment of their objects. All their labors were as fruitless, as had been those of the Commissioners first sent, upon the subjects specially committed to their charge.

Mr. John T. Pickett, who was the Secretary of the Commissioners at Washington, was sent, in the month of May, to Mexico, to act as Diplomatic Agent of the Confederate States, with that Government. His mission resulted in nothing effectual.*

Mr. Yancey, early in the winter, when he saw that nothing could be accomplished on the business upon which he was sent, returned to his home, and was elected by the Legislature of Alabama to the first Confederate States Senate under the Constitution, which had been adopted for their Permanent Government; and which was to go into operation on the 22d day of February, 1862. The regular election for President and Vice President, under the Constitution for a Permanent Government, was held on the 6th of November, 1861, when the same

* Mr. Pickett's Correspondence with the Mexican Authorities, which has been preserved, presents much interesting matter, in throwing light upon the condition of political affairs in that country, at this important period in her history.

persons holding these offices under the Provisional Organization, were unanimously re-elected to the same positions, for a term of six years, under the other.

A few other matters only, during the existence of the Provisional Organization, remain to be noted for our purposes. Among these it is proper to state, that before the expiration of this period, events took a turn which led to the admission of the States of Missouri and Kentucky into the Confederacy. Neither Governor Jackson nor Governor Magoffin was permitted by the Federal Authorities to hold the position of neutrality; nor were these States permitted to hold that position.

In Missouri a Revolutionary State Government was organized, backed by the Federals. Hamilton R. Gamble was declared Provisional Governor; Willard P. Hall, Lieutenant Governor; and Mordecai Oliver, Secretary of State. This Government, and the Party which sustained it, sided with the Federals. The regular Legislature of Missouri, convened at the call of Governor Jackson, appointed Edward C. Cabell and Thomas L. Snead as Commissioners fully empowered to form an alliance with the Confederate States. This resulted in a Convention not dissimilar in its features to those previously entered into by Virginia and Tennessee. The Convention was signed at Richmond, on the 31st of October, 1861, by the Commissioners on the part of the State, and by Robert M. T. Hunter, Secretary of State, on the part of the Confederate States. This Convention was subsequently ratified unanimously by the Legislature. In this way Missouri was recognized as a member of the Confederacy.

Kentucky became the theatre of similar scenes with similar results, in a reversed order. In this State, as in all where neutrality was attempted, "a reign of terror" was instituted. During the latter part of September,

Ex-Governor Charles S. Morehead, the life-long personal and political friend of Henry Clay, as well as one of the most devoted adherents to the Union under the Constitution who ever lived, was arrested at his residence near Louisville, for nothing but his denunciations of the flagrant usurpations of the Washington Authorities. He was hurried off by the military to Fort La Fayette, where he was immured for months in one of the dungeons of that Bastile, without a hearing and without a charge! Thomas B. Monroe, who was District Judge of the United States Court, John C. Breckinridge, Senator and Ex-Vice-President of the United States, Humphrey Marshall, Ex-Congressman and Ex-Minister to China, William Preston, Ex-Congressman and Ex-Minister to Spain, Thomas B. Monroe, Jr., Secretary of State at the time, and several other of the most prominent citizens of Kentucky, who occupied positions similar to that of Mr. Morehead, avoided a similar doom, through the good fortune of receiving information, that orders for their arrest had been issued, in time for them to make their escape.

Mr. Breckinridge issued an address to the people of the State. A Convention was called, which met at Russellville on the 18th of November. This point had not yet been reached by the Federal forces. Sixty-eight counties of the State were represented in the Convention there assembled. The number of delegates was one hundred and twenty. They proclaimed a Declaration of Independence in behalf of the people of Kentucky, and organized a Government upon Revolutionary principles.*

* The grounds upon which these proceedings were justified in the opinion of those who instituted them, were thus set forth by Governor Johnson, on the 21st of November, 1862:

"The action of the people of this State, in thus organizing a Provisional Government for the protection of their rights of person and

George W. Johnson was chosen Governor. William Preston, Henry C. Burnett, and William E. Simms were appointed Commissioners to negotiate an alliance with the Confederate States. The result was the recognition by the Confederate States of this Organization as the rightful Government of the State of Kentucky; and of her admission under it, as a member of the Confederacy, in the early part of December.

Another matter of this period to be specially noted is, that during this winter, while the Confederates had a very large excess of Federal prisoners, the Authorities at Washington under very great pressure of public sentiment in the Northern States, were induced to enter into

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property, was based, as a necessity, upon the ultimate right of Revolution possessed by all mankind against perfidious and despotic Governments. A faction, which may be called the 'War Party of Kentucky,' composed of most of the members of the last Congress, and a minority of the Legislature, after surrounding themselves with an army of 8,000 Lincoln troops, forced a majority of their own body into caucus, and there concocted, and afterwards enacted in the Legislature (against the vetoes of the Governor and the remonstrances of the minority of the Senate and House of Representatives,) a series of oppressive and despotic acts, which have left us no alternatives except abject submission or manly resistance. The constitutional right of Secession by the State, with organized Government, from the ruins of the old Union, was not possible; because the power of adopting such manly and philosophic action was denied us by the enslaved members of the Legislature, who not only submitted, themselves, to the despotism of the army, but betrayed their political opponents who relied upon their honor, and their own constituents and the great body of the people of Kentucky, who relied upon their pledges of neutrality. Secession being thus impossible, we were compelled to plant ourselves on a doctrine universally recognized by all Nations—that allegiance is due alone to such Governments as protect Society, and upon that right which God himself has given to mankind and which is inalienable—the right to destroy any Government whose existence is incompatible with the interests and liberties of Society. The foundation, therefore, upon which the Provisional Government rests, is a right of Revolution instituted by the people, for the preservation of the liberty, the interests, and the honor of a vast majority of the citizens of Kentucky."

a Cartel for an exchange, upon the basis that the Confederates had offered at the beginning. This arrangement was entered into on the 14th of February, by General Howell Cobb on the part of the Confederate States, and General John E. Wool on the part of the United States. According to the agreement then made, the Privateersmen were put upon the footing of other prisoners of war. But no sooner had the Federals an excess of prisoners by the capture of the garrison of about 10,000 officers and men at Fort Donelson, than the terms of this agreement were violated, by their again refusing to send forward the Privateersmen in exchange, as well as by their failing to comply with the Cartel in other respects. But enough of this now. One or two other matters of smaller import may be here stated.

On Mr. Toombs's taking a commission in the army, Mr. Hunter succeeded him in the State Department. He continued to fill this office until the close of the Provisional Congress. Having been elected to the Confederate Senate, he took his seat in that body on its first organization. The health of Mr. Walker failing during the fall, Mr. Benjamin filled his place as Secretary of War, and Ex-Governor Thomas Bragg, of North Carolina, acted as Attorney-General during the remaining months of the Provisional Government. Mr. Walker afterwards became a Brigadier-General in the Army.

At this time the Confederates had in the field, distributed at various points, including all branches of service, in round numbers about three hundred thousand men; while the Federals in like manner, and in like round numbers had not less than eight hundred thousand!

So matters generally stood, in a political as well as military view, on both sides, when the new Organization under the Constitution for a Permanent Government for

the Confederate States went into operation, on the 22d of February, 1862;* which period may be regarded as the close of the first year of the war; and with this review of its events, I propose, if agreeable to you all, to close what I have to say at this time.

Major Heister. One thing, Mr. Stephens, I should like to know just at this point; and that is, why Generals Johnston and Beauregard remained entirely inactive at Manassas, during the whole fall, after the rout of General McDowell's army on the 21st of July? Why did they not push on to Washington? They must have had a very large force early in the fall, and flushed with victory as they were, it has always been a mystery to me, why they stood so perfectly quiet until McClellan's new army was organized almost within their sight? Can you explain this?

Mr. Stephens. I do not know that I can. With the military operations, as I have said before, it is not my purpose to deal, except in so far as they bear upon the questions which we have directly in hand. A great deal has been said and written upon the subject of your inquiry. It has been said that Thomas J. Jackson, who afterwards became so famous under the appellation of "Stonewall,"† and who was the Colonel of that name so favorably mentioned in General Johnston's report of the battle of the 21st of July, was urgent for an immediate pressing forward to Washington. Some think his views were right.‡ My own opinion, from the reports of both

* For List of Officers of the Government, Civil and Military, see *Appendix* L.

† This most remarkable man who afterwards figured so conspicuously in the war, and who established a name that will live forever, received this appellation from the following incident. General Bee, just before he fell in the battle of the 21st of July, while rallying his men, said: "*There is Jackson standing like a stone wall!*"

‡ *See Life of Jackson*, by Prof. R. L. Dabney, D. D., p. 233, *et sequentes*.

General Johnston and General Beauregard, as well as from other sources, is, that such a movement at that time, was altogether impracticable. As to the state of things afterwards, that is a different question. All I know upon that point, and all I can say in answer to your question upon it, is, that General Johnston did wish to make some movement of the sort in the early part of the fall, when he was better prepared. Not, however, with the forces he then had, for they did not exceed forty thousand effective men; while McClellan had over fifty thousand when he took command at Washington on the 27th of July. Johnston's plan was to concentrate, as quickly as possible, at that place, a force sufficient for his purpose, which could be done only by leaving bare remote points then defended. For this object a Council of War was held at Manassas. Mr. Davis went up from Richmond. He met Generals Johnston and Beauregard, and General Gustavus W. Smith in this Council. General Beauregard had been promoted to the rank of full General, for his gallantry and great services on the 21st of July. General Smith, at the time, commanded a division of this army, with the rank of Major-General. He was a graduate of West Point, and recognized as an officer of great merit.

The result of the Council of War so held, was the disapproval by Mr. Davis of the policy suggested. Upon the merits of the views presented, for and against its adoption, I have no speculative opinions to express. Of course, all that could now be said on the subject would amount to nothing but speculations. General Beauregard was, not very long afterwards, transferred to a command in the West. This is all the explanation I can give of the matter you inquire about.

Judge Bynum. The state of things at the close of the first year of the war, as you term it, must have presented

a gloomy prospect to the Richmond authorities just entering on their new Organization! There must have been very little left of their high elation at their first wonderful success at Bull Run? With the capture of Forts Henry and Donelson, and the opening into East Tennessee, which Thomas's victory achieved, and the abandonment of Kentucky, as well as Tennessee, by General Albert Sidney Johnston with all his forces, which these victories rendered necessary, to say nothing of the Coast operations in North and South Carolina; and with the utter failure of both the Embassies to effect anything in Europe, or even in Mexico, it seems to me, that the more intelligent men at the South must, at that time, have seen that further resistance was useless and hopeless. I should like to know, before you leave this point, what *your* views of the prospect then were?

Mr. Stephens. The prospect to me was not at all so gloomy as you seem to imagine. The Confederate reverses, you refer to, were certainly very great. But the immediate results of all the regular field engagements, as before said, had much in them to inspire not only hope, but confidence as to the final results of the Conflict. What I *then* thought of the prospect, however, can be better understood, from what I said a few months afterwards, in a speech at this place, which was very well reported, and very clearly sets forth my views and feelings on the subject, at the time you inquire of, as well as at the time when it was delivered. Here is the speech. From it as reported and published at the time, I read:

"On the general subject of our present conflict, involving as it does our individual as well as State existence, he said all wars were calamities—the greatest that can befall a people, except, perhaps, direct visitations from Providence, such as famines, plagues, and pestilences.

The greater the war, the greater the calamity. This war is a great calamity to us. We all feel it. It is the greatest war, and waged on the largest scale of any since the birth of Christ. The history of the world—not excepting the Crusades—furnishes no parallel to it in the present era.

"The responsibility and guilt of it must be fearful somewhere. As great calamities as wars are, they are, however, sometimes necessary. Often forced by the highest dictates of patriotism. Like 'offences' we are told of, it must needs be, that they sometimes come. They are, however, never right or justifiable on both sides. They may be wrong on both sides, but can never be right on both. Unjust wars, by the unanimous consent of civilized men, are held, as they should be, in condemnation and reprobation. People, therefore, as well as their rulers, to whom such high trusts are confided, should look well to it, and see that they are right before appealing to this last and most terrible arbitrament of arms.

"Some thoughts on this subject, Mr. Stephens said, might not be out of place, even there. These he dwelt upon at some length, showing the justice of our cause and the wanton aggression of the enemy. He traced the history of the controversy between the Southern and Northern States, the principles and nature of our Government, the Independence and Sovereignty of the States, and the right of each to control its own destinies and act for itself in the last resort, as each State might think best for itself. It was wholly immaterial, he said, in considering the question of right and justice, now to look any further than the solemn act of the States of the South, after mature deliberation, each acting for itself in its Sovereign capacity. Each State had the right thus

to act, and when each for itself had thus acted, no power on earth had the right justly to gainsay it.

"The old Union was formed by the States, each acting for itself in its Sovereign character and capacity, with the object and purpose of advancing their interests respectively thereby. Each State was the sole judge in the last resort, whether the future interest, safety and well-being of her people, required her to resume those Sovereign powers, the exercise of which had been delegated to other hands under the old Compact of Union. These principles have ever been held not only true, but sacred, with the friends of Constitutional Liberty in all the States since the old Union was formed. They rest upon that fundamental principle set forth in the Declaration of Independence, that all Governments 'derive their just powers from the consent of the governed.' The States South, therefore, had done nothing but what was their right—their inalienable right to do, the same as their ancestors did, in common with the North, when they severed their connection with the British Government.

"This war was waged by the North in denial of this Right, and for the purpose of conquest and subjugation! It was, therefore, aggressive, wanton and unjust! Such must be the judgment of mankind, let its results be what they may. The responsibility, therefore, for all its sacrifices of treasure and blood, heretofore, or hereafter to be made in its prosecution, rests not upon us.

"Mr. Stephens said that soon after the first great battle of Manassas, duty called him to our camps near that point. He went over the ground on which that conflict had taken place. The evidences of the late terrible strife were still fresh and visible all around. The wide-spread desolation, the new-made graves, and the putrid animal remains not yet removed by the vultures, fully

attested what a scene of blood it had been. While surveying the hills and defiles over which the various columns of our men and the enemy passed and were engaged on that memorable day, amongst many other things that crowded themselves upon his mind, were two dying expressions reported to have been uttered in the midst of the battle. One was by a soldier on the side of the enemy, who, fallen and weltering in his blood, exclaimed, 'My God! what is all this for?' The other was by the lamented Bartow, who said, 'Boys, they have killed me, but never give it up!' These two exclamations were made at no great distance apart, and perhaps near the same time.

"'What is all this for?' Mr. Stephens said he could but think the question was pertinent to both sides, and most pertinent from him who uttered it, addressed to all his invading comrades and those who sent them. Well might he there, in the agonies of death, in the din and dust of strife, in the clangor of arms and the thunder of artillery, ask, 'What is all this for?' Why this array of armies? Why this fierce meeting in mortal combat? What is all this carnage and slaughter for? The same question is still as pertinent to those who are waging this war against us, as it was then. Why the prolongation of this conflict? Why this immense sacrifice of life in camp, and the numerous battles that have been fought since? Why this lamentation and mourning going up from almost every house and family from Maine to the Rio Grande, and from the Atlantic and Gulf to the Lakes, for friends and dear ones who have fallen by disease and violence in this unparalleled struggle? The question, if replied to by the North, can have but one true answer. What is all this for on their part, but to overturn the principle upon which their own Government, as well as

ours, is based—to reverse the doctrine that Governments derive 'their just powers from the consent of the governed?' What is it for but to overturn the principles and practice of their own Government from the beginning? That Government was founded and based upon the political axiom that all States and Peoples have the inalienable right to change their forms of Government at will!

"This principle was acted on in the recognition by the United States of the South American Republics. It was the principle acted on in the recognition of Mexico. It was acted on in the struggle of Greece, to overthrow the Ottoman rule. On that question, the great Constitutional Expounder of the North, Mr. Webster, gained his first laurels as an American Statesman. This principle was acted on in the recognition of the Government of Louis Phillippe, on the overthrow of Charles X. of France; and again in the recognition of the Lamartime Government, on the overthrow of Louis Phillippe in 1848. At that time every man at the North in Congress, save one, Mr. Stephens believed, voted for the principle. The same principle was again acted upon without dissent in 1852, in the recognition of the Government of Louis Napoleon. The same principle was acted upon in the recognition of Texas, when she seceded or withdrew from the Government of Mexico.

"Many at the North opposed the admission of Texas, as a State in our then Union. But there was little, if any, opposition to her recognition as an independent outside Republic. Strange to say, many of those who were then fiercest in their opposition to Texas coming into the Union, are now the fiercest in their denial of the unquestioned right acknowledged to her before. Well may any and every one, North or South, exclaim, What is all this

for? What have we done to the North? When have we ever wronged them? We quit them, it is true, as our ancestors and their ancestors quit the British Government. We quit as they quit, upon a question of Constitutional Right. That question they determined for themselves, and we have but done the same. What, therefore, is all this for? Why this war on their part against the uniform principles and practice of their own Government? It is a war, in short, on their part, against right, against reason, against justice, against nature!

"If asked, on our side, what is all this for? The reply from every breast is, that it is for home, for firesides, for our altars, for our birthrights, for property, for honor, for life—in a word, for everything for which freemen should live, and for which all deserving to be freemen should be willing, if need be, to die!"

Upon the subject of the failure of our European Embassies, I then expressed myself as follows:

"On the subject of foreign recognition, Mr. Stephens said he saw no change in the prospect. Foreign Governments, he thought, were very much disposed to stand aloof from this contest. He did not believe they really sympathized with either side—he meant the ruling classes. The masses of the people, and the commercial interests generally, he thought did sympathize with us. Not so with their rulers. They care but little for the success of either the North or the South. Some of our people were disposed to think that their sympathies were with the North, while the Northern papers were charging them with sympathy for us. He thought they had no kind feelings for either, but rather rejoiced to see *professed Republicans cutting each other's throats!* He thought the remark reported to have lately been uttered by Carlyle in his quaint style, embodied in a nutshell the diplomatic

feelings of Europe toward the cause on both sides. The remark was that, 'It was the foulest chimney that had been on fire for a century, and the best way is to let it burn itself out.'

"They were against Republicanism! They are hostile to the opinion that man is capable of Self-government! They are doubtless in hope that this principle will be extinguished on both sides of the line before the contest ends! They were wise enough to see that the North (from the course commenced there) would soon run into anarchy or despotism, and they are perhaps looking for the same fate to befall us. This has usually been the fate of Republics; and one of the highest duties we have to perform to ourselves and posterity, was to see that their expectations shall fail so far as we are concerned. We have a high mission to perform; and Mr. Stephens trusted the people of the South would prove themselves equal to the task of its performance. We have our Independence to maintain, and Constitutional Liberty to preserve! With us now rest the hopes of the world! The North has already become a Despotism! The people, there, while nominally free, are in no better condition, practically, than serfs. The only plausibility they have for the war is to make freemen of slaves, and *those* of an Inferior race, while their efforts in this unnatural crusade thus far have resulted in nothing but making slaves *of themselves.* Presidential Proclamations supersede and set aside both laws and the Constitution. Liberty with them is but a name and a mockery. In separating from them, we quit the Union, but we rescued the Constitution. This was the Ark of the Covenant of our Fathers! It is our high duty to keep it, and hold it, and preserve it forever!"

Judge Bynum. A very rebellious speech it was, I should say!

Mr. Stephens. Yes, and *traitorous* too, if *treason* consists in *true loyalty* to the fundamental principles upon which the Union was based, and upon which alone it can be perpetuated, with the maintenance of Constitutional Liberty on this Continent! But on these points we have, I believe, agreed to disagree.

Prof. Norton. I have a question to ask you, Mr. Stephens, but will not put it now, as you propose to suspend for the present.

Mr. Stephens. Very well, we can hear it in the morning. I shall be at your service, and will cheerfully respond, *as before stated*, to all questions, as far as I am able, which relate to the general subject of our investigation.

COLLOQUY XXII.

DISCUSSION TAKES NEW AND VARIOUS TURNS—DIFFERENCES BETWEEN MR. DAVIS AND MR. STEPHENS INQUIRED INTO BY PROF. NORTON—FULL EXPOSITION GIVEN—DIFFERED ON INTERNAL AS WELL AS EXTERNAL POLICY—BUT NEVER WAS ANY PERSONAL BREACH OR FEUD BETWEEN THEM—TREATMENT OF PRISONERS DISCUSSED—THE CONFEDERATES NOT RESPONSIBLE FOR THE SUFFERINGS AT ANDERSONVILLE OR ELSEWHERE—POSITION OF MR. STEPHENS UPON THIS SUBJECT, AS WELL AS THE POLICY OF THE GOVERNMENT TOWARDS THE PEOPLE OF THE NORTHERN STATES—PROGRESS OF EVENTS IN BOTH A MILITARY AND A POLITICAL POINT OF VIEW DURING THE SECOND AND EARLY PART OF THE THIRD YEAR OF THE WAR—GLANCE AT THE BATTLES OF ELKHORN, SHILOH, "STONEWALL" JACKSON'S VALLEY CAMPAIGN—THE SIX DAYS' FIGHTING AROUND RICHMOND, CEDAR RUN, SECOND MANASSAS, HARPER'S FERRY, FREDERICKSBURG, PERRYVILLE, MURFREESBORO, CHANCELLORSVILLE, AND THE SIEGE OF VICKSBURG—GLANCE AT POLITICAL EVENTS DURING THE SAME TIME—THE CONDITION OF NORTHERN SENTIMENT PRODUCED BY MR. LINCOLN'S PROCLAMATIONS OF EMANCIPATION AND MARTIAL LAW—THE PROPOSED PEACE MISSION OF MR. STEPHENS IN 1863—FULL HISTORY OF IT—BATTLE OF GETTYSBURG—SURRENDER OF VICKSBURG—THE GEORGIA PEACE RESOLUTIONS, SO-CALLED, IN 1864—POSITION OF MR. STEPHENS ON FINANCIAL QUESTIONS—COTTON AS A FINANCIAL POWER—HIS POSITION ALSO UPON SUSPENSION OF WRIT OF HABEAS CORPUS, CONSCRIPTION, AND IMPRESSMENT.

MR. STEPHENS. We have a cool, bright morning, gentlemen. The thunder-shower of last night has produced a pleasant change in the atmosphere, and I trust you are quite refreshed by it, and that we all are in better condition for the continuation of the subjects we were discussing yesterday evening. I am now ready, Professor Norton, for the question which you expressed a wish to propound. In Parliamentary language, that is the first thing in order. Let us, if you please, hear what it is?

PROF. NORTON. The question which I wish to ask does

not relate so much to the general subjects which you are discussing as to a particular matter, which your manner of treating them, and some views presented by you upon them, have suggested to my mind. What I wish to inquire about has more of a personal than general bearing. It is not my desire or intention to divert you from the course you are pursuing, but just at *this point*, as Major Heister said, I wish a little information for my own satisfaction, and the gratification of my individual curiosity, if you have no objection to giving it.

This curiosity was particularly excited by the extract which you read from a speech made by you in 1862, and which our friend the Judge here considered so "rebellious." That speech I never heard of before. It presented your position during the war in a new light to me. I never so understood it before. I had always understood you to have been opposed to the war—to have been in favor of peace, upon the basis of a Reconstruction of the Union. On these points, as well as on the subject of the treatment of prisoners, my understanding, and I believe the understanding generally at the North, which was received through the medium of the Southern press, was, that there existed a direct and decided opposition between you and Mr. Davis; and that on account of these and other matters of disagreement between you and him, you not only withdrew from Richmond, but withdrew your support from the Administration, and headed a Peace Party movement in Georgia, Alabama, and North Carolina, with a view to the abandonment of the war, and a restoration of the Union. This speech you read, whether "rebellious" or not, certainly had nothing indicating any such line of policy as that which I supposed you favored.

Now, what I want to know is: what was the difference

between you and Mr. Davis? What was the cause or nature of the feud between you and him, about which so much was said in the papers? As far as you have gone, I see no difference between you and him. The sentiments uttered by you, and those uttered by him, do not seem to me to be dissimilar at all, in respect to the prosecution of the war. This is a matter upon which I wish light, at this point, if you do not consider my question as obtrusive or impertinent.

Mr. Stephens. Not in the least. I have no objection to give you as full an exposition of the matter you inquire about, as it is in my power to do. This, I the more readily do, because of the general misapprehension growing out of misrepresentations upon the subject.

In the first place, then, I must state most explicitly, that there never was any *feud*, properly speaking, between Mr. Davis and myself. We differed, it is true, very widely upon several matters of policy, as well as upon some principles of Constitutional law. We had differed, as before stated, upon the policy of introducing the new feature into the Democratic Platform in 1860, which caused a disruption of that Party, and led to the election of Mr. Lincoln. He was, as we have seen, the distinguished leader on that line of policy in the Senate.* We differed also upon the policy of Secession, when that course was adopted. After the rejection of the Crittenden proposition, he advised Secession, as we have seen. I did not concur with him in the expediency of that course. But on these and other points of difference there was nothing like a feud between us, nor were our personal relations, or free interchange of views upon public questions, interrupted at all by them. On the same points I differed as widely with Mr. Toombs, and two-thirds, perhaps, of the Montgomery Congress.

* *Ante*, vol. i, p. 408.

So, likewise, I differed with Mr. Davis after the organization of the new Confederacy, and the war was waged to overthrow it, upon several matters connected with the proper administration of our affairs. These related to the internal as well as the external policy of the Government—to wielding most efficiently our internal resources, of men and money, as well as proper external agencies, for the success of the great cause involved in the Conflict—the Sovereignty of the several States—to which no one could be more devoted than I was. These differences, however wide and thorough as they were, as we shall see, caused no personal breach between us. None of them, moreover, related to the general treatment of prisoners. On that point there was no disagreement between us.

This whole subject of the treatment of prisoners which has become so prominent a feature in considering the conduct of the war on both sides, from the turn which has been given to it, I may as well dispose of here, at once and finally. This I do by stating broadly that the charge of cruelty and inhumanity towards prisoners, which has been so extensively made at the North, against Mr. Davis and the Confederate authorities, is utterly without foundation in fact. From the commencement and throughout the war, the whole course of Mr. Davis towards prisoners shows conclusively the perfect recklessness of the charge. His position on this subject, in the beginning, clearly appears from what we have seen, and that fully sustains this statement. The efforts which have been so industriously made to fix the odium of cruelty and barbarity upon him, and other high officials under the Confederate Government, in the matter of prisoners, in the face of all the facts, constitute one of the boldest and baldest attempted outrages upon the truth of history, which has ever been

essayed: not less so than the infamous attempt to fix upon him and other high officials on the Confederate side, the guilt of Mr. Lincoln's assassination! Whatever unnecessary privations and sufferings prisoners on both sides were subjected to, the responsibility of the whole rested not upon Mr. Davis or the Confederate authorities. It is not my purpose to go into a full history of the subject. This would take more time than is at all necessary. A few leading facts will settle the matter.

Let it be borne in mind, then, that the Confederates were ever anxious for a speedy exchange, and that after the interruption of the exchange under the Cartel first agreed upon, as before stated, another arrangement was entered into by the Federals, under pressure of public sentiment at the North, when the excess was against them. This was, afterwards, likewise broken. It was broken, not by the Confederates, but by the Federals upon some pretext or other. Throughout the struggle, Mr. Davis's conduct and bearing upon this point, not only challenges the severest scrutiny of the fair minded of this day, but will command the admiration of the just and generous for all time to come. In addition to what has been shown heretofore, what higher evidence on this point could be desired than that furnished by his Congratulatory Address to the Army of General Lee, for the successes achieved in the battles around Richmond, when McClellan, with his newly organized hosts of at least one hundred and twenty thousand men, made the second unsuccessful attempt to take the Confederate Capital in 1862, and when over *ten thousand Federal prisoners* had fallen into their hands? In this hour of triumph, mark the significant, as well as magnanimous, and even chivalrous language, which came spontaneously from his heart on that occasion:

"*You are fighting for all that is dearest to men; and though opposed to a foe who disregards many of the usages of civilized war, your humanity to the wounded and to the prisoners was the fit and crowning glory to your valor.*"

Prof. Norton. Yes, but how did he act towards these same prisoners afterwards? What did he do to relieve the horrors they suffered in Libby and on Belle Island almost in the range of his sight, to say nothing of the sufferings of those at Salisbury and Andersonville, of which he must have been apprised? Why was his humanity and magnanimity so deaf to the appeals and dying wails of these men, which went up from those places, so near his own doors, and almost within his hearing?

Mr. Stephens. The horrors of Libby and Belle Island, as well as of Salisbury and Andersonville, so pathetically set forth by many, and great as they really were, were not his fault, or in any way justly chargeable upon him.

Prof. Norton. Whose fault was it? Was he not at the head of the Government? Did he not know of these sufferings, and who but himself could be justly responsible for them?

Mr. Stephens. It was the fault of the Federal authorities in not agreeing to, and carrying out an immediate exchange, which Mr. Davis was, at all times, anxious to do. The men at the head of affairs at Washington were solely responsible for all these sufferings. Upon these officials, and upon them only, can these sufferings be justly charged! Neither Libby, nor Belle Island, nor Salisbury, nor Andersonville would have had a groaning prisoner of war, but for the refusal of the Federal authorities to comply with the earnest desire of the Richmond Government, for an immediate exchange, upon the most liberal and humane principles. Had Mr. Davis's repeated offers been accepted, no prisoner on either side would have been re-

tained in confinement a day. This all the facts clearly show. All the sufferings and loss of life, therefore, during the entire war, growing out of these imprisonments on both sides, and they were great on both sides, (it is not my wish to understate or underrate them on either,) are justly chargeable to but one side, and that is the Federal side.

Prof. Norton. But if the Federal authorities did refuse to carry out an exchange of prisoners, for any cause whatever, this certainly did not justify the Confederates in adopting a regular systematic policy of starving the unfortunate men taken by them in arms, and of withholding proper medical remedies and attention from the wounded and sick, nor mitigate, in the least, the savage cruelties which were perpetrated upon them by such men as Wirtz?

Mr. Stephens. It certainly did not, or would not have justified such policy or acts. But it is not true that there was any such thing as the systematic policy you speak of, either in starving the well, or withholding medical remedies and attention from the sick and wounded. The policy of the Confederates in these particulars was established by law. By an act of Congress, passed soon after the war was inaugurated, as I have shown, it was provided that prisoners of war should have the same rations in quantity and quality as Confederate soldiers in the field. By an act afterwards passed all hospitals for sick and wounded prisoners, were put upon the same footing with hospitals for sick and wounded Confederates. This policy was never changed. There was no discrimination in either particular between Federal prisoners and Confederate soldiers. Whatever food or fare the Confederate soldiers had, whether good or bad, full or short, the Federal prisoners shared *equally*

with them. Whatever medical attention the sick and wounded Confederate soldiers had, the Federal prisoners in like condition also received. When the supply of the usual standard medicines was exhausted, and could not be replenished in consequence of the action of the Federal Government in holding them to be contraband of war, and in preventing their introduction by blockade and severe penalties—when resort was had to the virtue of the healing herbs of the country as substitutes for more efficient remedial agents, the suffering Federals shared these equally with like suffering Confederates! Did the requirements of perfect justice and right go beyond this? Could humanity ask more?

As for particular instances of cruelty on the part of subordinates who may have been untrue to their trusts, that is a very different matter. There were unquestionably very great wrongs of this sort on both sides. Wirtz, to whom you have alluded, may have committed some of these. How this was I really do not know. He, by-the-by, was not one of our people. He was a European by birth, who obtained position in our service through letters of recommendation, which warranted confidence in his intelligence and good character. I know nothing to his discredit in either of these respects, except the allegations you refer to. Whether they were true or false, as I have said, I do not know. It is due to his memory, however, to recollect that his own dying declarations were against the truth of these accusations. This, moreover, I can, and do venture to say, that acts of much greater cruelty and barbarity than any which were proven against him. could have been easily established, and would have been established on his trial, against numerous subordinates on the Federal side, if the tendered proof had not been rejected. I have been informed by returned Confederate

prisoners, of unquestionable truth and veracity, from Camp Douglas, Rock Island, Elmira, and Point Lookout, of numerous instances which came under their immediate observation of much greater atrocity than anything alleged against Wirtz. These acts, many of which were of the most inhumane and barbarous character, were perpetrated by Federal subordinates, having control of Confederate prisoners at these points. There may have been, therefore, and I do not question but that there were, great wrongs of this sort on the part of Confederate subordinates, as there certainly were on the part of the Federals. But what I maintain is, that such conduct never met the approval of the Confederate authorities. They never in a single instance *sanctioned*, much less *ordered* well demeaning and unoffending prisoners of war to be confined in unwholesome dungeons, and to be manacled with cuffs and irons as was repeatedly done by orders from the authorities at Washington, in utter violation of the well established usages of modern civilized warfare! But apart from this marked difference between the two Governments, in their highest official character, in sanctioning and ordering acts of wanton cruelty, I insist upon the irrefutable fact that but for the refusal of the Federals to carry out an exchange, none of the wrongs or outrages you speak of, and none of the sufferings incident to prison life on either side, could have occurred.

Prof. Norton. If there was no such systematic purpose to torture and literally to kill Federal prisoners, why were thirty thousand of them huddled together at Andersonville, in the sickly region of Southwestern Georgia, where, from the malarious influences prevailing under a burning sun, so many of them died, as must have been necessarily expected?

Mr. Stephens. Large numbers of them were taken to Southwestern Georgia in 1864, because it was a section most remote and secure from the invading Federal Armies, and because, too, it was a country of all others, then within the Confederate limits, not thus threatened with an invasion, most abundant with food, and all resources at command for the health and comfort of prisoners. They were put in one stockade for the want of men to guard more than one. The section of country, moreover, was not regarded as more unhealthy, or more subject to malarious influences, than any in the central part of the State. The Official order for the erection of the stockade enjoined that it should be in "a healthy locality, plenty of pure water, a running stream, and, if possible, shade trees, and in the immediate neighborhood of grist and saw mills." The very selection of the locality, so far from being, as you suppose, made with cruel designs against the prisoners, was governed by the most humane considerations.

Your question might, with much more point, be retorted by asking, why were Southern prisoners taken in the dead of winter with their thin clothing to Camp Douglas, Rock Island, and Johnson's Island—icy regions of the North—where it is a notorious fact that many of them actually froze to death?

As far as Mortuary returns afford evidence of the general treatment of prisoners on both sides, the figures show nothing to the disadvantage of the Confederates, notwithstanding their limited supplies of all kinds, and notwithstanding all that has been said of the horrible sacrifice of life at Andersonville.

It now appears that a larger number of Confederates died in Northern, than of Federals in Southern prisons, or stockades. The Report of Mr. Stanton, as Secretary

of War, on the 19th of July, 1866, exhibits the fact that, of the Federal prisoners in Confederate hands during the war, only 22,576 died; while of the Confederate prisoners in Federal hands 26,436 died. This Report does not set forth the exact number of prisoners held by each side respectively. These facts were given more in detail in a subsequent Report by Surgeon-General Barnes, of the United States Army. His Report I have not seen, but according to a statement, editorially, in the "National Intelligencer"—very high authority—it appears from the Surgeon-General's Report, that the whole number of Federal prisoners captured by the Confederates and held in Southern prisons, from first to last during the war, was, in round numbers, 270,000; while the whole number of Confederates captured and held in prisons by the Federals was, in like round numbers, only 220,000. From these two Reports it appears that, with 50,000 more prisoners in Southern stockades, or other modes of confinement, the deaths were nearly 4,000 less! According to these figures, the *per centum* of Federal deaths in Southern prisons was *under nine!* while the *per centum* of Confederate deaths in Northern prisons was *over twelve!* These Mortality statistics are of no small weight in determining on which side there was the most neglect, cruelty, and inhumanity!

But the great question in this matter is, *upon whom rests the tremendous responsibility* of all this sacrifice of human life, with all its indescribable miseries and sufferings? The facts, beyond question or doubt, show that it rests *entirely* upon the Authorities at Washington! It is now well understood to have been a part of *their settled policy* in conducting the war, not to exchange prisoners. The grounds upon which this extraordinary course was adopted were, that it was humanity to the men in the

field, on their side, to let their captured comrades perish in prison, rather than to let an equal number of Confederate soldiers be released on exchange to meet them in battle! Upon the Federal Authorities, and upon them only, with this policy as their excuse, rests the whole of this responsibility. To avert the indignation which the open avowal of this policy by them, at the time, would have excited throughout the North, and throughout the civilized world, the false cry of cruelty towards prisoners was raised against the Confederates. This was but a pretext to cover their own violation of the usages of war in this respect among civilized nations.

Other monstrous violations of like usages were not attempted to be palliated by them, or even covered by a pretext. These were, as you must admit, open, avowed and notorious! I refer not only to the general sacking of private houses—the pillaging of money, plate, jewels and other light articles of value, with the destruction of books, works of art, paintings, pictures, private manuscripts and family relics; but I allude, besides these things, especially to the hostile acts directly against property of all kinds, as well as outrages upon non-combatants—to the laying waste of whole sections of country; the attempted annihilation of all the necessaries of life; to the wanton killing, in many instances, of farm stock and domestic animals; the burning of mills, factories and barns, with their contents of grain and forage, not sparing orchards or growing crops, or the implements of husbandry; the mutilation of County and Municipal records of great value; the extraordinary efforts made to stir up servile insurrections, involving the wide-spread slaughter of women and children; the impious profanation of temples of worship, and even the brutish desecration of the sanctuaries of the dead!

All these enormities of a savage character against the very existence of civilized society, and so revolting to the natural sentiments of mankind, when not thoroughly infuriated by the worst of passions, and in open violation of modern usages in war—were perpetrated by the Federal armies in many places throughout the conflict, as legitimate means in putting down the Rebellion so-called!

Major Heister. You are severe against the general conduct of the war on our side.

Mr. Stephens. Yes; these are severe comments, and I must ask you for a little indulgence to me in expressing myself as I do. It is a sad thing to me to think of these subjects, and a still sadder thing to speak of them as I am compelled to do on this occasion. Severe as these comments are, there is, however, nothing extravagant in anything which I have said. It is all most lamentably true! All that I have stated, and much more, too, of a like character, were woefully realized by those who suffered from the deeds of Sheridan's men in the valley of Virginia, and by those who came within the range of the atrocities attending Sherman's conflagrations* and devastations in his "grand march" through Georgia and the Carolinas, as well as by those who were subjected to the merciless ravages of Wilson's and Palmer's Marauders afterwards! Facts which have come to my own knowledge, established by indisputable proof, verify the statement in full, both to the letter and spirit. Private houses were sacked, pillaged, and then burnt; and after all family supplies were destroyed, or rendered unfit for use, helpless women and hungry children were left destitute alike of shelter and food. I know men—old men, non-combatants, men who had nothing to do with the war, further than to indulge in that sympathy which nature prompted—who were seized

* See *Appendix* M.

by a licensed soldiery and put to brutal torture, to compel them to disclose and to deliver up treasure that it was supposed they possessed. They were in many instances hung by the neck until life was nearly extinguished, and then cut down with the promise to desist if their demands were complied with, and threats of repeating the operation to death if they were not! Judge Hiram Warner, one of the most upright and unoffending, as well as one of the most distinguished citizens of this State, was the victim of an outrage of this sort. He had had nothing to do with the war; but it was supposed he had money, and that was what these "*truly loyal*" "Union Restorers," so-called, were most eager to secure. Specifications, however, are unnecessary. Instances of a similar character are numerous and notorious. In some cases, where parties resisted, their lives, as well as their purses, watches and other articles of value, were taken!

Major Heister. As to the burnings and conflagrations, and the destruction of private property, if they are to be set down as evidences of *savage* warfare, these outrages were certainly not perpetrated exclusively by the Federals, or confined to their side. The Confederates did a good deal of this kind of work themselves in Maryland and Pennsylvania, to say nothing of other places.

Mr. Stephens. That, to a limited extent, is also most lamentably true! But these acts of the Confederates were, as is well known, committed upon the avowed principle of *retaliation*. To this *savage* practice, if you please, and upon this principle only, they were most reluctantly compelled ultimately to resort. The "*lex talionis*" is recognized in such cases by the most civilized Nations, though it be savage in its character.

The truth is, gentlemen, wars in their most mitigated form—viewed in any light whatever, have a great deal

of the savage character about them. They are most horrible scourges. They always spring from huge crimes against humanity, on one side or the other. They often, I admit, call forth the exercise of the highest faculties of the human intellect, and sometimes exhibit the noblest qualities of the human heart in the displays of fortitude, endurance, heroism, and the divine virtue of self-sacrifice for the good of others; but they are ever, upon the whole, even when most justifiably waged and humanely conducted, exceedingly demoralizing in their general tendencies and effects. They arouse and put into action the most fiendish elements of man's compound nature. Their almost universal tendency is to make demons of men. They are, certainly, the last instrumentalities that any people devoted to Constitutional Liberty, or the principles of Representative Government, should ever resort to for the purpose of maintaining and securing their objects. They are sometimes, as I said in the speech from which I read, necessary evils, looking to these ends. This was the character of this war on the Confederate side. No resistance by arms, in my opinion, could be more just than this was on their part. But the great objects aimed at in all such cases, are much oftener lost than attained by such resorts, even under such circumstances. This is my deliberate judgment. It was my judgment before the States were involved in this war, about which we can now neither speak nor think without the most melancholy reflections. Everything attending it, the long series of antecedents leading to it, as well as its general conduct on both sides, with its results up to this time, without considering the prospect of the future, all tend greatly to confirm me in that judgment. I do most earnestly hope, you may be assured, that the country may never be cursed with

another. If the present and future generations in all the States will but profit, as they should by the experience of the last eight years, they certainly never will be again so cursed.* The only way, however, in which this experience can be rendered profitable to those who now live, as well as those who shall come after us, is by fully and clearly understanding and studying the facts and truths which marked and characterized these most pregnant events from the beginning to the end, and by rigidly practising the lessons which they inculcate. Many questions ignored and principles rejected by the leading public men in the Federal Councils of this day, must be considered and reconsidered. The Government, under different counsels, must be brought back to the Principles upon which it was established, if a repetition of this great scourge is to be hereafter averted. This is also my deliberate judgment. The only way in which wars are to be avoided in this country, is for Rulers to abstain from usurpations of power. *Magna Charter* was trampled under foot for centuries in England; but its principles died not—they lived on, and, though at the cost of the terrible scourge of many sanguinary conflicts, ultimately triumphed. So it may be expected to be with the ever-living, imperishable Principles of American Free Institutions!

But what I had in mind to say a moment ago in this connection, and in conclusion on the point now under our immediate consideration, is that, however horrible

* Mr. S. Teackle Wallis, of Baltimore, one of the Members of the Legislature of Maryland, who was arrested and imprisoned during "the reign of terror" in that State, and who is distinguished alike for his patriotism, piety, learning and scholarly attainments, composed a Poem, while in one of the Bastiles, on the curse of war, and embodying an earnest Prayer for Peace, which should be preserved and treasured by all, Rulers and ruled, who would avoid a repetition of similar horrors. See *Appendix* N.

wars naturally and necessarily are in themselves; yet, in modern times, under the tempering and redeeming influences of the Christian Religion, civilized Nations have, by common consent, agreed upon certain customs and usages to which they conform in this resort, savage as it is, at best. These are the usages of civilized Nations to which I alluded, and which were so wantonly violated by the Federals, not only in their course upon the subject of prisoners, but in the other acts I mentioned.

Now, what I affirm is, that in no instance that I am aware of throughout the late war did the Confederate Authorities countenance, much less sanction or order a violation of a *single one* of these recognized Christian and humane usages, not even in the *retaliatory* burnings in Maryland and Pennsylvania, and elsewhere. A comparison between the acts of the two Governments in these particulars during the whole conduct of the war, will forever clearly exhibit on which side in the contest was the higher standard of "moral ideas," and with it the higher type of civilization, if you will excuse me for saying it, at this period in the common history of the Peoples of the United States, so far as these were indicated by those who controlled the conduct of public affairs on the respective sides.

However disastrous the results were to the Confederates; however extensive the misfortunes, losses, sufferings and sacrifices which attended and befell them in this second bloody conflict for the sovereign Right of local Self-government, on the part of the Peoples of the several States of this Federal Republic, whether composed of thirteen, thirty-three, or any other number; however utterly they failed to maintain this important principle, to which all that is truly great in the former history of the States is mainly attributable, and on which alone all sure hopes

for general peace, prosperity and happiness, with good government for the whole in future, must be placed; however fruitless their efforts and blasted were their fondest anticipations in their highest objects of patriotic aim; however deplorable their present condition is, bereft of their estates and outlawed by the Government; and however worse the condition still to come may be for them; yet, notwithstanding all this, they have left to them that which is inestimable in value, far above riches, wealth or power, and of which no oppression or tyranny can deprive them, and that is a Public Character, which after having passed the severest ordeal that can "try men's souls," stands forth with that moral grandeur which is ever imparted to the reputation of States as of individuals, by uprightness in conduct, integrity of purpose, truthfulness in words, and the "crowning glory" of unsullied honor!

Whatever other errors, faults, failings or shortcomings they may have had, no act of treachery, of perfidy, of hypocrisy or deceit, of breach of faith, or of turpitude—nothing of a low, mean, sordid or unmanly nature, can ever be justly laid to their charge in their State or Confederate organizations, either before or during the war; neither in the antecedents which led to it, nor in all the fury which marked its progress. Their whole public course shows them to have been a People as true, as brave, as generous, as frank, as refined, as magnanimous, as moral, as religious, and with all as honorable and patriotic, in the highest and noblest sense of these words, as ever struggled against odds, and thus struggling, fell in battling for the Right. So the truth of history stands, and will continue to stand forever! These are facts which time will never obliterate or destroy. This record of their past is no small heritage, if they have nothing else left for

them to transmit to their children, and to their children's children, for generations to come!

I must again ask your pardon, gentlemen, not only for this digression, but for the strong language I have used. What I felt constrained to say, however, is not altogether out of place, while it is certainly true.

Prof. Norton. We make due allowances for your prejudices and sympathies.

Mr. Stephens. Very well; so much then for these collateral matters. Now a word or two more, Professor, in response to your question upon the subject of prisoners, and my connection with it, before taking final leave of that matter. I did, indeed, as you understood me to do, feel a profound sympathy for the sufferings of prisoners on both sides, throughout the war, and I made repeated efforts for their alleviation and relief; these I may speak of hereafter. There was also a difference between myself and some of the Confederate authorities, as to the best course to be pursued towards the Andersonville prisoners, to whom you have especially referred in the year 1864, as well as prisoners of war generally, then held by the Confederates, after the Federals had refused all proffered terms for their relief by exchange. This difference, however, did not relate to their *treatment*, but to the most *politic* manner of disposing of them. On this point I thought policy and humanity were united. I did not confer directly with Mr. Davis upon it, but I did with several officers high in authority. To General Howell Cobb, who, then, as Major General of the Reserves in the Military District of Georgia, had the general control of the custody and safe-keeping of the prisoners at Andersonville, I specially presented my views upon the whole subject.

The condition of those at Andersonville, at the time, was, indeed, most pitiable and deplorable. A very cor-

rect idea of it is given in the Report of Dr. Joseph Jones, the very learned and eminent, as well as Philanthropic Surgeon, who voluntarily devoted months of his time to the alleviation of their maladies and miseries. In speaking of their general condition he says:

"Surrounded by these depressing agencies, the postponement of the general exchange of prisoners and the constantly receding hopes of deliverance through the action of their own Government depressed the already desponding spirits, and destroyed those mental and moral energies so necessary for a successful struggle against disease and its agents. Home sickness and disappointment, mental depression and distress, attending the daily longings for an apparently hopeless release, appeared to be as potent agencies in the destruction of these prisoners as the physical causes of actual disease."

Now, to General Cobb I suggested the propriety and expediency in a political point of view, as well as from the promptings of humanity, of sending these prisoners, as well as those confined at other places, home without any equivalent in return. My views presented to him, and to be presented by him, if he concurred, to Mr. Davis, were that Mr. Davis himself should visit and address the prisoners in person in a way and manner which I knew he was well fitted to do, if he approved the object; and after recapitulating all the facts in relation to exchange—after setting forth the nature of the war and the objects for which we were struggling—after stating distinctly *we were not fighting against the Union*, but for the Principles upon which *the Union was based*—for the rights of our common ancestors which were as dear to them as to us—in short, after a full review of all the questions in issue by him thus to be presented, for him to extend to the prisoners an unconditional discharge!

Such an unexampled act of generosity on his part, with copies of his address given to them by thousands, not only to be read and pondered by them, but to be distributed through the Northern States in the Presidential election pending that fall, I thought would effect a vast-deal in determining the doubtful issue between the then opposing Parties there, and upon which the most momentous results, in my judgment, depended; results of no less importance to us than to the friends of Constitutional Liberty there! My sympathies throughout that contest were of course thoroughly with those who were attempting at the ballot box to put out of power the Centralists, whose Executive and Congressional usurpations had already awakened an extensive alarm in most, if not all the Northern States. The object of the Centralists throughout the war had been, as the object of most of the writers since has been, to impress upon the minds of the people in the Northern States, that the Confederates were but a set of Conspirators, whose chief design was to subvert the Constitution and overthrow the Government. It was my object in this way, and in quarters which could not so well otherwise be reached, to disabuse the public mind there of this very erroneous sentiment; and that, too, by evidences almost as strong as those which the doubting Thomas required. These very unfortunate suffering prisoners—suffering from the inhumanity of their own high officials, who had beguiled them by false pretexts into this Crusade against unoffending neighbors—so relieved and sent home to the bosom of their families and friends by such an act of mercy on our part, I thought would be the most effective instruments at our command for accomplishing this great end. The humblest one of them might, in my view, be a diplomat with more power for good in the Cause for which we were contending, than

either of our able and accomplished Commissioners abroad, seeking sympathy or favor at foreign Courts.

The reply of General Cobb, as well as that of others to whom I presented these views, for the purpose of bringing them to the consideration of the Administration at Richmond, was in substance, that if the Federal prisoners should be thus discharged, there would be no security for the safety of the gallant and equally suffering Confederates in Northern prisons. They might, he said, be tried and executed for treason, as the privateersmen had been tried and condemned to death for piracy. These had been saved only by the *retaliatory* course, to which the Confederates had been compelled to resort; and that the only security the Confederates had against so monstrous an outrage upon their soldiers, was the Federal prisoners of war in hand to be kept until regularly exchanged, as hostages against such threatened barbarity. General Cobb, as well as all others with whom I conferred on the subject, fully concurred with me in general sympathy for the condition of prisoners on both sides, and expressed an earnest desire to do all in their power for their relief consistent with public security, and with what was considered by them to be due to Confederates then in the hands and power of the Federals, who openly proclaimed their purpose to treat them and deal with them as *traitors!*

This was one of the differences between myself and some of the Confederate authorities. It was a difference upon policy only. Whether I was right in the views I took upon this question, must, of course, be but a matter of speculation. In the opinion of a large majority of mankind, it would, doubtless, be considered a very small matter to differ upon, either in Councils of War or of State. I was, however, thoroughly impressed, not only with the expedi

ency of the policy suggested at the time, but with the great importance of its adoption. The results of wars often depend as much upon very small matters as upon great ones. The wavering scales of battle itself frequently turn upon the merest incidents scarcely noticed at the time. Every one at all conversant with the fluctuating tides of public sentiment and opinion, during an exciting and heated political canvass, knows full well how whole multitudes are frequently moved by matters of apparently very little import—by something, ever so small in itself, which strikes the heart and accords with the popular pulse. This, in my judgment, however, was no small matter, looking either to the humanity of the deed, or to its most probable consequences.

It is proper also to state, that I did not concur, to the full extent, in the apprehensions entertained by General Cobb and others as to the fate of Confederate prisoners, which might result from the course advised. The retention of a few thousand of the officers of the highest grade among the Federal prisoners in Confederate hands, would be ample security, I thought, against the judicial execution of any Confederate prisoner under the charge of piracy or treason; while the unconditional release of so many prisoners of war on our part under all the circumstances of the case, would, in my judgment, then and now, have produced a profound sensation with the masses of the people throughout the entire North, overwhelming in its effects upon the men in authority at Washington! It might have produced a general release of prisoners as well as the removal of these Officials from Place and Power.

On this particular point, as I have said, I did not confer directly with Mr. Davis. I was not in Richmond that summer. Not that I had withdrawn from the Seat

of Government with any intention of heading an opposition to the Administration, with the object of abandoning the war. Far, indeed, was I from being actuated during that absence by any such motives as these. I was confined at home the greater part of that summer by a protracted attack of severe disease. Apart from this, it is proper also to state, that I did not think it worth while for me to submit my views on this subject to Mr. Davis, unless some other more efficient influences could be brought to bear upon him, in securing his sanction of the policy recommended. This brings up the consideration of some of the real differences, as I understood them, between myself and him, as well as others connected with the administration of our affairs, as to the true external policy, especially towards the Northern States, to be pursued by the Confederate States, from the time of their separation throughout the war.

To present these clearly it is necessary, first, to make you fully understand my own position after the new Confederation was formed as to the course which should be pursued toward their former associates, and the general ends and objects to be aimed at through the successful operation of the policy of Secession which had been rightfully, though not judiciously, resorted to, in my judgment, as we have seen. This position was very clearly indicated and set forth at an early day in that "Corner-Stone Speech" from which I have already read in part. It was made, you recollect, on the 21st of March, 1861, and in response to inquiries for my views of the then future. It was an off-hand speech, without any preparation or notes, and not reported with entire accuracy; yet in the report which went to the country, my general views upon all the topics discussed were substantially correct. After stating the political position of the seven

Seceded States at that time, and sketching their action at Montgomery; the extent of country occupied by them; their material resources and productions which controlled the commerce of the world; and after showing their full capacity, in my opinion, to maintain a Separate Government, if that were desirable, the following is the language setting forth my views of the ends and objects which ought, however, to be aimed at by our external policy in this particular, as they were then given to the public in that report:

"Will everything, commenced so well, continue as it has begun? In reply to this anxious inquiry, I can only say it all depends upon ourselves. A young man starting out in life on his majority, with health, talent, and ability, under a favoring Providence, may be said to be the architect of his own fortunes. His destinies are in his own hands. He may make for himself a name of honor or dishonor, according to his own acts. If he plants himself upon truth, integrity, honor, and uprightness, with industry, patience, and energy, he cannot fail of success. So it is with us. We are a young Republic just entering upon the arena of Nations; we will be the architects of our own fortunes. Our destiny, under Providence, is in our own hands. With wisdom, prudence, and statesmanship on the part of our public men, and intelligence, virtue, and patriotism on the part of the people, success, to the full measure of our most sanguine hopes, may be looked for. But if unwise counsels prevail—if we become divided—if schisms arise—if dissensions spring up—if factions are engendered—if Party spirit, nourished by unholy personal ambition, shall rear its hideous form, I have no good to prophesy for you. Without intelligence, virtue, integrity, and patriotism on the part of the people, and statesmanship on the part of their Rulers,

no Republic or Representative Government can be durable or stable!

"We have intelligence, and virtue, and patriotism on the part of the people. All that is required is to cultivate and perpetuate these. Intelligence will not do without virtue. France was a nation of philosophers. These philosophers became Jacobins. They lacked that virtue, that devotion to moral principle, and that patriotism which is essential to good government. Organized upon principles of perfect Justice and Right—seeking amity and friendship with all other Powers—I see no obstacle in the way of our upward and onward progress. *Our growth, by accessions from other States,* will depend greatly upon whether we present to the world, as I trust we shall, a *better* Government than that to which neighboring States belong. If we do this, North Carolina, Tennessee, and Arkansas cannot hesitate long; neither can Virginia, Kentucky, and Missouri. They will necessarily *gravitate* to us by an imperious law. We made ample provision in our Constitution for the admission of other States; it is more guarded, and wisely so, perhaps, than the old Constitution on the same subject, but not too guarded to receive them as fast as it may be proper. *Looking to the distant future,* and, perhaps, not *very far distant either,* it is not beyond the range of possibility, and even probability, that *all the great States of the Northwest* will gravitate this way, as well as Tennessee, Kentucky, Missouri, and Arkansas.

"The process of *disintegration* in the old Union may be expected to go on with almost *absolute certainty, if we pursue the right course.* We are now the *nucleus* of a growing Power which, if we are true to ourselves, our destiny, and high mission, will become the controlling Power on this Continent. To what extent accessions

will go on in the process of time, or *where it will end*, the future will determine. So far as it concerns States of the old Union, this process will be upon no such principles of *Reconstruction* as now spoken of, but upon *Reorganization* and new *Assimilation!* (Loud applause.) Such are some of the glimpses of the future as I catch them."

The views here expressed showed unmistakably that the *leading object* with me was not only to secure the accession of the Border States, so-called, but the accession, at no distant day, of all the great Northwestern States so intimately connected with us geographically and politically; and moreover, *if possible*, by inducing our late derelict Confederates to reconsider their course, also, in the end, to secure the accession of all these States of the old Union into our new Confederacy! To use a common phrase for illustrating the idea, my object was to *Nationalize* our new Articles of Union, and to cause them to become the common Bond of a new and still more perfect Union of the whole, by bringing all the States to their voluntary adoption through a process not exactly of a *Reconstruction* of the old Union, but of a *Reorganization* of its constituent elements, and a new *Assimilation* upon the basis of our new Constitution, just as the original thirteen States had passed from the first Articles of Confederation of seventeen hundred and seventy-eight to the second of seventeen hundred and eighty-seven!

This great result I considered of the utmost importance for the welfare of all the States and the permanent peace and prosperity of the whole country. I was also thoroughly impressed with the conviction that it could be attained by proper, prudent, and wise statesmanship. But these views, as well received as they were at the time and place they were given, met with no general

favor in the Confederacy. They were commented on and condemned by the press in many places, and by several leading public men. The prevailing doctrine then given forth was, "no more Union with the Northern States"—"the Separation is perfect, complete, and perpetual!" In this doctrine so given forth, I understood Mr. Davis to concur.

Prof. Norton. You then during the war would have been willing to make Peace on the basis of a "Reorganization of the Union," as you call it, under your Montgomery Constitution?

Mr. Stephens. Most assuredly I should, or upon renewed and reliable guarantees on the part of the derelict Northern States to return to the discharge of their obligations, and to maintain the Federal system according to the true spirit and intent of the Constitution of 1787; or I would have been willing to make Peace simply upon the recognition of the principle that lies at the foundation of that System—the absolute Sovereignty of the several States—leaving any Re-union or Unions in the future to their own voluntary choice, according to their own views of their own interests, safety, security, and happiness, as time with the lights of experience, patriotism, and wisdom might determine.

Major Heister. You were not then in favor of erecting a permanent separate Slave States' Confederacy?

Mr. Stephens. By no means. I did not consider such a Confederacy as either desirable in itself, or permanently practicable under the circumstances. The heterogeneousness of the interests of the different States under the Federal system, when administered according to its true principles, in my opinion, gave it real stability. This was the tightening principle which when left to its own free action gave steadiness to all its parts, and that

beauty and grandeur exhibited in all its complicated motions.

But to proceed. This general policy stated in the speech from which I have quoted, was what subjected me to the charge of "Unionism" by some of the presses in the South throughout the war, and by some of them the charge may have gone to the extent of impressing the public mind with the idea that I was opposed to the further prosecution of the war on our side. A greater mistake, however, was never made. The only difference between me and any other of the most ardent devotees in the cause, was as to the best objects to be aimed at in its prosecution, and the best means to be used for accomplishing whatever object should be resolved upon, as the best, if nothing *else* but the averting of ultimate subjugation.

When the higher and grander objects to which I looked, and which I also thought not only attainable but also the surest means of preventing ultimate subjugation—the most disastrous result according to my opinion that could befall us as well as the people of all the States—became, therefore, altogether impracticable, the whole of my energies, heart and soul, were then directed to the next best alternative which was practicable, and that was the establishment of the separate Independence of the Confederacy. This I considered as not only essential to the maintenance of our own liberties; but the surest means of preserving Constitutional Liberty on the Continent. All this, in my judgment, was involved in the issue. The whole depended upon the successful maintenance of the Principle of the Sovereignty of the States. With this principle once recognized in the result of the war, the future, in my opinion, might well be left to itself, so far as related to any further adjustment of the States between themselves, according to the general laws of

political affinity founded upon "reciprocal advantages and mutual convenience." Looking to the free operation of these laws in the future, under this firmly established principle, my own convictions were strong that our separate Independence would be of but short duration, however strongly so many of our public men at that time might desire that it should be perpetual, and even believe that it would be. My own views, however, I could not publicly repeat and continue to urge, even in vindication and enforcement of their merits, without producing schisms and dissensions, which, as I had said in the speech, would be attended with the most disastrous consequences. The great object then was; the success of the Cause in achieving the recognition of our separate Independence based upon the Sovereignty of the several States.

Judge Bynum. Did you have any idea that the Northern States could ever be induced to adopt the Confederate States Constitution?

Mr. Stephens. I entertained scarcely a doubt upon the subject, with prudent and wise statesmanship on the part of our Rulers, looking to that end; indeed, but for the war, this result, with a proper policy for its attainment, would have been almost inevitable. An overwhelming majority of the people of the Northern States was thoroughly opposed to the principles of the Centralists. The repeated popular condemnations of their principles referred to show this conclusively. But for the war the Centralists, then controlling the Federal Government by accident and not popular confidence, would, as a Party, have gone to pieces in ninety days. They would hardly have been sustained in New England at the next elections; the re-action there was already ominously felt by them. The war was a necessity for their continued hold on Power, even in those States. Hence, the conspiracy of the

"seven Governors" who demanded of Mr. Lincoln a change of his policy, as to the withdrawal of the Federal forces from the Southern Forts. War, with bold usurpations which it was to cover and excuse, was their only hope.

But even after the war was thus begun, if the Confederate Authorities had desired it, and had directed their energies to the attainment of that object, it could, in my opinion, have still been accomplished—not so speedily or easily, but almost as surely in the end. The real war-spirit at the North, at first, was confined exclusively to the Abolitionists proper, and other Centralists, who, from political affinity, cordially co-operated with them. But these two elements combined did not constitute, in the aggregate, much, if any, over one-third of the people of the Northern States. The great majority of the people of these States, however strongly they were opposed to Slavery, were nevertheless more strongly attached to the Federal System, and utterly opposed to the consolidating principles of the Party then in power. Thousands, and hundreds of thousands of those who rushed to the rescue of the Capital in the manner we have seen, no more approved the usurpations of Power on the part of the Washington Authorities, nor the policy which inaugurated the war, than did the people of the Confederate States. They, it is true, were all opposed to Secession. They belonged to the mercantile and shipping classes, who were opposed to interrupting the old-established channels of trade, and to that very large class throughout the North, of all interests and occupations, who were thoroughly devoted to what they called "the Union," without any very well defined ideas of its nature or character. These different elements, actuated by such sentiments, constituted the masses on whom the "old flag" produced such

magical effect in those eventful days; and these were the masses on whom the Party now in power so adroitly used this "old flag" for their ulterior purposes, though for it they themselves had neither reverence nor respect. It was now held up by them as a sacred emblem of patriotic devotion, though by many of their leaders it had been for years before denounced as "a flaunting lie" and "hate's polluted rag." It now, however, served their purpose, and they understood well how to use it, in misguiding the patriotic impulses of a confiding people. A very large majority, not only of the entire people of the North, but even of those who voluntarily entered the war, were thoroughly wedded to the Institutions of the Country, as established by the Fathers. The main object with them was to maintain what they called "*the integrity of the Country.*" "The Union" under the Montgomery Constitution of 1861, would have been just as acceptable to them, as the "Union" under the Philadelphia Constitution of 1787. Arch-Bishop Hughes was an eminent representative man of this large portion of the Northern population. In this condition of things it seemed to me that the prospect of effecting an adjustment of the differences between the States upon the basis of the Montgomery Constitution was by no means hopeless, notwithstanding the formidable obstacles produced by the war, if the Confederate Authorities could but be induced to approve it, and direct all their civil and military operations with a view to its accomplishment. If our policy and course had been to make common cause with all true friends of the Federal System throughout the United States, upon this basis, against the usurpations and Centralizing principles of the Washington Government, the war, in my opinion, then and now, would have been a short one. This, it is true, is speculation.

But even after this line of policy was not adopted, when the sole object of the recognition of our separate Independence was resolved upon, even then, with the view to this end, I still thought the widest field for efficient operations in the external policy of the Government was at the North, amongst our enemies themselves, so-called! There, after all, were to be found the only real sympathizers with the great Cause for which we were contending. These sympathizers were in no way friends or advocates of Disunion. This I well knew. They were, however, true friends to those principles of Constitutional Liberty for which we were battling. They were utterly opposed to the principles and policy of the men controlling the Government at Washington, which had prompted the course the Seceded States had taken. While they condemned the act of Secession as a proper mode of redress for acknowledged wrongs, they nevertheless could but sympathize with the sufferers of these acknowledged wrongs. Hundred of thousands, if not millions, in the Northern States were thoroughly devoted to those principles on which the Union of the States was founded, and on which alone they believed it ought to be maintained and preserved. The war which had been brought on by the real enemies of the Constitution, and the Union under it, necessarily threw this large class into political antagonism to us. It rendered them technically enemies to us; yet they had as much interest as we had in resisting the principles and usurpations of those who had brought these troubles upon them as well as upon us. The preservation of their liberties required action as well as ours, though upon a different theatre and in a different sphere. One of the greatest errors in the policy of Secession, as I viewed it, was the separation which it necessarily produced between the real friends of the prin-

ciples of the Constitution, North and South, in a common contest between them and the Centralists. It was in truth a great battle—the Political Armageddon of America—in which there should have been a concentration of forces instead of that dispersion which of necessity resulted from Secession. But, still, true friends of Constitutional Liberty, as true Christians, are animated by the same essential principles everywhere. They can but be allies in the great cause in whatever different organizations they may be placed. It was our true policy, therefore, as it seemed to me, while struggling for our own Independence, to use every possible means of impressing upon the minds of the real friends of liberty at the North, the truth that if we should be overpowered and put under the heel of Centralism, that the same fate would await them sooner or later. That it would be better for them to permit us to enjoy our separate Independence, and for them to do the same, than for both to be subjected to a Consolidated Despotism.

In illustration of my idea in this connection, though it be in anticipation of a great deal I intended to say upon intervening events during the second and third years of the war—marking its progress on both sides—it may be as well for me here to explain what gave rise to the idea or charge that I had not only grown lukewarm in the Cause, but was heading "a Peace Party movement," to which you have referred. This was a series of Resolutions unanimously adopted by the Legislature of Georgia, in March of this same year, 1864, and my thorough endorsement of them in a public speech before both Houses of the General Assembly.

These Resolutions were drawn up by Linton Stephens, who was a member of the House that session. I had nothing to do with their preparation, but heartily ap-

proved both the sentiments announced, and the policy upon which the announcement was made. How far they merited the character attributed to them by the Southern press, to which you refer, others must judge for themselves. I certainly viewed them in no such light. If there was anything in them looking to an abandonment of the war, or of the Confederate Government by separate State action in negotiating Peace, I failed to perceive it; but I did see in them strong marks of that line of policy which I have just indicated. Here are the Resolutions, upon which you can form your own judgment:

"*The General Assembly of the State of Georgia do resolve*, 1st. That to secure the rights of life, liberty, and the pursuit of happiness, 'Governments were instituted among men, deriving their just powers from the consent of the governed; that whenever any form becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new Government, laying its foundation on such principles, and organizing its powers in such form, as shall seem to them most likely to effect their safety and happiness.'

"2d. That the best possible commentary upon this grand text of our fathers of 1776, is their accompanying action, which it was put forth to justify; and that action was the immortal declaration that the former political connection between the Colonies and the State of Great Britain was dissolved, and the thirteen Colonies were, and of right ought to be, not one independent State, but thirteen independent States, each of them being such a 'People' as had the right, whenever they chose to exercise it, to separate themselves from a political association and Government of their former choice, and institute a new Government to suit themselves.

"3d. That if Rhode Island, with her meagre elements of Nationality, was such a 'People' in 1776, when her separation from the Government and people of Great Britain took place, much more was Georgia, and each of the other Seceding States, with their large territories, populations, and resources, such a 'People,' and entitled to exercise the same right in 1861, when they declared their separation from the Government and the people of the United States; and if the separation was rightful in the first case, it was more clearly so in the last, the right depending, as it does in the case of every 'People' for whom it is claimed, simply upon their fitness and their will to constitute an independent State.

"4th. That this right was perfect in each of the States, to be exercised by her at her own pleasure, without challenge or resistance from any other power whatsoever; and while these Southern States had long had reason enough to justify its assertion against some of their faithless associates, yet, remembering the dictate of 'prudence,' that, 'Governments long established should not be changed for light and transient causes,' they forbore a resort to its exercise, until numbers of the Northern States, State after State, through a series of years, and by studied legislation, had arrayed themselves in open hostility against an acknowledged provision of the Constitution, and at last succeeded in the election of a President who was the avowed exponent and executioner of their faithless designs against the Constitutional rights of their Southern sisters; rights which had been often adjudicated by the Courts, and which were never denied by the Abolitionists themselves, but upon the ground that the Constitution itself was void whenever it came in conflict with a 'higher law,' which they could not find among the laws of God, and which depended for its exposition

solely upon the elastic consciences of rancorous partisans. The Constitution thus broken, and deliberately and persistently repudiated by several of the States who were Parties to it, ceased, according to universal law, to be binding on any of the rest, and those States who had been wronged by the breach were justified in using their right to provide 'new guards for their future security.'

"5th. That the reasons which justified the separation when it took place, have been vindicated and enhanced in force by the subsequent course of the Government of Mr. Lincoln—by his contemptuous rejection of the Confederate Commissioners who were sent to Washington before the war, to settle all matters of difference without a resort to arms; thus evincing his determination to have war—by his armed occupation of the territory of the Confederate States—and especially by his treacherous attempt to reinforce his garrisons in their midst, after they had, in pursuance of their right, withdrawn their people and territory from the jurisdiction of his Government; thus rendering war a necessity, and actually inaugurating the present lamentable war—by his official denunciation of the Confederate States as 'rebels' and 'disloyal' States, for their rightful withdrawal from their faithless associate States, whilst no word of censure has ever fallen from him against those faithless States who were truly 'disloyal' to the Union and the Constitution, which was the only cement to the Union, and who were the true authors of all the wrong and all the mischief of the Separation, thus insulting the innocent by charging upon them the crimes of his own guilty allies—and finally, by his monstrous usurpations of power and undisguised repudiation of the Constitution, and his mocking scheme of securing a *Republican form* of Government to Sovereign States by putting nine-tenths of the

people under the dominion of one-tenth, who may be abject enough to swear allegiance to his usurpation, thus betraying his design to subvert true Constitutional Republicanism in the North as well as the South.

"6th. That while we regard the present war between these Confederate States and the United States as a huge crime, whose beginning and continuance are justly chargeable to the Government of our enemy, yet we do not hesitate to affirm that, if our own Government, and the people of both Governments, would avoid all participation in the guilt of its continuance, it becomes all of them, on all proper occasions, and in all proper ways—the people acting through their State organizations and popular assemblies, and our Government through its appropriate Departments—to use their earnest efforts to put an end to this unnatural, unchristian, and savage work of carnage and havoc. And to this end we earnestly recommend that our Government, immediately after signal successes of our arms, and on other occasions, when none can impute its action to alarm, instead of a sincere desire for Peace, shall make to the Government of our enemy an official offer of peace, on the basis of the great principle declared by our common fathers in 1776, accompanied by the distinct expression of a willingness on our part to follow that principle to its true logical consequences, by agreeing that any Border State, whose preference for our association may be doubted (doubts having been expressed as to the wishes of the Border States), shall settle the question for herself, by a Convention to be elected for that purpose, after the withdrawal of all military forces, of both sides, from her limits.

"7th. That we believe this course, on the part of our Government, would constantly weaken, and sooner or later break down the war power of our enemy, by show-

ing to his people the justice of our cause, our willingness to make peace on the principles of 1776, and the shoulders on which rests the responsibility for the continuance of the unnatural strife; that it would be hailed by our people and citizen-soldiery, who are bearing the brunt of the war, as an assurance that peace will not be unnecessarily delayed, nor their sufferings unnecessarily prolonged; and that it would be regretted by nobody, on either side, except men whose importance or whose gains would be diminished by peace, and men whose ambitious designs would need cover under the ever-recurring plea of the necessities of war.

"8th. That while the foregoing is an expression of the sentiments of this General Assembly respecting the manner in which peace should be sought, we renew our pledges of the resources and power of this State to the prosecution of the war, defensive on our part, until peace is obtained upon just and honorable terms, and until the Independence and Nationality of the Confederate States is established upon a permanent and enduring basis."

These Resolutions constituted what was called the Peace Programme of Georgia, and which it was alleged had the effect of dampening the ardor of our soldiery. In my view the legitimate effect was directly to the contrary. Hence, in the speech endorsing these Resolutions I used this language:

"You cannot, therefore, send these gallant defenders of Constitutional Liberty, a more cheering message than that, while they are battling for their rights, and the common rights of all in the field, you are keeping sacred watch and guard over the same in the Public Councils. They will enter the fight with renewed vigor, from the assurance that their toil, and sacrifice, and blood, will not be in vain, but that when the strife is over and Indepen-

dence is acknowledged, it will not be a bare name, a shadow and a mockery, but that with it, they and their children after them shall enjoy that liberty for which they now peril all. Next to this, the most encouraging message you could send them is, that while all feel that the brunt of the fight must be borne by them, and the only sure hope of success is in the prowess of their arms, yet every possible and honorable effort will be made by the Civil Departments of the Government to terminate the struggle by negotiation and adjustment upon the principles for which they entered the Contest."

A main feature in the external policy of these Resolutions, and the object aimed at in that view, was that they should go forth to the North before the opening of the Presidential canvass that year, with the firm belief that the principles announced, and the spirit with which they were announced, could not fail to make a deep impression upon the minds of all true friends of Constitutional Liberty in those States, and lead them to the basis of a just and permanent peace. I then thought, and still think, that if the Southern press had given these Resolutions a cordial indorsement, instead of censuring them as most of them did—if all the Southern States had with equal unanimity passed the same or similar Resolves, and if the Confederate Administration, at Richmond, could have been brought into cordial approval and co-operation with the same principles and policy, and had directed all their energies, civil and military, in the meantime, to the attainment of the object aimed at, the result of the Presidential election in the Northern States, that year, would have been the displacement of the Centralists from power, at Washington, and with that the final results of the war would have been far different from what they were, and, in my judgment, infinitely better for the Southern States as well as for the Northern States.

All this again it is true is now speculation only. On the question whether my views of policy were the best at the time or not, it is not my purpose, on this occasion, to pass judgment, one way or the other. What has been said on the subject is only in answer to your question. Much more could be added on the same line. Enough, however, has been presented to show the general character of the difference between Mr. Davis and myself as to this branch of the external policy of the Confederate States.

Prof. Norton. How about your Peace movement in 1863, when you attempted to go to Washington to propose terms, and Mr. Lincoln refused to receive you? Did not Mr. Davis then consent for you to do what you could on your line, even against his own opinion of your being able to effect anything? This was the understanding at the North.

Mr. Stephens. It was also, I believe, the general understanding at the South, but it was a very great mistake—just such a mistake, moreover, as could not be corrected without doing harm, and with no prospect of effecting any good. The same is true of the celebrated Hampton Roads Conference, as we shall see.

Now to understand the nature and character of my proposed mission to Washington in 1863, as well as the objects aimed at by it, it is necessary to know the exact military as well as political *status* at the time the mission was suggested, and my offer to assume it was made. This will require a *resumé* and rapid glance at the progress of events during the second and the early part of the third year of the war. The offer was made on the 12th day of June, 1863, a year and nearly four months after the Confederate Organization had gone into operation under the Constitution for a Permanent Government. That is the period, as we have seen, which I mark as the

close of the first year of the war. Meanwhile, very great events had transpired. Let us now, then, review a few of the more important of these, both of a military and political character, as briefly as possible. This is essential to the point in hand.

First. Beginning with the military, it must be recollected that the campaign of the second year of the war opened early in March, 1862. McClellan's new grand "Army of the Potomac," organized in Washington—thoroughly drilled, disciplined and equipped—numbering, at least, one hundred and twenty thousand, was put in motion on the 8th day of that month. They were first directed against General Joseph E. Johnston, still at Manassas, with a force of not over thirty thousand, all told. Johnston by great adroitness withdrew his small army towards Richmond and thus eluded the threatened crushing blow. This caused McClellan to change the line of his operations. The plan then adopted by him, was to make his approaches upon Richmond by the Chesapeake Bay up the Peninsula, using the York River as a base for supplies. For this purpose his forces were conveyed by transports to Fortress Monroe. The Peninsula, at that time, was defended by General John B. Magruder, with a small Confederate force, not exceeding eleven thousand. To support these, and to check McClellan's movements, when they were known, Johnston by rapid marches concentrated as soon as possible all available forces he could command at Yorktown or its vicinity. By these manœuvres considerable delay was caused in McClellan's advance. It was not until early in May that he reached as far as Yorktown. Several encounters took place on his advance before and after he reached that place, as Johnston with consummate strategy retired before his overwhelming numbers. The most important of these

engagements was the battle of Williamsburg on the 5th of May, between detachments of the two armies. This resulted very much to the advantage of the Confederates; but while Johnston by his great skill and tactics was thus holding McClellan in check or retarding his advance, very important military operations were going on elsewhere.

The Missourians under Generals Sterling Price and Benjamin McCulloch, with less than 20,000 men, had, on the 7th day of March, fought the great battle of Elkhorn, against General Samuel R. Curtis, with a Federal force estimated at upwards of 25,000. The Confederates in this action were commanded by Major General Earl Van Dorn, to whom the chief command over Price had recently been assigned: and notwithstanding the result was not decisive either way, yet it was a great deal for the Confederates to hold the ground against such a disparity of numbers, as well as against the great superiority in arms and equipments brought against them. Their losses were also less than the losses on the side of the Federals. The severest blow the Confederates received in this conflict was that by which the gallant McCulloch fell, at the very time when complete triumph seemed to be in his grasp, and which most probably would have been achieved but for his fall.

This heavy combat between the two sides west of the Mississippi, was followed not long afterwards by the great and ever memorable battles of the 6th and 7th of April, at Shiloh, near the Tennessee River. These at this time can only be alluded to. It must now suffice to say that in the first, the Confederates sustained what was deemed an irreparable loss in the fall of General Albert Sidney Johnston; but a brilliant victory in arms was achieved notwithstanding this loss by General Beauregard, who

succeeded him in the chief command. The Federals, under General Grant, were completely routed, notwithstanding their superiority in numbers, arms and equipments! Nothing saved them from entire capture or utter destruction but the shelter they found on the banks of the river under the protection of the heavy metal of their Gun-boats. With large Federal reinforcements under General Buell, the battle was renewed the next day, and desperately fought on both sides, without any decisive results either way. The Federals regained the ground from which they were driven the day before, while the Confederates continued to hold their original position. These two battles were the bloodiest of the war up to that time. The slaughter on both sides was appalling! The losses of the Confederates in killed, wounded and missing were 10,699, while the like losses of the Federals, according to their own accounts, were not less than 15,000. General Beauregard in his Report estimated them at near 20,000!

The disparity between the number of the forces on the two sides in these sanguinary conflicts deserves special notice. The whole number of the Confederates, according to official returns, amounted to 40,355, while the number of the Federals, under Grant and Buell united, was according to the most reliable accounts not less than 78,000! Nearly double! To hold their own under such circumstances, rendered their victory of the second day almost as signal as that of the first.

But, in the meantime, important operations of a like character were going on in another part of Virginia than that which was the theatre of McClellan's and Johnston's manœuvres. These too must not be passed over, though they be but glanced at. I allude to what was doing on the Shenandoah. The wonderful Valley Campaign of

"Stonewall" Jackson, of this year, in that part of the "Old Dominion," was opened, on the 23d day of March, by the bloody conflict between his forces and those of General Shields at Kernstown. This was followed by his notable victories over Milroy at McDowell, on the 8th of May; over Banks at Winchester, on the 25th of May; over Fremont at Cross-Keys, on the 8th of June; and over Shields at Port Republic, on the 9th of June.

This most extraordinary man appeared suddenly in the military firmament as a dazzling Meteor, or rather as a blazing and fiery Comet, exciting the highest admiration on one side, and causing profound fear and terror on the other! His biographer says of him, and correctly, I suppose, in substance, that within forty days he marched his little army, of not much above 15,000 men at any one time during this Campaign, over four hundred miles—sent 3,500 prisoners to the rear—left as many more of the enemy dead or disabled on the field, and defeated four separate armies amounting, in the aggregate, to at least three times his numbers!*

This is the man, the thunder of whose guns, seventeen days after his victory at Port Republic, in the evening of the 26th of June, caused such surprise and consternation on the rear right flank of McClellan's army, which had now reached the Chickahominy, within a few miles of Richmond! These were the opening signals of the six days continued fighting around the Confederate Capital, which sent McClellan's besieging hosts reeling to a new base under the shelter of their Gunboats on the James River. The whole of these grand military exploits were now under the immediate and entire direction of General Lee, to whom the chief command was assigned upon General Joseph E. Johnston's being disabled by a severe

* *Life of "Stonewall" Jackson*, by Prof. R. L. Dabney, D. D., p. 429.

wound, received during an engagement between portions of the two armies on the 31st of May. The result of these repeated conflicts was a series of successful victories, which, when the numbers and the equipments on the respective sides are considered, have few parallels in history. Besides the ten thousand prisoners, fifty-two pieces of artillery, with thirty-four thousand stand of small arms, and immense army stores, were captured. The second "Onward to Richmond" was, therefore, quite as disastrous to the Federals as the first. Thus ended the Peninsula Campaign.

Then came the third newly organized army for another movement against the Confederate Seat of Government. This was styled "The Army of Virginia." Its chief command was assigned to Major-General John Pope, with his Headquarters announced by himself to be "in the saddle," though his geographical location, at the time, was somewhere between the Rappahannock and the Potomac. The remnant of McClellan's forces were ordered to Acquia Creek, to form part of the new organization under the direction of the new chieftain. These movements not only relieved Richmond from immediate danger, but Lee was also relieved by them from his defensive attitude. Renewed aggressive movements, however, were commenced by Pope. The battle of Cedar Run was fought on the 9th of August. Here his advance under Banks was checked by Jackson. When Pope's general plan was thus developed, Lee speedily moved all his forces to meet him. On the 30th of August, the two armies again met on the rolling grounds of Manassas. Here another great victory was achieved by Lee. Pope was completely routed, and driven to the Fortifications near Washington. The Federal loss was not less than thirty thousand. Eight

Generals were killed, nine thousand prisoners taken, with thirty pieces of artillery and twenty thousand stand of small arms. After this brief career and sudden *exodus* of Pope, McClellan was again put in command of all the scattered Federal forces in the vicinity, to save Washington. Then came General Lee's movement into Maryland. Harper's Ferry was taken on the 15th of September. Here 11,000 prisoners were captured, with seventy-three pieces of artillery, and 13,000 stand of small arms. Two days afterwards, on the 17th of September, was fought the great drawn battle, between Lee and McClellan, at Sharpsburg. On Lee's safe and unmolested return to Virginia, McClellan fell out of favor again with the Washington authorities. On the 5th of November, he was removed from his command, and Major-General Ambrose E. Burnside appointed to take his place.

This new chief immediately commenced active operations for a fourth "Onward to Richmond." His chosen line of attack was by the way of Fredericksburg. Here he found himself confronted by Lee; and here, on the 13th of December, the two armies again tried their strength. The Federals still greatly exceeded the Confederates in numbers. The result was the achievement by Lee of another most brilliant victory. The aggregate loss of the Confederates was 4,201, while that of the Federals was 12,321. Burnside was so crippled and damaged, and his forces became so demoralized by this conflict, that he made no further attempt to advance. He also soon lost favor at Washington, and was superseded by Major-General Joseph Hooker in command. Both armies thus quietly remained confronting each other on the opposite banks of the Rappahannock during the remainder of the second year of the war.

While these events were transpiring in Virginia, some

occurred in the West, which must also be noticed. After the great battles of the 6th and 7th of April, referred to, the armies on both sides were comparatively quiet until mid-summer. Gen. Beauregard's health failed in the meantime. Upon his application for temporary leave of absence, for its restoration, being granted, Gen. Braxton Bragg was appointed to take chief command of the Army of Tennessee, in his stead. About the middle of August, with forces then numbering near 50,000, he projected his most notable campaign through Tennessee into Kentucky. This resulted in the two battles of Richmond and Perryville, in the latter State. The one at Richmond was fought on the 31st day of August, by Gen. E. Kirby Smith, on the Confederate side, and secured all that the most sanguine could have hoped for. His success there and progress Northward excited alarm for the safety of Cincinnati. The battle at Perryville was fought on the 7th of October, under the auspices of Gen. Bragg himself. The result of this was the retirement of Bragg from Kentucky, and his taking position at or near Murfreesboro, Tennessee. Gen. Buell, who commanded the Federal forces against Bragg in this campaign, was superseded on the 30th of October, by Gen. William S. Rosecrans.

This new commander immediately commenced active operations, with the view to drive Bragg from Murfreesboro. Meantime Bragg commenced active operations for aggressive movements himself. These two armies met on the 31st of December. The result was the bloody conflict known as the battle of Murfreesboro. It lasted two days. The result on the first day was decidedly favorable to the Confederates. At the close of the second both parties seemed to be equally willing to retire from the combat. During another day they continued to confront each other without either manifesting any desire or in-

clination to renew it, and both very probably were anxious for the other to withdraw first. This Bragg finally did. On the night of the 3d of January, he retired and fell back towards Tullahoma. The town of Murfreesboro was immediately occupied by Rosecrans, who claimed the victory, which perhaps he never would have done but for this movement of Bragg. These two armies on this occasion, from the most reliable accounts, were not far from being equally matched as to numbers. There were about 40,000 on each side. In arms and equipments, however, the Federals had unquestionably the advantage. The fighting on both sides was heroic and desperate. In speaking of the sequel of it, Mr. Swinton, to whom I have alluded before, with all his sympathies on the Federal side, uses the following language:

"This was the issue of the famous battle in the cedar brakes of Stone River, wherein were put *hors de combat* near twenty-five thousand men, of which appalling aggregate the sum of above ten thousand was from the Confederate, and of about fourteen thousand from the Union army."*

This, coming as it does, from one on the opposite side, is certainly eulogy enough on the spirit and valor with which the Confederates battled on that sanguinary field for the inestimable right of Self-government.

These constitute some of the military events of the second year of the war, which it is important to keep in mind while considering the matters we are upon. After this battle of Murfreesboro everything remained comparatively quiet, both in the West and in Virginia, until the spring of 1863, when the campaigns of the third year of the conflict commenced. These were opened by the Federals, and were mainly directed to two objects—the

* *The Twelve Decisive Battles of the War*, p. 213.

capture of Richmond in the East, and the taking of Vicksburg in the West. The first and most desired of these objects was, as we have seen, committed to the military skill of Gen. Hooker. The other was committed to Gen. Grant, who had won great distinction and *eclat* for his capture of Forts Henry and Donelson in February, 1862. Hooker commenced his movements against Richmond, you will bear in mind, on the 27th day of April. He had had four months for preparation, with unlimited means to make his army everything he could wish it to be. He had massed opposite Fredericksburg at least 132,000 men, thoroughly drilled and instructed in every branch of the service. In artillery he had above 400 guns. Twelve thousand of his forces were well mounted and perfectly equipped as cavalrymen. For efficiency in every respect it was regarded superior, by far, to any military organization which had ever before taken the field in America. He himself pronounced it "the finest Army on the Planet!"

To meet this most formidable array, Gen. Lee had an effective force of not exceeding 50,000 men. Hooker seemed to take it for granted that Lee would instantly retire before these frightful odds, or that he was inevitably doomed to speedy capture with his entire command. Lee, however, did not retire. He gave battle for four days, beginning on the 29th, meeting Hooker's Divisions at every point of assault, and by skilful manœuvres made several most successful assaults himself. The result of the four days terrible conflict was his driving back the entire body of the invading host. Hooker's whole plan was well conceived, and all his operations for an advance were faultlessly arranged. They failed in execution from nothing but the transcendent skill with which they were met, checked and thwarted, at and around Chancellors-

ville. The military genius displayed by General Lee in his various movements in repelling this advance of General Hooker, will ever place him high in the rank of the First Class of Commanders who have figured in the world's history! His aggregate losses were 10,281. Of Hooker's like aggregate losses no accurate official statement, as far as I have been able to discover, has ever been given to the public. Information upon the subject was expressly prohibited by orders from the War Department at Washington.* From the most reliable estimates, however, they could not have been much, if any, under twenty-five thousand!

But though the Confederates in all these engagements together achieved a grand success, and their arms were crowned with an exceedingly brilliant victory, yet they here met with a loss that could never be repaired! This was the fall of the great Chieftain, "Stonewall" Jackson, as he was familiarly and endearingly styled by the soldiery and the mass of the people of the Confederate States. Just as he was in the successful accomplishment of one of his masterly flank movements, and one which turned the fortunes of this eventful four days contest, he received a wound that terminated in his death a few days afterwards. The saddest reflection attending so great a loss, was that the shot, which proved so disastrous, came by mistake from his own lines. Pushing ahead, leading his columns on a night attack, with a view to ascertain for himself the exact position of the Federals, whom he knew to be near, he got somewhat in advance of the main body of his troops. One of his staff and several others were with him. On their return, being mounted and riding briskly, they were supposed by those in the Confederate ranks to be an approaching party of

* *Appleton's Annual* for 1863 page 86.

Federal cavalry, and under this misapprehension were fired upon by them. The lines of Byron on Kirke White might well be applied to him:

> "So the struck eagle, stretch'd upon the plain,
> No more through rolling clouds to soar again,
> View'd his own feather on the fatal dart,
> And wing'd the shaft that quiver'd in his heart."

It is said that his own orders were that his troops were not to fire "unless cavalry approached from the direction of the enemy." His death caused grief and mourning from the Potomac to the Rio Grande, and from the Ohio and Missouri to the Gulf and the Atlantic.*

But to go on with the matters more directly in hand. Hooker's grand Army was as completely demoralized in the month of May, by what had befallen it, as Burnside's had been from like causes in the month of December before. Lee, however, was in no condition to make an aggressive movement against it, even disordered and crippled as it was. His whole attention for some time was occupied in closely watching every motion of the adversary, and in strengthening his own forces from every available source. The two Divisions of General Longstreet were recalled from the lower part of Virginia. Other re-inforcements were ordered up. So that by the last of May his numbers were increased to about 68,000

* Lieut.-General Thomas J. Jackson was, indeed, in many respects a most extraordinary man. Famous as he had so recently become for his military exploits, he was not less distinguished even in Camp for his piety and devotions. In religion he was of the same faith as Thomas R. R. Cobb. Ante, p. 334. It would be difficult to say which of the two was the more zealous and enthusiastic in worship, and in the discharge of what they considered moral duty. These two men, so similar in character, were both cut down in the prime of life, at no great distance apart, in time or place. Cobb raised to the rank of Brigadier-General, had fallen on the 13th of December previous, in the first great battle in the vicinity of Fredericksburg.

men. Hooker was still confronting him with between 70,000 and 80,000.

In the West, General Grant had been as unsuccessful in all his "onwards" to Vicksburg, as McDowell, McClellan, Pope, Burnside, and Hooker had all respectively in turn, been in theirs to Richmond. His seven attempts to take that strong-hold—first, by way of Holly Springs—then by Chickasaw Bayou—then by Williams' Canal—then by Lake Providence—then by Yazoo Pass—then by Steele's Bayou—then by Milliken's Bend, and New Carthage Cut-Off, had all utterly failed. He was, at the time I now speak of, making his eighth attempt, by the rear land movement from below, but with no increased prospect of success from the 16th day of April, when this enterprise was entered upon, by his transports safely running the *gauntlet* of the Confederate batteries on the River.

The prevailing opinion at the North as well as the South, in the early part of June, was that Grant's campaign against Vicksburg, would end in as complete a failure as Hooker's had against Richmond. Federal presses were severe in their censures against both. Grant especially had come short of public expectation, and his removal was urged by several high in authority at Washington. This was the general military aspect of affairs when the mission referred to, was proposed by me to Mr. Davis.

Secondly. A like rapid glance at the intervening political events during the same period, to show the *status* in this respect, is also necessary, before taking up the subject of that mission. It must be borne in mind, then, that there had been no "*step backward*" in Mr. Lincoln's usurpations of power. The only change in this view was bolder and more glaring forward strides in the same direction. Proclamations of even more extraordinary

character than these heretofore noticed, had been issued by him during the second year of the war. Two of these deserve special notice in this connection.* The first was his celebrated Emancipation Proclamation, so-called. It was issued on the 22d of September, 1862, to take effect on the 1st of January, 1863. In this he avowedly assumed to do what he had repeatedly declared in the most public and solemn manner he had no rightful power to do. No usurpation could be more palpable or flagrant than this. By the other of these edicts, issued two days afterwards, Martial Law throughout the United States was virtually declared, and a new class of officers under military commission for the execution of this high-handed measure, unknown to the laws and Constitution, was created by Imperial orders through the War Department.

These measures, to say nothing of others, had awakened a most serious alarm throughout the entire North, for the stability and security of their own liberties, even amongst those who favored the prosecution of the war for the preservation of "the Union." Hon. Benjamin R. Curtis,† of Boston, Ex-Associate Justice of the Supreme Court of the United States, was a striking illustration of that class. This eminent Jurist, of the Story and Webster school in Politics, even in his retirement, felt it to be his duty to address his countrymen, in warning admonitions against these dangerous encroachments upon Constitutional Rights and open assaults upon the very Citadel of Liberty itself. Samples of this address, as it appeared in pamphlet form at the time, may properly be noticed as unmistakable *indicia* of the sentiments, at that period, of that large class of people in the Northern States to whom

* See *Appendix* O, 1, 2.

† The same who dissented in the Dred Scott Case.

I have alluded before. Here is the Address. The opening words show the character of the apprehensions entertained by the writer, and the earnestness with which he uttered his warnings:

"No citizen," said Judge Curtis, in the fall of 1862, "can be insensible to the vast importance of the late Proclamations and Orders of the President of the United States. * * * These are subjects in which the people have vast concern. It is their right, it is their duty, to themselves and to their posterity, to examine and to consider and to decide upon them; and no citizen is faithful to his great trust if he fail to do so, according to the best lights he has, or can obtain. * * * It has been attempted by some partisan journals to raise the cry of 'disloyalty' against any one who should question these Executive acts.

"But the people of the United States know that loyalty is not subserviency to a man, or to a Party, or to the opinions of newspapers; but that it is an honest and wise devotion to the safety and welfare of our country, and to the great principles which our Constitution of Government embodies, by which alone that safety and welfare can be secured. And when those principles are put in jeopardy, every true loyal man must interpose according to his ability, or be an unfaithful citizen. This is not a Government of men. It is a Government of laws. And the laws are required by the people to be in conformity to their will, declared by the Constitution. Our loyalty is due to that will. Our obedience is due to those laws, and he who would induce submission to other laws, springing from sources of power not originating in the people, but in casual events, and in the mere will of occupants of places of power, does not exhort us to loyalty, but to a desertion of our trust."

These were noble words, aptly and timely uttered! On the Emancipation Proclamation, this address held the following language:

"I do not propose to discuss the question whether the first of these Proclamations of the President, if definitively adopted, can have any practical effect on the unhappy race of persons to whom it refers; nor what its practical consequences would be, upon them and upon the white population of the United States, if it should take effect, nor through what scenes of bloodshed, and worse than bloodshed, it may be, we should advance to those final conditions; nor even the lawfulness, in any Christian or civilized sense, of the use of such means to attain *any* end.

"If the entire social condition of nine millions of people has, in the providence of God, been allowed to depend upon the Executive decree of one man, it will be the most stupendous fact which the history of the race has exhibited. But, for myself, I do not yet perceive that this vast responsibility is placed upon the President of the United States. I do not yet see that it depends upon his Executive decree, whether a servile war shall be invoked to help twenty millions of the white race to assert the rightful authority of the Constitution and laws of their country, over those who refuse to obey them. *But I do see that this Proclamation* asserts the power of the Executive to make such a decree!

"I do not yet perceive how it is that my neighbors and myself, residing remote from armies and their operations, and where all the laws of the land may be enforced by Constitutional means, should be subjected to the possibility of military arrest and imprisonment, and trial before a Military Commission, and punishment at its discretion for offences unknown to the law; a possibility to be con-

verted into a fact at the mere will of the President, or of some subordinate officer, clothed by him with this power. *But I do perceive that this Executive power is asserted.*

* * * * * *

"And first, let us understand the nature and operation of the Proclamation of Emancipation, as it is termed; then, let us see the character and scope of the other Proclamation, and the Orders of the Secretary of War, designed to give it practical effect, and having done so, let us examine the asserted source of these powers.

* * * * * *

"The persons who are the subjects of this Proclamation are held to service by the laws of the respective States in which they reside, enacted by State authority as clear and unquestionable, under our system of Government, as any law passed by any State on any subject.

"This Proclamation, then, by an Executive decree, proposes to repeal and annul valid State laws which regulate the domestic relations of their people. Such is the mode of operation of the decree."

After a good deal of like character upon the first of these Proclamations, the address is exceedingly pointed and powerful in its denunciations of the principles of the other. Take the following as samples:

"The second Proclamation, and the Orders of the Secretary of War, which follow it, place every citizen of the United States under the direct military command and control of the President. They declare and define new offences not known to any law of the United States. They subject all citizens to be imprisoned upon a military order, at the pleasure of the President, when, where, and so long as he, or whoever is acting for him, may choose. They hold the citizen to trial before a Military Commission appointed by the President, or his representative,

for such acts or omissions as the President may think proper to decree to be offences; and they subject him to such punishment as such Military Commission may be pleased to inflict. They create new offices, in such number, and whose occupants are to receive such compensation, as the President may direct; and the holders of these offices, scattered through the States, but with one chief inquisitor at Washington, are to inspect and report upon the loyalty of the citizens, with a view to the above described proceedings against them, when deemed suitable by the central authority.

"Such is a plain and accurate statement of the nature and extent of the powers asserted in these Executive Proclamations.

"What is the source of these vast powers? Have they any limit? Are they derived from, or are they utterly inconsistent with, the Constitution of the United States?

"The only supposed source or measure of these vast powers appears to have been designated by the President, in his reply to the address of the Chicago clergymen, in the following words: 'Understand, I raise no objection against it on legal or Constitutional grounds; for, *as Commander-in-Chief of the Army and Navy, in time of war, I suppose I have a right to take any measure which may best subdue the enemy.*' This is a clear and frank declaration of the opinion of the President respecting the origin and extent of the power he supposes himself to possess; and, so far as I know, *no source of these powers other than the authority of Commander-in-Chief in time of war, has ever been suggested.* * * *

"It must be obvious to the meanest capacity, that if the President of the United States has an *implied* Constitutional right, as Commander-in-Chief of the Army and Navy in time of war, to disregard any one positive pro-

hibition of the Constitution, or to exercise any one power not delegated to the United States by the Constitution, because, in his judgment, he may thereby 'best subdue the enemy,' he has the same right, for the same reason, to disregard each and every provision of the Constitution, and to exercise all power, *needful, in his* opinion, to enable him 'best to subdue the enemy.' * * *

"The necessary result of this interpretation of the Constitution is, that, in time of war, the President has any and all power, which he may deem it necessary to exercise, to subdue the enemy; and that every private and personal right of individual security against mere Executive control, and every right reserved to the States or the people, rests merely upon Executive discretion. * * *

"Besides, all the powers of the President are executive merely. He cannot make a law. He cannot repeal one. He can only execute the laws. He can neither make, nor suspend, nor alter them. He cannot even make an article of war. He may govern the army, either by general or special orders, but only in subordination to the Constitution and laws of the United States, and the Articles of War enacted by the Legislative power.

"The time has certainly come when the people of the United States *must* understand, and *must* apply those great rules of Civil Liberty, which have been arrived at by the self-devoted efforts of thought and action of their ancestors, during seven hundred years of struggle against arbitrary power. If they fail to understand and apply them, if they fail to hold every branch of their Government steadily to them, who can imagine what is to come out of this great and desperate struggle. The military power of eleven of these States being destroyed—what then? What is to be their condition? What is to be our condition?"

These samples must suffice to show the general tenor of this address. The whole presents in a clear and strong view the nature of that civic and political contest which had now begun in earnest in the Northern States between the Centralists and the true friends of Constitutional Liberty there, while the military contest on the same essential principles was going on, as we have seen, between the States of the two great Sections of the country. This civil and political conflict so commenced there resulted at the fall elections of 1862, generally to the disadvantage of the Centralists. They lost the great State of New York. Pennsylvania, New Jersey, Ohio, Indiana and Illinois gave strong indications that a majority of their people were in full sympathy with the sentiments of Judge Curtis. The "*truly loyal*" masses of the people—those loyal to the Constitution—everywhere at the North were beginning seriously to inquire if the Southern States should be overthrown by such usurpations, what then? What was to be the condition of these Southern States? What, too, in that event, was to be the condition of the Northern States?

The failures of Hooker and Grant in the spring campaigns of 1863, favored a freer discussion of these momentous questions. Even the "Seven Headed Monster," the War Party proper at the North, with clotted gore on its hideous front,* was grievously despondent in view of the situation. More liberty of speech was allowed than had been during "the reign of terror." "The Old Guard," a publication by C. Chauncey Burr, of the Jefferson school of Politics, was now permitted to make its appearance in unqualified denunciations of the principles and purposes of the Centralists. A public meeting in the City of New York was tolerated, at which Resolutions,

* "One of its Heads as it were wounded to death." Rev. xiii. 3.

favoring Peace, were adopted. In Philadelphia a Peace Convention had been called. Vallandigham, the ablest member of the Democratic Party at the North, after the death of Douglas, had been nominated for the Governorship of Ohio, with every prospect of success. He was the Leader in the lower House of Congress against the usurpations of the Administration, and bold denouncer of the policy of maintaining "the Union" by a subjugation of the Southern States. It is true the prospect of this Tribune of the people becoming Governor of the Giant State of the West was more than the Powers at Washington, dispirited as they were, could bear. He had been seized and exiled by military orders, but that only tended to increase the rising popular enthusiasm in his favor.

This, then, was the existing Military, as well as Political *status*, on the 12th day of June, 1863, when I, then here at home, Congress not being in session, addressed Mr. Davis at Richmond the following letter:

"Dear Sir:—I have just seen what purports to be a letter addressed to you by Major General D. Hunter, commanding the Federal Forces at Port Royal, S. C., bearing date the 23d of April last. Of the extraordinary character of this paper, its tone, temper, and import, whether genuine or not, it is not my purpose to speak. It may be a forgery.* All I know of it is from its publication as we have it in our newspapers. But it has occurred to me if it be genuine, this, together with other matters of controversy I see likewise in the papers, in relation to the future exchange of certain classes of prisoners of war, may necessarily lead to a further conference with the authorities at Washington, upon the whole subject. In that event I wish to say to you briefly, that if you think my services in such a mission would be of any avail, in

* It was genuine, and of a character not much short of savage!

effecting a correct understanding and agreement between the two Governments, upon those questions involving such serious consequences, they are at your command.

"You will remember while we were at Montgomery, when the first Commissioners were sent to Washington with a view to settle and adjust all matters of difference between us and the United States, without a resort to arms, you desired me to be one of those clothed with this high and responsible trust. I then declined, because I saw no prospect of success—did not think, upon a survey of the whole field, that I could effect anything good or useful in any effort I could *then* make on that line. You will allow me now to say, that at *this time*, I think *possibly* I might be able to do some good—not only on the *immediate* subject in hand; but were I in conference with the authorities at Washington on *any point* in relation to the *conduct* of the war, I am not without hopes, that *indirectly*, I could now turn attention to a general adjustment, upon such basis as might ultimately be acceptable to both parties, and stop the further effusion of blood in a contest so irrational, unchristian, and so inconsistent with all recognized American principles.

"The undertaking I know would be a great one. Its magnitude and responsibility I fully realize. I might signally fail. This I also fully comprehend; but still, be assured, I am not without *some* hopes of success; and whenever or wherever I see any prospect of the *possibility* of being useful or of doing good, I am prepared for any risk, any hazards, and all responsibilities commensurate with the object. Of course, I entertain but one idea of the basis of final settlement or adjustment; that is, the recognition of the Sovereignty of the States, and the right of each in its Sovereign capacity to determine its own destiny. This principle lies at the foundation of the

American system. It was what was achieved in the first war of Independence, and must be vindicated in the second. The full recognition of this principle covers all that is really involved in the present issue. That the Federal Government is yet *ripe* for such acknowledgment, I, by no means, believe; but that *the time has come* for a proper presentation of the question to the authorities at Washington, I do believe. Such presentation as can only be made in a Diplomatic way. While, therefore, a mission might be despatched on a *minor* point, the greater one could possibly, with prudence, discretion, and skill, be opened to view and brought in discussion, in a way that would *lead eventually* to successful results. This would depend upon many circumstances, but no little upon the character and efficiency of the agent. It so occurs to me, and so feeling, I have been prompted to address you these lines. My object is, solely, to inform you, that I am ready and willing to undertake such a mission, with a view to such ulterior ends, if any fit opportunity offers in the present state of our affairs in relation to the exchange of prisoners, or any other matter of controversy growing out of the *conduct* of the war; and if also, you should be of opinion that I could be useful in such position. I am at your service, heart and soul, at any post you may assign me, where I see any prospect of aiding, assisting or advancing the great cause we are engaged in, and of securing with its success the blessings of permanent peace, prosperity and Constitutional Liberty.

"Should the *present* position of affairs in your opinion, be suitable, of which I am not so well informed as you are, and this suggestion so far meet your approval as to cause you to wish to advise further with me on the subject, you have but to let me know—otherwise no reply is necessary, and none will be expected.

"With best wishes for you personally, and our common country in this day of her trial, I remain yours," &c.

From this letter you see the nature and objects of my proposed mission. You see the line of policy therein indicated. It was not intended as a Peace mission at all. It did not contemplate any overture or direct offer of terms of any sort on that subject. Hence, Mr. Davis at that time, could not have given his consent to any proposition on my part, to make an attempt at negotiations for Peace, as was generally supposed. Mr. Lincoln, as was known, would receive no one commissioned on such an errand. It was exceedingly doubtful whether he would hold a renewed conference through a special Commissioner, even upon the matter of the exchange of prisoners—a subject, at that time, of such pressing importance from considerations of humanity alone; especially in view of the extraordinary character of General Hunter's announcement in his letter referred to. But if Mr. Lincoln could be prevailed on to agree to such a conference, then the object proposed, besides effecting, if possible, the general amelioration of prisoners, and the mitigation of the horrors of war as conducted by the Federals, was to use the occasion for effecting also, if possible, other ulterior results which might *open the way* for future negotiations that might eventually lead to an amicable adjustment. In the accomplishment of these ulterior ends the idea was not so much to act upon Mr. Lincoln and the then ruling authorities at Washington, as through them, when the correspondence should be published, upon the great mass of the people in the Northern States, who were becoming so sensitively alive, as we have seen, to the great danger of their own liberties.

It was believed that in a conference of this character that such a course could be pursued in the discussion of the

questions directly in hand, as to deeply impress the growing Constitutional Party at the North with a full realization of the true nature and ultimate tendencies of the war, and to lead all who were anxiously inquiring what was to be their condition in case the Southern States should be subjugated to see that the surest way to maintain their liberties, was to allow us the separate enjoyment of ours—that the surest way to preserve Self-government at the North, was not to allow it to be overthrown at the South. In my view *this result* had to be effected in *some way*, and the Centralists displaced from power at Washington, before there could be any hopeful prospect in offers to negotiate for peace upon a proper basis. The line of policy indicated by me to this end, depended greatly upon the then military condition of affairs.

The result of wars generally depends quite as much upon diplomacy as upon arms—upon the proper use of the pen as of the sword. There is a time for each. It is a matter of the utmost importance to know when and how to use both. The Confederate armies, officers and men, for two years and upwards, as we have seen, had nobly and gloriously performed their part. With less than five-hundred thousand in all, from the beginning up to this time, they had brought the enemy, numbering more than a million, during the same period, almost to a standstill. Gen. Grant, it is true, was still "pegging away," in his slow approaches upon Vicksburg, but on no other line were any active movements being made. I thought the time had now come, in view of the situation, both politically at the North and militarily at the South, as matters stood in the early part of June, 1863, for our Civil authorities to essay something in their department, and on the line indicated in this letter to the

President. The entire propriety and expediency, however, in making this essay, in my judgment, depended upon the *then* military *status*.

In this view, Mr. Davis did not concur. He did not believe that the road to Peace lay in that way. He did not think that anything towards its ultimate obtainment could be effected on this line of external policy, indicated by me. He regarded Mr. Lincoln and his Cabinet as thoroughly representing the fixed principles and sentiments of a majority of the people of the Northern States. He thought, after Mr. Lincoln's conduct towards our first Peace Commissioners, that the surest, if not only means, of securing our rights was the power of our arms. The efficiency of Diplomacy, at the proper time, and in the proper manner, he fully recognized. On these points there was no disagreement between us, except as to time and manner. In this case his opinion was, that Diplomacy and Arms ought to act in conjunction, and that the Commissioner I had suggested ought to go with a victorious and threatening army. The result of my proposed mission, therefore, was the yielding of my views in this particular to his on this occasion, and not of his to mine, as I will now state.

My letter was responded to by telegram on the 18th or 19th of June. This was received on the 19th. The response was for me to go on immediately to Richmond. This I did. On reaching there on the 22d or 23d, I found an entire change in the military aspect of affairs, from my understanding of it on the 12th of June, when my letter was penned, and with a special view to which the line of policy therein set forth was suggested. Lee was no longer resting quietly on the Rappahannock. I knew nothing of the contemplated movement into Pennsylvania. On the 23d, in an interview with Mr. Seddon, Secretary

of War, I was informed that a portion of the Confederate army was already across the Potomac. I was, also, then informed by him, greatly to my surprise, that Grant was pressing Pemberton closely at Vicksburg, and that the surrender of that place was inevitable. It was only a question of time. There was no hope of raising the siege or giving succor, and that the Post could not be held longer than the supplies on hand would last. These were thought to be sufficient for some weeks to come. This was the first intimation I had of any serious apprehensions of any such final result as to Vicksburg.

I also had an interview with the President, (Mr. Davis,) as soon as it could be obtained. We talked freely over the subject of my letter, as well as the then position of affairs in the military view. I explained to him more fully than I had done in the letter, the ulterior objects I had hopes of effecting when it was written; but stated that the change in the military aspect, since the letter was written, had entirely changed my views as to the propriety or policy, of then undertaking anything on that line. The movement of our army into Pennsylvania would greatly excite the war spirit and strengthen the War Party —effects directly opposite to those which I had hoped to produce, while our armies were remaining quiet after their recent victories, and with the then state of feeling at the North. I stated that it was a question of great doubt with me, when my offer was made, whether I would be received by Mr. Lincoln in the character of such Commissioner as was proposed, but I now considered it almost certain that any application of the sort would be rejected, under existing circumstances; and my judgment, in consequence of the changes referred to, was as decidedly against the policy of making the proposal *then*, as it was in favor of it *when* the letter was written.

He agreed entirely in the doubts expressed by me as to my reception by the Washington authorities to confer or to enter into any ageement upon the subjects proposed; but was very decided in the opinion that the probabilities of the reception were rather increased than lessened by the present position of General Lee's army. He thought Mr. Lincoln would more likely receive such Commissioner if General Lee's army was actually threatening Washington City, than if he was lying quietly south of the Rappahannock. In this view I could not concur, and gave it as my opinion that the proposed mission had better be postponed. He suggested a Cabinet Consultation upon the subject, and requested me to attend it. This consultation was held the same day. Every one of the Cabinet, while expressing doubts as to the reception, were very decided in the opinion expressed by the President, that the prospect of success was increased by the position and projected movements of General Lee's army. They all thought the existing state of affairs, militarily, both in the East and West, rendered the occasion most opportune for making the effort for the conference suggested.

They were all indulging in the most hopeful expectations of the results of General Lee's campaign coming in aid of their views. Indeed, their ideas in the matter evidently sprung from these sanguine expectations. Mr. Seddon was particularly anxious that there should be no postponement or delay in the business, but that whatever could be done, if anything, in the matter of prisoners, should be done before the fall of Vicksburg with its garrison of something over thirty thousand men. Urged in this way, my views were yielded to theirs, and I assumed the mission and undertook to do what I could in the matter of prisoners, and the conduct of the war, when it was thought there was a probability as well as a *possibility* of

my being able to effect something on these important subjects; though I stated to Mr. Davis and the Cabinet that I never would have made the offer I did, under such circumstances as I found existing on my arrival at Richmond. The mission undertaken, therefore, was not the one proposed by me, nor was it, as undertaken, in any sense, an attempt to offer terms of negotiation for Peace.*

At first, the arrangement was for me to proceed by land in the route taken by General Lee's army, and communicate with the Washington authorities from his Headquarters. Excessive rains, badness of roads, and tardiness of travelling in consequence, caused a change in this arrangement. A small steamer was put in readiness by orders of Mr. Mallory, of the Navy Department, and I, with Mr. Robert Ould, the distinguished Agent for the Exchange of Prisoners on our side, a gentleman of high accomplishments and attainments, who had been appointed Secretary to the Commission, set out in this way directly for Washington City, if we should be permitted to pass the Federal lines at Fortress Monroe.

The sequel is known. The great battles of Gettysburg were fought before we reached Newport News. There our arrival and proposal were telegraphed to Washington by Acting Rear-Admiral S. P. Lee, of the U. S. Navy, commanding the Blockade Squadron at that point. We were detained two days while the proposition for the conference was held under consideration at Washington. In the meantime Vicksburg was surrendered by General Pemberton, on the 4th day of July—earlier than was expected. The reply from Washington then came, that no Special Commissioner, on the subjects embraced in the proposed conference, would be received.

This is the full history of that whole affair. In it you

* The Commission will be seen in *Appendix* P.

see something more of the differences between Mr. Davis and myself, as to our views of the policy to be pursued towards the people of the Northern States, as well as the manner of conducting it. Whether my views or his, on the occasion just alluded to, were the better, it is not my purpose to pass judgment. In the retrospect, it appears to me that this was the turning point in the fate of the Confederate Cause.

> "There is a tide in the affairs of men,
> Which, taken at the flood, leads on to fortune;
> Omitted, all the voyage of their life
> Is bound in shallows and in miseries."

At the time these events were transpiring I thought, if General Lee had remained quietly on the defensive south of the Rappahannock; if all the forces he had collected over and above what were necessary to hold his position there, had been sent in aid of the dislodgement of Grant, in his siege of Vicksburg, instead of joining in the movement made into Pennsylvania; if the cavalry incursion, by General John Morgan, into Ohio, about the same time, had not taken place, which could have no effect so sure as that of arousing the war spirit at the North then drooping and pining, that it would have been greatly better for us; and in that state of things, I thought that the conference suggested would most probably have been agreed to; and, also, that the results looked to in its projection, would most probably have eventually ensued. Still, I might have been entirely disappointed. The whole might have utterly failed, even if the military operations on our side had been according to my own programme.

While, on the other hand, if Mr. Davis's expectations of General Lee's operations had been realized; if the Federal armies under Major-General George G. Meade, who took General Hooker's place on his being removed, had been

defeated at Gettysburg, and that had not been a drawn battle as it was; if Washington City had actually been put in imminent danger by the approach of the victorious Confederates, then, perhaps, Mr. Lincoln might have been most unwillingly brought to entertain a proposition to treat not only on the exchange of prisoners, but upon terms of Peace, as Mr. Davis hopefully expected, notwithstanding the fall of Vicksburg. Upon these questions others must form their own speculative judgments. In deed, all that could be said on the subject now, as stated before, would be nothing but speculation.

In this connection, however, in speaking of these differences between Mr. Davis and myself, on this branch of our external policy, I will add that they became so wide and decided in the following year, during the Presidential canvass at the North between Lincoln and McClellan, as to lead to a correspondence between us on the subject, which excited, perhaps, a little temporary feeling on both sides, but which in no way interfered with our personal relations, or with our full, free, cordial and continued interchange of views upon all matters of public interest. There was, as I have said before, at no time upon these, or any other questions, a personal breach, or anything like a *feud* between us. So much, then, in answer to your inquiry touching our differences, so far as they related to matters of foreign policy.

I come now to the differences between us upon those matters of internal policy, and questions of Constitutional law referred to. These I will only state generally, without entering at all into an exposition of the subjects, or a presentation of the opposing views in regard to them. No good at this time could be effected by a discussion of the points involved. These are certainly among the *dead issues* of the present day; though the principles involved

in some of them, can never die. The leading subjects of our differences, however, on the internal policy of the Government, when the questions were living and vital, related entirely to the best, surest and most efficient mode of wielding the resources of the country for the success of the Cause in conformity with the provisions of the Constitution.

First, I thought our great staples, tobacco and cotton, especially cotton, constituted the greatest elements of financial power at our command—ample for all purposes, and should be promptly and efficiently used in a practicable way in securing to this end the full development of its tremendous agency. The Produce Loan scheme adopted at the instance of the Administration at Montgomery, as before mentioned, came far short of accomplishing what, in my judgment, could be accomplished from this one of our resources in supplying the sinews of war. Indeed, as matters turned out, very little benefit, where a great deal was expected, was ever derived from that measure.

Next: The support of the armies by a tax in kind on breadstuffs, instead of the issue of Treasury notes for that purpose, was a favorite idea with me from the beginning. All the States were large producers of grain and animal food, besides the great staples referred to produced in some of them. A tithe on the annual product of provisions, as was shown by statistics, was amply sufficient to support an army greater than the Confederates could possibly raise. This system, it is true, was resorted to after awhile, but not until after the currency, by redundant issue, had become greatly depreciated.* Of its mis-

* Scale of Depreciation of Confederate Currency, the gold dollar being the unit and measure of value from November 1st, 1861, to May 1st, 1865.

MONTHS.	1861.	1862.	1863.	1864.	1865.
January.....	——	$1 20	$3 00	$21 00	$50 00
February.....	——	1 30	3 00	21 00	50 00

management, after it was adopted, through which, out of over one hundred and thirty millions' worth of provisions contributed by the tax-payers, less than forty millions of the amount ever reached its proper destination, it is not my purpose now to speak. This resulted from the fault, misconduct and short-comings of subalterns.

But the *measures* upon which I differed most widely with the Administration were those which authorized the impressment of provisions at arbitrary prices—the suspension of the Writ of *Habeas Corpus*, and the raising of the necessary military forces by Conscription. These last I considered not only radically wrong in principle, but as violative of the Constitution, and as exceedingly injurious to our Cause in their effects upon the people.

Major Heister. Were you opposed to Conscription? I am surprised to hear you say that! I thought it was generally conceded that this prompt and judicious measure was what actually saved Richmond in 1862, and sustained the Cause as long as it was. Without it, I thought it was the general belief at the South that the war, on their part, would have collapsed at a much earlier day than it did?

Mr. Stephens. I know this is the view attempted to be given to it, and that what you say is really believed by

Months.	1861.	1862.	1863.	1864.	1865.
March	——	1 50	4 00	23 00	50 00
April	——	1 50	5 00	20 00	100 00
May	——	1 50	5 50	19 00	——
June	——	1 50	6 50	18 00	——
July	——	1 50	9 00	21 00	——
August	——	1 50	14 00	23 00	——
September	——	2 00	14 00	25 00	——
October	——	2 00	14 00	25 00	——
November	$1 10	2 50	15 00	30 00	——
December	1 15	2 50	20 00	——	——
Dec. 1st to 10th inst.				35 00	
Dec. 1st to 20th inst.				42 00	
Dec. 21st to 31st inst.				49 00	

many. But it is a very great mistake. Richmond was not saved by Conscription in 1862, or at any time. The great battles fought by the Army of Virginia, first under Johnston, then under Lee, which achieved such brilliant victories in saving Richmond at the period you speak of, were fought in May and June of that year. The first act of Conscription was passed the 16th of April before. That Army was composed chiefly, and almost entirely, of volunteers already enlisted, and in the service for three years or the war.

It is true a few Regiments whose term of service was for one year, and which had not expired when the act passed, immediately organized under it for the future; but the term of voluntary service, in which they were enlisted, of most, if not all of these few, extended beyond the time in which the fate of Richmond on that occasion was determined. There may have been a very few Regiments whose term would have expired before that time, and composed of men who, without the passage of the act, might have quit the service. But the number of such Regiments as these must have been very small. Indeed, if any such did exist, (composed of men, who would have quit the field at such an hour, without the restraint of that act,) they were certainly not made of that material which caused the turn of the scales of battle in these conflicts. The fact is, very few, if any, of that Army were there under the operation of that act; not a man had been brought there by it. Ninety *per cent.* at least of the fighting men of that Army who achieved these victories, were enrolled in Regiments already voluntarily enlisted for three years or the war, when the act of Conscription was passed.

The idea or belief that there was *a necessity* for that mode of filling our armies at the time, is altogether

erroneous and unsustained by the facts of the case. I do not know the exact number, but I think I may venture to say that there were near four hundred thousand men then voluntarily enlisted in the Confederate armies, for three years or the war. Upon every call for troops under the regular Constitutional militia system, the call had been responded to by the tender of more volunteers *on these terms* than the number asked for. Georgia alone had upwards of fifty Regiments, besides several Battalions, then in the field at Richmond, or elsewhere, *so enlisted.* In the last call before this act was passed, four more Regiments tendered their services on these terms, than were called for from this State. They were not received by the War Department upon the ground that their services were not needed. This was not more than two months before the passage of that act. The other States were in no degree behind Georgia in readiness to respond with a tender of troops under voluntary service, upon the same terms in proportion to population.

Conscription, therefore, was resorted to from no *necessity* whatever, as a means of raising troops. It was adopted as a policy, *mainly* with a view to securing a *different mode* of *officering* those who were already voluntarily in the service, as well as those who might be called upon to enter it afterwards. Of this military view of the subject, it is not my purpose now to speak. A vast deal might be said upon it on both sides. All I mean now to say is, that, in my judgment, it plainly violated not only the spirit, but the letter of the Constitution; and, moreover, had a most pernicious effect upon the public mind. The great mass of our people were perfectly willing to fight for their liberties, but they were utterly unwilling to be placed in a position, where it seemed they were required to do it by compulsion.

Moreover, if compulsion had been necessary at that time, or at any time, to fill our armies, the war ought to have been immediately abandoned upon the disclosure of the fact; for no people are worthy of liberty, or capable of preserving it, who have to be *compelled* to fight, either for its establishment, or its defence. Conscripts or men who are used by Rulers barely as machines in war, may overthrow liberty, and prove efficient instruments in erecting Dynasties and Empires; but never have been, and never will be, the means of establishing free Institutions or maintaining them! This was my judgment then, and will be ever! Fortunately for the Confederates, more than half of their arms-bearing people were virtually in for the war, before this very demoralizing act was passed. The glory of their arms from the beginning to the end was achieved by this class of our soldiers. Very few of those who were brought in subsequently through the instrumentality of the Conscription acts, effected anything creditable to themselves or the country.

The desertions so much complained of were almost entirely from the latter class. I doubt if there were ten thousand conscripts, properly speaking, in all the armies together, at the time of final surrender. The Army of Virginia, which fought until it was literally "annihilated," was composed almost exclusively of the surviving remnants of the original voluntary enlistments. The same is true of the Army of Tennessee. But, as I have stated, it is not my purpose now to discuss or to enlarge, beyond a general statement of my own position on any of these questions of difference, touching the internal policy of the country between myself and the Administration of Mr. Davis. He, of course, thought these measures, to which I have alluded, were not only constitutional, but timely and expedient. His views upon them in detail, are to be

seen in his messages and speeches. Mine, in like manner, as expressed at the time, are to be found in Cleveland's collection of letters and speeches, written and made by me during the war. To them I must refer you for the points of difference on these measures in detail.

These differences, however, wide as they were, in no degree caused me to withold my cordial support and co-operation, wherever I saw the possibility of effecting any good on that line of policy, which the Administration thought proper to adopt, even though it was against my own judgment. I neither headed nor countenanced anything like factious opposition to the execution of those measures which I thought would be attended with the worst consequences. This would have produced dissensions and divisions, which in my judgment could lead to nothing but the most disastrous results. My views upon them were given to Mr. Davis, the Members of the Cabinet and Members of Congress, in the most earnest and friendly manner. When they were so given, without avail, I remained silent before the country, except in a few instances in which self-vindication became a public duty.

Upon the Constitutionality of the Conscript Acts, my views, Major Heister, were very similar to those expressed by the Supreme Court of your own State, upon a similar act, subsequently passed by the Federal Congress, in a case which produced considerable excitement throughout the North at the time, and with which you may be familiar. The opinion of Mr. Justice George W. Woodward, in that case, deserves a place in the future history of this Country, side by side with that of Chief Justice Taney, of the Supreme Court of the United States, on the suspension of the Writ of *Habeas Corpus*.* But enough on these subjects.

* For the author's views, more in detail, upon these matters, here generally referred to, see *Appendix* Q, 1, 2, 3.

You have now, Professor Norton, I think, a very full, if not satisfactory response to your inquiry for information upon the points stated by you. On all these points, however, I wish you distinctly to understand, that the differences between Mr. Davis and myself were in no respect, as I understood them, unlike those differences which often occur between the several Members of the same Cabinet, where all are equally earnest and sincere in their efforts to promote a common object; and not unlike differences which probably existed on many other questions, even between Mr. Davis and Members of his own Cabinet.

We will now, if you please, after this long talk, take a little rest, before proceeding with the consideration of other subjects.

Judge Bynum. Before suspending, I wish barely to say that there are two other subjects, Mr. Stephens, upon which I desire specially to hear from you. These are: first, the celebrated Hampton Roads Conference, to which you have referred; and, secondly, the general results of the war, which you intimated an intention of saying something about. I am anxious to know the *secret* history of the origin, as well as the nature and objects of that conference; and as Secession, which you thought so justifiable as a mode of redress for a breach of Compact between States, has been abandoned, and is now among *the dead issues of the past* you speak of, I wish, for the gratification of a like personal curiosity, to know what you think of the future, especially of the Reconstruction Measures of Congress.

Mr. Stephens. Very well, gentlemen, I am at your service. In the morning, then, we will take up the Hampton Roads Conference, which will bring us to the close of the war; and in the evening, conclude with a brief review of its general results, as they now stand.

COLLOQUY XXIII.

HAMPTON ROADS CONFERENCE—BRIEF REVIEW OF PRECEDING MILITARY AND POLITICAL EVENTS—BATTLE OF CHICKAMAUGA—MEADE'S ATTACKS ON LEE—GRANT THE COMING MAN—BATTLE OF MISSIONARY RIDGE—JOSEPH E. JOHNSTON SUPERSEDES BRAGG—GRANT MADE LIEUTENANT-GENERAL—GLOOM AT THE CLOSE OF THE YEAR 1863—BRILLIANT CONFEDERATE VICTORIES EARLY IN 1864, AT OCEAN POND AND MANSFIELD—SHERMAN'S EXPEDITION TO MOBILE CHECKED BY FORREST—SHERMAN ASSIGNED TO COMMAND THE "ONWARD" INTO GEORGIA—THE TWO GRAND CAMPAIGNS—PRESIDENTIAL CAMPAIGN IN THE NORTH—GRANT'S GREAT LOSSES OF MEN IN THE SUMMER CAMPAIGN—JOHNSTON REMOVED AND HOOD APPOINTED—BATTLES OF ATLANTA; ITS FALL—HOOD'S TENNESSEE CAMPAIGN: BATTLES OF FRANKLIN AND NASHVILLE—SHERMAN'S MARCH TO THE SEA—SHERIDAN DEVASTATES THE VALLEY OF VIRGINIA—MR. STEPHENS'S VIEWS OF THE SITUATION—BLAIR'S VISITS TO RICHMOND—FIRST INTERVIEW WITH GRANT, AND IMPRESSIONS MADE BY HIM—THE CONFERENCE AND ITS RESULTS—FALL OF FORT FISHER—MR. DAVIS'S SPEECH AT THE AFRICAN CHURCH—LAST SCENES OF THE WAR—CHANGES IN THE CONFEDERATE CABINET—GRANT'S OPERATIONS: LEE'S LINES BROKEN—RICHMOND GIVEN UP—LEE'S SURRENDER—LINCOLN ASSASSINATED—SURRENDER OF JOHNSTON, DICK TAYLOR, AND KIRBY SMITH—END OF THE WAR.

MR. STEPHENS. In the *Congressional* language, Judge Bynum, with which we were so familiar when we were members of the House together, the "*special order*" for this morning is the Hampton Roads Conference in February 1865, about which you desired information.

JUDGE BYNUM. Yes, that is a matter I feel more interest in than the consideration of Battles, Proclamations, Conscript Laws, or anything else pertaining either to the causes, character, or general conduct of the war. On these topics I think I very clearly perceive your general views. I am now more interested in getting some light upon the efforts which were made for stopping it. How did this celebrated Conference, having these objects,

originate? Who projected it, and how did it happen to fail? You must have known, at that time, that a further prosecution of the war was utterly hopeless. I have seen various reports about it. Amongst other things, I have seen it stated that Mr. Davis again yielded to your wishes to attempt negotiations for Peace, but so tied your hands with instructions that nothing could be accomplished by it, and that his object in the whole matter was to use the *failure* as a means more effectually to arouse the people of the Confederate States to renewed efforts and energy, by showing them that there were no hopes left for them of attaining Peace, except by the sword. How is this? If you have no objections to responding to my inquiries, I should like to know what your instructions were, and what did really occur at the interview between the Confederate Commissioners, and Mr. Lincoln and Mr. Seward, in that Conference.

Mr. Stephens. The reports to which you refer are utterly unworthy of notice. These, as those in reference to the proposed Conference in 1863, have tended only to mislead the public mind, and to divert it from the truth in the case. The real objects of the Hampton Roads Conference have never been made fully known to the country, so far as I am aware. It was not intended in its origin or objects to bring about direct negotiations for Peace. On this point very erroneous ideas existed at the time, and do yet, I believe. We had no written instructions upon that subject, or any other, except what were contained in the letter of our appointment, which has been published;* nor any verbal instructions on that subject inconsistent with the terms of that letter. The Conference, moreover, did not originate in any way with me, as you seem to suppose.

* See Correspondence, *Appendix* R, No. 2

But for a proper understanding of its origin, nature, and objects, as well as my connection with it, it is essentially necessary that we shall first take another rapid glance at the intervening military as well as political events, which occurred between this and the other proposed Conference referred to. I will not worry you with unnecessary details of battles or other subjects, but confine myself briefly as possible to such points, in both a military and political view, as are essential to a proper understanding of the matter in hand.

It must be borne in mind, then, that after the great reverses met with by the Confederates at Gettysburg and Vicksburg, and after the withdrawal of Lee's Army from Pennsylvania—which, with his great skill, was safely effected, though Meade then had quite two to one at his command against him—everything remained comparatively quiet for some time, in a military point of view. The Political aspect of affairs at the North, however, was greatly changed by what had occurred. The raid of Morgan into Ohio, as well as the invasion of Pennsylvania by General Lee, gave new life and vigor to the War Party in all the Northern States, but especially in Ohio, Pennsylvania, and New York. Mr. Lincoln, by this, was enabled, easily, to recruit his armies by volunteers in defence of their own homes and firesides, even from the ranks of those who were utterly opposed to the policy of subjugating the Southern States. The result was, that the Anti-War Party at the North—those who had favored Peace movements—were again put to silence under the denunciation of *incivism*, which was hurled against them. The elation caused by these late greatest successes which had attended their arms during the war, came, as might have been expected, to their aid in the fall elections. In the political contest in 1863, therefore, the War Party

proper, *recovering from its wound*, regained all that it had lost the year before. Vallandigham was beaten in Ohio, and in a large majority, if not all of the States, the Centralists were again triumphant. So much for the political aspect just now. Let us leave it a moment to glance further at military operations.

While Lee was still holding Meade at bay in Virginia, Rosecrans, at the head of the Army of the Cumberland, greatly reinforced, was projecting an attack upon Chattanooga, and a campaign thence to Atlanta and through Georgia. To defeat this most dangerous movement, Lee sent about 5,000 of his army to the assistance of Bragg, who, at the head of the Confederates, was now confronting Rosecrans. The result was the great battle of Chickamauga, fought on the 20th of September, 1863, where the Confederate arms under Bragg, D. H. Hill, Longstreet and Hood, again achieved a most brilliant victory. Rosecrans was not only checked, but almost routed. His army was saved by seeking protection behind the Fortifications in and around Chattanooga. The united forces on the Confederate side, in the battle of Chickamauga, was about 40,000, while the Federals under Rosecrans, numbered, from the best accounts, fully 55,000. The Confederate loss was heavy—not less than 16,000; while the Federal loss was fully 20,000 men, (8,000 of whom were prisoners,) besides 49 pieces of artillery, and 15,000 small arms.

After this terrible conflict, Military affairs were again comparatively quiet for a time, both in the East and the West. Rosecrans remained behind his works at Chattanooga, and Bragg confronted him on Missionary Ridge. In Virginia, however, matters were not quite so still. Meade made several attempts to assail Lee's weakened Army, reduced, as it was, by the absence of Longstreet's

Corps. The most noted of these were at Centreville, Bristoe Station, and Mine Run. These resulted in no serious loss to Lee.

In the meantime, Grant, who, from his exploits at Vicksburg, was now fully recognized as "*the* coming man," had been put at the head of all the South-western Federal forces, and given the control of the movement into Georgia from Chattanooga. Rosecrans having fallen out of favor at Washington, had been removed, and Major-General G. H. Thomas put in his place at Chattanooga, he being himself, however, now under the chief command of Grant. About this time, most unfortunately for the Confederates, there was a separation of their forces near Missionary Ridge, when there should have been every possible concentration of them. Longstreet was sent upon an expedition against Knoxville, where, on the 17th of November, he made an unsuccessful assault upon the Federals there strongly fortified, sustaining considerable loss, and accomplishing nothing. While Bragg was thus weakened by the absence of Longstreet's command, Grant, very adroitly, and with consummate skill, by a concentration of his forces, planned and executed those movements which resulted in his most memorable victory, known as the Battle of Missionary Ridge. This was fought on the 25th day of November. Bragg's Army was completely routed. This was the greatest disaster which attended the Confederate Arms in a pitched battle, during the war: not so much in the loss of men, (for that was only about 3000,) as in the loss of ground and the demoralization of his broken columns. Having lost the confidence of his men, he was, upon his own application, relieved from the command of the Army of Tennessee. This position was now, upon the earnest remonstrance and entreaty of many persons high in

authority, committed to the military genius of General Joseph E. Johnston, who, for some cause not necessary to mention, had theretofore been out of favor with Mr. Davis. His presence at the head of the shattered forces now composing this Army, gave new hopes and inspired new zeal in the ranks. All his energies were devoted for some months to recruiting and strengthening his command. The winter thus passed off.

Meantime, the office of Lieutenant-General was created by the Federal authorities, and General Grant was the man who, by almost universal acclaim, was designated to fill it. His nomination to that post by Mr. Lincoln was, of course, confirmed by the Senate. He was thus put at the head of all the Armies of the United States, and had, thereafter, the general control of all military operations on land. His Head Quarters were immediately transferred to the Army of the Potomac. Thus matters stood on both sides, during the remainder of the third year of the war.

The prospect upon its close, in a military point of view, was gloomier for the Confederates than it had been at the close of any that had preceded it. This heavy gloom, however, did not rest upon their horizon long. The beginning of operations in the fourth year, soon changed the aspect of affairs in this particular, and gave great encouragement to the Confederates. This year was ushered in, even in its dawn, by the splendid victory at Ocean Pond, Florida, on the 20th of February, achieved under the lead of Brigadier-General Alfred H. Colquitt, against General Truman Seymour, commanding the Federals. With less than 5,000 men, Colquitt put Seymour to rout, with more than 6,000, killing, wounding and capturing 2,500 men, and taking three Napoleon guns, two ten-pounder Parrots, and 3,000 stand-of-arms. This was followed immediately by the great victories

achieved by General E. Kirby Smith and General "Dick" Taylor, over General Banks in the West. In the early part of March, Banks had set out from New Orleans on an expedition to Texas, by way of Shreveport, with forces at his command numbering in all, not less than 40,000. These were attacked in detail by Smith and Taylor at Mansfield and Pleasant Hill, at which places they utterly routed the Federal forces, and drove Banks back as precipitately as he had been driven from Winchester in 1862, by "Stonewall" Jackson. In this expedition, Banks lost in prisoners, 6,000, in killed and wounded 8,000, in all 14,000 men, besides thirty-five pieces of artillery, 20,000 small arms, one hundred and twenty wagons, one gunboat, and three transports. The Confederate forces operating against Banks, in all, did not exceed 25,000 men.

A little before this, General William T. Sherman had set out on his grand projected expedition to Mobile through Mississippi and Alabama. This most formidable and threatening movement was completely checked by several brilliant cavalry exploits of Major-General N. B. Forrest—particularly the one at Okolona on the 22d of February—the opening day of the fourth year of the war. Sherman's army estimated at 50,000, was thus stopped at Meridian, Mississippi. From this point he retraced his steps to Vicksburg, and by Grant was put at the head of a new army to make another "*onward*" upon Atlanta and through Georgia.

Two grand campaigns were now again clearly developed by the Federals, for the summer of 1864, as in 1863—one against Richmond under Grant himself—the other against Atlanta under Sherman. To Grant's movement Lee was opposed in Virginia; and to Sherman's, Johnston in Georgia. To the movements of these two great armies,

the chief attention and energies on both sides, were now directed. This was the general military situation in the early part of May, 1864.

The political aspect, at the same time, requires a brief notice in the same connection. The Presidential Campaign in the Northern States was opening. The Constitutional Party there was again active. They were resolved to make another deperate struggle, and to displace the Centralists from power by *votes*, if possible. Several circumstances favored the prospect of their success at first. There was considerable division in the ranks of the Centralists, as to who should be their standard-bearer in the contest. Mr. Lincoln had strong and powerful opponents to his nomination in his own Party. These, in Convention on the 31st of May, put in nomination for the Presidency, General John C. Fremont, and for the Vice Presidency, John Cochrane, of New York. The friends of Mr. Lincoln met in Convention at Baltimore, a week afterwards, on the 7th of June, and put him in nomination for re-election, with Andrew Johnson, of Tennessee, for the Vice Presidency. Fremont was subsequently withdrawn, and Lincoln left without opposition from his own Party.

The Democratic or Constitutional Party postponed their Convention from the 4th of July, when it was to have been held, to the 29th of August, when, at Chicago, as before stated, they put in nomination for the Presidency, General George B. McClellan, and for the Vice Presidency, George H. Pendleton, of Ohio, upon a Platform boldly denouncing the usurpations of the Washington authorities, opposing the policy of subjugating the Southern States, declaring the war to be a failure in preserving the Union of the States as it was established under the Constitution, and inviting a general Convention of *all the States*, for a proper adjustment of the relations between them.

It was, you recollect, on the policy of our giving a favorable response to these Resolutions of the Chicago Convention, looking to a general convocation of all the States, as an initiative step for a final adjustment of the matters in conflict, that I so widely differed with Mr. Davis during this year. The contest, however, fierce and bitter as it was, resulted, as is known, in the success of Mr. Lincoln to the Presidency, and Mr. Johnson to the Vice Presidency, at the election which took place on the 8th day of November. The various causes which co-operated in producing this result, we will not now stop to notice.

Let us return, therefore, to Military movements. Before either of these nominations had taken place, the two great campaigns of this year, before referred to, had commenced; both at or near the same time. This was in the early part of May. The general results of these need be but glanced at. Lee with his most masterly military genius, with less than 60,000 men, not only held Grant in check with an army of over 100,000 present, and as many more, perhaps, in his rear to draw upon for reinforcements, but entirely defeated all the plans and purposes of this favorite General of the Federals. In a series of battles beginning on the 6th of May, and ending the 12th of June—first in the Wilderness, then at Spottsylvania Court House, then at North Anna, and then at Cold Harbor, which will ever stand amongst the most memorable of history, he sent Grant and his hosts, as he had McClellan and his before, swinging around upon the same new base—James River—where the Federal Chief, with his Head Quarters established at City Point, continued ineffectual efforts, first to take Petersburg as a step towards Richmond, until winter closed upon the scenes. In this campaign, according to Mr. Swinton, Grant lost

from the 6th of May to the 12th of June, in his progress from the Rapidan to Cold Harbor alone, 54,551 men.* His losses by the time he reached Petersburg, were not less than 60,000—a number equal to Lee's entire Army.

While these operations were going on in Virginia, Johnston, with equal masterly skill, with about 45,000 men, was checking, delaying and defeating Sherman in his "onward" to Atlanta, with an army equal in number and strength to that of Grant's. For more than two months he had been enabled to proceed but about one hundred miles on his grand march, and at a loss not much, if any, inferior to that of Grant; notwithstanding the great disparity of forces on the respective sides, Sherman had been checked, foiled, and balked at various points by the manœuvres, strategy, and consummate generalship of Johnston. On the 17th day of July, however, Johnston was removed, and Major-General John B. Hood put in his place. Within a few days afterwards—on the 20th and 22d of July—were fought the great battles of Atlanta. Hood with unequal forces attacked the Federals under great disadvantages, as it turned out, and in two most gallant and bloody assaults lost, in all, about 8,000 men, without carrying any point, or inflicting any serious injury upon his adversary.

On the 31st of August, he gave up the city and retired towards Newnan. Sherman took possession of his prize on the 2d of September. Soon after, Hood, in a new position, projected his famous Tennessee Campaign. This was commenced on the 28th day of September. His Army at this time, after all the recruits which could be brought to its ranks, amounted to about 35,000. The result of this Tennessee movement, as is known, was the battles of Franklin and Nashville. The battle of Frank-

* Swinton's *Army of the Potomac*, p. 491.

lin was fought on the 30th of November. In this, Hood gained a signal victory, though at considerable loss. The battle of Nashville was fought on the 15th and 16th of December. It lasted two days. The Confederates here were, finally, utterly defeated and almost routed by Thomas, whom Sherman had left in his rear, with forces amply sufficient to meet this meditated blow of Hood, of which he was fully apprised.

In the meantime, Sherman, after destroying and burning Atlanta, had set out anew from that point, (on the 15th of November,) on his grand march to the sea, with an army of 65,000 men. As there was no sufficient Confederate force to oppose him, he passed through the State almost unmolested,* laying waste the country in a belt of nearly thirty miles in breadth, and reached Savannah on the 22d of December, 1864. In the meantime, also, Sheridan, the most dashing and fiery of the Federal Generals, had made his Valley Campaign in Virginia, defeating the Confederates under Early, and laying waste that most beautiful country.

This rapid glance must suffice for the general aspect of affairs, both Militarily and Politically, up to January, 1865. The prospect at this time, it is true, was exceedingly gloomy for us; but I did not *then* consider our Cause as utterly hopeless, notwithstanding. I thought the great object might even yet be attained, but I was

* At Griswoldville, on the 22d of November, quite a bloody encounter took place between the Federal Brigade of General Walcott, who was demonstrating towards Macon, and a few Georgia Reserves at that place under the command of General Cobb. This conflict, considering the relative forces engaged, as well as the valor displayed in it, is justly entitled to a place amongst the heroic fights of the war. Several hundred fell in it, and General Walcott himself was wounded. But, however great was the honor reflected upon the Confederate Arms by this engagement, it had no effect whatever in checking or thwarting the movement of the Grand Army of Sherman in its progress.

deeply impressed by the conviction, that it could be done only by an immediate and thorough change in the policy of the Administration, both internally and externally. Being requested by the Senate to give them my views on the situation, in a close Session, I complied in a speech of considerable length, which was never reported. The sum and substance of it, however, was, that our policy both internally and externally should be speedily and thoroughly changed. Conscription, Impressments, Suspension of the Writ of *Habeas Corpus*, and all those measures which tended to dispirit our people in the great cause for which they were struggling, should be immediately abandoned. The resources of the country, both of Men and Subsistence, should be better husbanded than they had been. Proclamation should be made inviting back to the army all who had left it without leave, and all who were then subject to Conscription, to come under chosen leaders of their own. In this way I believed Price and Johnston, to say nothing of others, would in thirty days, bring to their ranks more than the Conscript Bureau had by compulsory process brought from the beginning. Men who should so come would never desert, and might be relied on to fight when they did come.

I reminded them of what they knew had been my opinions upon these subjects from the beginning: that the policy of holding posts or positions against besieging armies, as well as of engaging in pitched-battles, should not be pursued. We could not match our opponents in numbers, and should not attempt to cope with them in direct physical power. War was a collision of forces, and in this, as in Mechanics, the greater momentum must prevail. Momentum, however, was resolvable into two elements—quantity of matter, and velocity. The superior

numbers—the quantity of matter in this instance—was on the other side; and to succeed in the end, we must make up the other requisite element of momentum, not only by the spirit, animation, and *morale* of our unequal numbers, but by their skilful movements, and by other resorts which were at our command. These consisted in the many advantages which an invaded people have over invaders. The policy of Johnston from Dalton to the Chattahoochee was the right one. To preserve the lives of our arms-bearing men, was, itself, a matter of the utmost importance. Our supply of these was limited, while that of our opponents was inexhaustible. They could afford to lose any number of battles, with great losses of men, if they could thereby materially thin our ranks. In this way, by attrition alone, they would ultimately wear us out. The leading object should be, to keep an army in the field, and to *keep the Standard up* somewhere, wherever it could be done, without offering battle except where the advantages were decidedly in our favor. If, in pursuing this course now, of retiring when necessary, instead of offering or accepting battle, as stated, our whole country should be penetrated, and should even be laid waste, as the Valley of Virginia and the smoking belt in Georgia had been by Sheridan and Sherman, these devastations would be borne by our people, so long as their hearts were kept enlisted in the Cause. On this line of internal policy, our standard might even yet be kept up, for at least a year or two longer—perhaps for a period far beyond that; and, in the meantime, by a change of our external policy towards the masses of the people at the North, a reaction might reasonably be expected to take place there. A financial revulsion there might be certainly expected in less than two years. The depreciation of their currency had already reached a point which

was quite alarming to capitalists. Greenbacks had already sold in New York at nearly three for one in gold. When the crash did come, as soon it must, the effects would be, politically, as well as in other respects, tremendous. At that time they could not be even properly conjectured; but when it did come, *then* with a proper policy towards the million eight hundred thousand and more of the other side, who had so recently and decidedly demonstrated their opposition to the Centralists in the late election, we might through them—thoroughly aroused to a sense of their own danger—look for a peaceful Adjustment upon a basis, which would best secure both their liberties and ours. My opinion was that, by pursuing this course, we might, in the end, succeed in the Cause for which we were struggling, without relying solely upon the sword.

The policy thus stated necessarily involved the abandonment of a continued attempt to hold Richmond. This, however, I did not state in express terms in my speech to the Senate. I only left all to draw their own inferences. To Mr. Davis alone, I submitted the propriety and necessity of this course; for I knew if *he* could not first be brought to see it, it would be not only useless, but most probably exceedingly injurious in the then state of the public mind, to mention it to others. When the subject was mentioned to him, his reply in substance was, that the abandonment of Richmond would be a virtual abandonment of the Cause.

Now, it was in this stage of our affairs, early in January, 1865, in the midst of winter, when everything was comparatively quiet on the lines of defence around Richmond, and before Sherman had set out from Savannah, on his march through the Carolinas, that Mr. Francis P. Blair, Sr., made his appearance in the Con-

federate Capital. The arrival of this distinguished personage, who was, unquestionably, the master spirit—the real *Warwick*—of the Party then in power at Washington, caused no little sensation. What could have brought him there? And what was his business? These were the inquiries of almost every one. He was immediately in close and private consultation with Mr. Davis. After remaining a few days, he returned. Nothing, however, touching the object of his visit escaped from the Executive closet, or got to the public in any way. The surprise occasioned by his first visit was even increased by a second in a few days afterwards. He was again in consultation with Mr. Davis, and again returned. The same mystery still continued to hang over the object of his mission.

It was then, you must know, in these interviews between Mr. Davis and Mr. Blair, which excited so much curiosity and comment at the time, that this Hampton Roads Conference originated; and as to its objects, how I became connected with it, what occurred at it, and its results, I will now proceed to inform you in regular order:

1st. Its objects, and how I became connected with it.

On the day after Mr. Blair's final departure, I was sent for by Mr. Davis, with a request to meet him at a stated hour, on special and important business. He wished the interview to be entirely private, and therefore named the hour when he would be disengaged and ready to receive me. The message came through Mr. Hunter, who told me what the business was. I called at the hour, and found Mr. Davis alone. He said he wished what he should submit to be strictly confidential. He had mentioned it, as yet, to no one, except Mr. Hunter—not even to any member of his Cabinet;

but had requested the Cabinet to meet him at four o'clock that evening, in consultation upon it, and wished to be in possession of my views beforehand.

The substance of what he then stated was, that Mr. Blair, in a verbal and most confidential manner, had suggested to him a course by which a suspension of hostilities might be effected. This was to be done by a *Secret Military Convention* between the Belligerents embracing another object, which was the maintenance of the Monroe Doctrine, in the prevention of the establishment of the then projected Empire in Mexico by France. Mr. Davis stated that Mr. Blair had given it as his opinion, that the result of what he proposed would be the ultimate restoration of the Union, which he greatly desired; and that it was much more in accordance with his wishes that it should be effected in this way, than by a continued prosecution of the war to its extreme results. Mr. Davis gave me clearly to understand that he understood Mr. Blair to be acting under the firm belief, that the attempt of the Confederate States to establish a separate Independence would certainly fail in the end. This he did that I might be fully informed as to the candidly professed objects of the proposition. He also submitted, somewhat in detail, a programme suggested by Mr. Blair, for carrying the general outlines of his scheme into practical operation. Now, whether Mr. Blair's ideas as to the ultimate result of such Military Convention, if it should be entered into—so far as they related to the restoration of the Union—were correct or not, and whether his wishes in this particular would be finally attained by the line of policy he proposed, was a grave question for mature consideration, as well as the general subject itself; and what Mr. Davis wished to confer with me about was, whether or not it was advisable to enter into the arrangement at all,

under the circumstances; and especially in view of the contingency of such a result as that contemplated by Mr. Blair: and if I were of opinion that it was proper to do so, then who would be the most suitable persons to whom the matter should be committed? He showed me the two letters that had passed between Mr. Lincoln and himself through the medium of Mr. Blair, which have been published.* These, however, were only intended to cover the other undisclosed object.

I inquired if he thought Mr. Blair was really in the confidence of the Administration at Washington, and fully represented their views on the subject. He said that Mr. Blair had expressly disclaimed speaking by authority, but assured Mr. Davis that he believed the Administration would be willing to enter into such an arrangement; and Mr. Davis, in reply to my inquiry, said that he felt assured, notwithstanding what Mr. Blair had said of his acting in the matter of his own accord, that the Administration at Washington did, in fact, fully understand the object of Mr. Blair's mission, and would act in accordance with the views he had presented.

In that view of the subject, I promptly told him that I thought the programme suggested by Mr. Blair should be acceded to, at least so far as to obtain, if possible, a Conference upon the subject as proposed. Perhaps such a Convention might be obtained, securing a suspension of hostilities, without committing us to an active participation in the maintenance of the Monroe Doctrine. If so, it was an object of very great importance to us; and the agitation of the Monroe Doctrine, and the diversion of the popular mind at the North to the questions involved in it, might, itself, result in great benefit

* See the whole Correspondence, *Appendix R. Nos.* 1 *and* 2.

to our Cause. Whether Mr. Blair was right in his ideas as to the ultimate result or not, was, of course, uncertain; but this result, to which he was looking, was not necessarily involved in it. Moreover, if such result should ensue, it would be by the voluntary assent of the Confederate States, and this would secure the success of the Principles for which we were struggling. In every view, this was a matter which could safely be left to the future. Upon the whole, therefore, I was in favor of the Conference, if it could be obtained.

I went on further to say, that if there was really anything authoritative in the arrangement proposed; if in truth and in fact, Mr. Lincoln were then, or should be on its direct presentation, favorably inclined to the course suggested, such a Convention, it seemed to me, could not be effected without the utmost discretion and the most perfect secrecy. Mr. Davis said in reply to this, that Mr. Blair had been very particular in stating the same thing.

Well then, said I, Mr. President, looking to the question in all its bearings, in my judgment, you and Mr. Lincoln, yourselves, are the persons who should hold the Conference. You and he can easily be brought together near City Point, without anybody knowing it except Gen. Lee and Gen. Grant. To this he decidedly objected, and said that the matter, if it should be decided to hold the Conference, ought to be put in the hands of at least three Commissioners.

When he was so decided on that point, after some moments' reflection, I said that the Commission should be composed of men of ability and discretion, and also of persons whose absence from the City would not attract public attention. Looking to these three requisites, I then suggested as the Commissioners, Judge John A. Campbell,

of Alabama, then Assistant Secretary of War,* Gen. Henry L. Benning, Ex-Justice of the Supreme Court of Georgia, then commanding a Brigade within a few miles of City Point; and Thomas S. Flournoy, of Virginia, a gentleman of distinguished ability, and well known personally to Mr. Lincoln. This gentleman, to my knowledge, I stated, had reached the City the night before, expecting to remain only a day or two, and hence his leaving would give rise to no inquiry or comment.

To all these suggestions, both as to qualifications and the persons possessing them, he yielded his ready assent, and I supposed the whole matter would be thus arranged, for I did not think the Cabinet would object to what Mr. Davis so cordially approved. Our conversation—begun on this subject and continued on others—lasted until the arrival of the Cabinet was announced.

I heard nothing more of the matter until next day, when being sent for again by the President, I then, for the first time, learned that the result of the Cabinet consultation the evening before, was, that the Conference should be proposed, and that Mr. Hunter, Judge Campbell, and myself should be the Commissioners. It is, perhaps, unnecessary to say that I was very much surprised at this. I urged and insisted upon the impropriety of myself and Mr. Hunter being on the Commission—especially myself, for my absence, as the Presiding Officer of the Senate, would, of course, be noticed, and inquiries would almost certainly be made as to where I was. The same reason applied to some extent, though not to its full, to Mr. Hunter, who was one of the most prominent as well active members of the Senate; but the objection applied with more than double force to the appointment

* Ex-Justice U. S. Supreme Court—the same whose name appears in connection with the first Peace Commission at Washington.

of us both. For, in case of my absence barely, he, of course, would take the Chair, as he was the President *pro tempore*, and this might, perhaps, pass off without special notice; but for both of us to be absent at the same time—an event which had never occurred—would necessarily create inquiries as to the cause of our absence. The Rules of the Senate would have to be changed to meet the case—a contingency that had not even been provided for, and some satisfactory reason would have to be given for an occurrence so extraordinary.

I, therefore, with great earnestness, insisted that this arrangement should be abandoned, if anything was expected to be accomplished by it. My efforts to have it changed, however, were of no avail. The President and Cabinet persisted in the selection of the Commissioners, which they had agreed upon; so in this instance, as in the other referred to, my judgment was yielded to theirs.

The arrangement was, for the Commissioners to set out the next day, by way of Petersburg. I urged upon the President the importance of having it seen to, that no allusion to the Commission should be published in the City papers.

According to the arrangement stated, the Commissioners next day, the 29th of January, proceeded as far as Petersburg. There we addressed Lieutenant-General Grant the letter of the 30th, which has been published,* asking permission to cross the Federal lines. In reply, we received from him a communication, dated at Head Quarters, Army of the United States, January 31st 1865, signed by him as Lieutenant-General, and addressed to us at Petersburg. This has never yet been published, so far as I know; and as it was upon this we passed the Federal lines at Petersburg, I will read it:

* See *Appendix* R, No. 2

"Gentlemen: Your communication of yesterday, requesting an interview with myself, and a safe conduct to Washington and return, is received.

"I will instruct the commanding officers of the forces near Petersburg, notifying you at what part of the lines, and the time when and where, conveyances will be ready for you.

"Your letter to me has been telegraphed to Washington for instructions. I have no doubt that before you arrive at my Head Quarters, an answer will be received, directing me to comply with your request. Should a different reply be received, I promise you a safe and immediate return within your own lines.

"Yours very respectfully."

In pursuance of this letter we were met on the evening of the same day, at that part of the lines at which we had, in the meantime, been notified to appear at 4 o'clock, by an escort under the conduct of Lieutenant-Colonel Babcock of General Grant's staff, and were conveyed by railroad to City Point. Upon reaching that place we were immediately taken to the Head Quarters of the Commander-in-Chief. Here, for the first time, I met General Grant himself.

Major Heister. What impression did *he* make upon you on first acquaintance? How did he compare with General Lee in your estimation?

Mr. Stephens. Why, sir, the idea of drawing a comparison between them, did not occur to me. I should just as soon have thought of drawing a comparison between Louis Napoleon and Washington. But in answer to your question, as to what impression he made upon me, I will say, in the first place, that I was never so much disappointed in my life, in my previously formed opinions, of either the personal appearance or

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bearings of any one, about whom I had read and heard so much. The disappointment, moreover, was in every respect favorable and agreeable. I was instantly struck with the great simplicity and perfect naturalness of his manners, and the entire absence of everything like affectation, show, or even the usual military air or *mien* of men in his position. He was plainly attired, sitting in a log-cabin, busily writing on a small table, by a Kerosene lamp. It was night when we arrived. There was nothing in his appearance or surroundings which indicated his official rank. There were neither guards nor aids about him. Upon Colonel Babcock's rapping at his door, the response, "Come in," was given by himself, in a tone of voice, and with a cadence, which I can never forget.

His conversation was easy and fluent, without the least effort or restraint. In this, nothing was so closely noticed by me as the point and terseness with which he expressed whatever he said. He did not seem either to court or avoid conversation, but whenever he did speak, what he said was directly to the point, and covered the whole matter in a few words. I saw before being with him long, that he was exceedingly quick in perception, and direct in purpose, with a vast deal more of brains than tongue, as ready as that was at his command.

We were here with General Grant two days, as the correspondence referred to shows. He furnished us with comfortable quarters on board one of his despatch boats. The more I became acquainted with him, the more I became thoroughly impressed with the very extraordinary combination of rare elements of character which he exhibited. During the time he met us frequently, and conversed freely upon various subjects, not much upon our mission. I saw, however, very clearly, that he was very anxious for the proposed Conference to take place,

and from all that was said I inferred—whether correctly or not, I do not know—that he was fully apprised of its proposed object. He was, without doubt, exceedingly anxious for a termination of our war, and the return of peace and harmony throughout the country. It was through his instrumentality mainly, that Mr. Lincoln finally consented to meet us at Fortress Monroe, as the correspondence referred to shows.

But in further response to your inquiry, I will add: that upon the whole the result of this first acquaintance with General Grant, beginning with our going to, and ending with our return from Hampton Roads, was, the conviction on my mind, that, taken all in all, he was one of the most remarkable men I had ever met with, and that his career in life, if his days should be prolonged, was hardly entered upon; that his character was not yet fully developed; that he himself was not aware of his own power, and that if he lived, he would, in the future, exert a controlling influence in shaping the destinies of this country, either for good or for evil. Which it would be, time and circumstances alone could disclose. That was the opinion of him then formed, and it is the same which has been uniformly expressed by me ever since. This, Major Heister, is all I can now say in answer to your question.

After Mr. Lincoln's telegram to him that he would meet us at Fortress Monroe, which General Grant brought to us himself, with evident indications of high gratification, he immediately started us on one of his despatch boats. We reached the Roads in the evening of the same day. We remained on board the steamer which anchored near the Fort. Mr. Lincoln arrived in another steamer during the night, which anchored not far off. Mr. Seward, as is known, had been sent on a day or two

in advance. So much then for the first point as to the objects, and how I became connected with this Conference.

2d. We come now to the Conference itself, and what occurred at it.

The interview took place in the Saloon of the steamer, on board of which were Mr. Lincoln and Mr. Seward, and which lay at anchor near Fortress Monroe. The Commissioners were conducted into the Saloon first. Soon after, Mr. Lincoln and Mr. Seward entered. After usual salutations on the part of those who were previously acquainted, and introductions of the others who had never met before, conversation was immediately opened by the revival of reminiscences and associations of former days.

This was commenced by myself addressing Mr. Lincoln, and alluding to some of the incidents of our Congressional acquaintance—especially, to the part we had acted together in effecting the election of General Taylor in 1848. To my remarks he responded in a cheerful and cordial manner, as if the remembrance of those times, and our connection with the incidents referred to, had awakened in him a train of agreeable reflections, extending to others. Mutual inquiries were made after the fate and well-being of several who had been our intimate friends and active associates in a "Congressional Taylor Club," well-known at the time. I inquired especially after Mr. Truman Smith, of Connecticut, and he after Mr. Toombs, William Ballard Preston, Thomas S. Flournoy, and others. With this introduction I said in substance: Well, Mr. President, is there no way of putting an end to the present trouble, and bringing about a restoration of the general good feeling and harmony *then* existing between the different States and Sections of the country?

Mr. Seward said: It is understood, gentlemen, that this is to be an informal Conference. There is to be no clerk or secretary—no writing or record of anything that is said. All is to be verbal.

I, speaking for the Commissioners, said that was our understanding of it. To this all assented, whereupon I repeated the question.

Mr. Lincoln in reply said, in substance, that there was but one way that he knew of, and that was, for those who were resisting the laws of the Union to cease that resistance. All the trouble came from an armed resistance against the National Authority.

But, said I, is there no other question that might divert the attention of both Parties, for a time, from the questions involved in their present strife, until the passions on both sides might cool, when they would be in better temper to come to an amicable and proper adjustment of those points of difference out of which the present lamentable collision of arms has arisen? Is there no Continental question, said I, which might thus temporarily engage their attention? We have been induced to believe that there is.

Mr. Lincoln seemed to understand my allusion instantly, and said in substance: I suppose you refer to something that Mr. Blair has said. Now it is proper to state at the beginning, that whatever he said was of his own accord, and without the least authority from me. When he applied for a passport to go to Richmond, with certain ideas which he wished to make known to me, I told him flatly that I did not want to hear them. If he desired to go to Richmond of his own accord, I would give him a passport; but he had no authority to speak for me in any way whatever. When he returned and brought me Mr. Davis's letter, I gave him the one to

which you alluded in your application for leave to cross the lines. I was always willing to hear propositions for peace on the conditions of this letter and on no other. The restoration of the Union is a *sine qua non* with me, and hence my instructions that no conference was to be held except upon that basis.

From this I inferred that he simply meant to be understood, in the first place, as disavowing whatever Mr. Blair had said as coming authoritatively from him; and, in the second place, that no arrangement could be made on the line suggested by Mr. Blair, without a previous pledge or assurance being given, that the Union was to be ultimately restored.

After a short silence, I continued: But suppose, Mr. President, a line of policy should be suggested, which, if adopted, would most probably lead to a restoration of the Union without further bloodshed, would it not be highly advisable to act on it, even without the absolute pledge of ultimate restoration being required to be first given? May not such a policy be found to exist in the line indicated by the interrogatory propounded? Is there not now such a Continental question in which all the parties engaged in our present war feel a deep and similar interest? I allude, of course, to Mexico, and what is called the "Monroe Doctrine,"—the principles of which are directly involved in the contest now waging there. From the tone of leading Northern papers and from public speeches of prominent men, as well as from *other* sources, we are under the impression that the Administration at Washington is decidedly opposed to the establishment of an Empire in Mexico by France, and is desirous to prevent it. In other words, they wish to sustain the principles of the Monroe Doctrine, and that, as I understand it, is, that the United States will maintain the

right of Self-government to all Peoples on this Continent, against the dominion or control of any European power.

Mr. Lincoln and Mr. Seward both concurred in the expression of opinion that such was the feeling of a majority of the people of the North.

Could not both Parties then, said I, in our contest, come to an understanding and agreement to postpone their present strife, by a suspension of hostilities between themselves, until this principle is maintained in behalf of Mexico; and might it not, when successfully sustained there, naturally, and would it not almost inevitably, lead to a peaceful and harmonious solution of their own difficulties? Could any pledge now given, make a permanent restoration or re-organization of the Union more probable, or even so probable, as such a result would?

Mr. Lincoln replied with considerable earnestness, that he could entertain no proposition for ceasing active military operations, which was not based upon a pledge first given, for the ultimate restoration of the Union. He had considered the question of an Armistice fully, and he could not give his consent to any proposition of that sort, on the basis suggested. The settlement of our existing difficulties was a question now of supreme importance, and the only basis on which he would entertain a proposition for a settlement was the recognition and re-establishment of the National Authority throughout the land.

These pointed and emphatic responses seemed to put an end to the Conference on the subject comtemplated in our Mission, as we had no authority to give any such pledge, even if we had been inclined to do so, nor was it expected that any such would really be required to be given.

Judge Campbell then inquired in what way the settle-

ment for a restoration of the Union was to be made? Supposing the Confederate States should consent to the general terms as stated by Mr. Lincoln, how would the re-establishment of the National Authority take place? He wished to know something as to the details.

These inquiries were made by him upon the line agreed upon by the Commissioners before, that if we failed in securing an Armistice, we would then endeavor to ascertain on what terms the Administration at Washington would be willing to end the war.

Mr. Seward said, he desired that any answer to Judge Campbell's inquiries might be postponed, until the general ideas advanced by me might be more fully developed, as they had, as he expressed it, "a philosophical basis." All seemed to acquiesce in this suggestion.

I then went quite at large into the development of my views, which briefly stated in substance amounted to this: That the Monroe Doctrine, as it was called, so far as it commended itself to my favor, assumed the position, that no European Power should impose Governments upon any Peoples on this Continent against their will. This principle of the Sovereign right of local Self-government, was peculiarly and specially sacred to the people of the United States, as well as to the people of the Confederate States. It was the one on which all our Institutions, State and National, were based. At that time, the Emperor of France was attempting to violate this great principle, which was so sacred alike to the Belligerents on both sides of our contest. Now, if we could in any way agree to suspend our present strife, for the maintenance and vindication of this principle as to Mexico, might, and would not, the result most probably be, not only the allowance of time for the blood of our people on both sides to cool towards each other, but the leading of the

public mind, on both sides, to a clearer understanding of those principles which ought to constitute the basis of the settlement of our own difficulties, and on which the Union should be ultimately restored?

A settlement of the Mexican question in this way, it seemed to me, would necessarily lead to a peaceful settlement of our own. I went on to give it as my opinion that, whenever it should be determined and firmly established that this right of local Self-government is the Principle on which all American Institutions rest and shall be maintained, all the States might reasonably be expected, very soon, to return, of their own accord, to their former relations to the Union, just as they came together at first by their own consent, and for their mutual interests. Others, too, would continue to join it in the future, as they had in the past. This great law of the System would effect the same certain results in its organization, as the law of gravitation in the material world.

In a word, I presented briefly, but substantially in outline, the same view of our system of Government, which I gave you in one of our former conversations, and showed how we might become, in deed and in truth, an Ocean-bound Federal Republic, under the operation of this *Continental Regulator*—the ultimate absolute Sovereignty of each State. This inherent and natural right of all States and Peoples, to govern themselves as they please, in my judgment, was not only the foundation upon which our Institutions were based in the beginning, but constituted the only sure ground of permanent peace and harmony in all parts of the country, consistent with the preservation of the liberties of each, even under a re-organized Union of the States. This Mexican question, therefore, might, it seemed to me, afford a very

opportune occasion for reaching a proper solution of our own troubles without any further effusion of fraternal blood.

Mr. Seward said, in substance, that the ideas as presented had something specious about them in theory; but, practically, no system of Government founded upon them could be successfully worked. The Union could never be restored or maintained on that basis. Suppose, said he, a State under such a system, having within her limits and jurisdiction an important point, or port on the sea coast, should be induced by some foreign Power to abandon the Union so sovereignly entered into, and after setting herself up as an Independent Nation, should enter into a treaty with such foreign Power at enmity, or even at war with the other members of the Union—thus giving their enemies an assumed rightful foothold in their vicinity, and by which great and irreparable injuries might be inflicted upon them. Could this be tolerated by them, for a moment? Suppose, for instance, Louisiana, holding the mouth of the Mississippi, and controlling the commerce of its immense Valley, and for which the United States paid so much, should, as she might, under this theory and doctrine, withdraw at pleasure, and form an alliance with a foreign enemy in time of war. Could the United States tolerate, for a moment, the recognition of any such right on her part? Self-defence, if nothing else, would compel them to interfere, and prevent such withdrawal, and the formation of such an alliance. Self-preservation is the first law of Nature, which applies to Nations as well as to individuals. No Government could have any stability or usefulness founded upon any such principle.

To this I replied, that it was not my purpose to do more than present briefly the outlines of the basis on

which a settlement should be made, and how the Mexican question could be made subservient in bringing the public mind to that result. It was not my intention to argue the general principles as matters of fact or feasible theory. I granted that what he said was the legitimate effect of the System with some limitations. But, said I, in the supposed case of the State at the mouth of the Mississippi; if her Confederates would so act towards her as to make it her interest to remain in the Confederation, as it was when she joined it, she would never think of leaving it, or forming any alliance with a foreign inimical Power. She would abhor and spurn such an idea if presented. The object of all such Unions is the best interests of all the States composing them. This was the object of our Union. It was this that caused its formation. So long as this end is attained, there need be no apprehension of Separation, or foreign alliance by any of them; but if the other States so act toward any one of their Confederates as to render it more to her interest to be out of the Union than in it, then she ought to quit it. The same doctrine stated by him, in reference to all the States jointly, applied with equal force to each State separately. Self-preservation is as much the first law of Nature to any one of the States of the Union as another or all the others combined. The principle of self-preservation applied to every State, singly, in all such associations. It is only with a view to the better securing of the self-preservation of each State separately, that all such associations are formed. It was true, I admitted, if a State should wantonly, and without just cause, quit any association of this sort, and form an alliance with a foreign inimical Nation, and with hostile intent, then that would, of course, be a just cause of war on the part of her former Confederates. All that I

granted; but urged that, if perfect justice should be done to the State in the supposed case, the great law of self-preservation and interest would restrain her from any such course. This might be regarded as one of the most immutable of those laws which regulate human societies in their voluntary relations towards each other.

Dropping further remarks on that point, Mr. Seward proceeded to inquire of me, something of the details of the plan I had in view for effecting the proposed purpose. What would be the general situation of affairs in the meantime, especially in States where there were two sets of Authorities—one recognized by the Confederate States and one adhering to the National Government? How would the laws be administered in the meantime in those States? and how was the object suggested to be practically accomplished?

What he meant by presenting this question, after Mr. Lincoln had virtually closed all further conference on that subject, I did not perceive, but proceeded to answer him in a general way, by stating that I had no fixed plan, but there were several which might be suggested, and stated one, amongst other ways, by which it might be effected, The suggestions I made on this point, as of my own accord, were the same which had been communicated to me as coming from Mr. Blair. The whole, I said, could be easily arranged by a Military Convention. This could be made to embrace, not only a supension of actual hostilities on all the frontier lines, but also other matters involving the execution of the laws in the States referred to. Whatever disposition of troops on both sides might be necessary for the purpose, could be easily arranged in the same way. This Convention being known, however, only to the Authorities at Richmond and Washington. All these matters of detail. I said, could be

easily adjusted, if we should first determine upon an Armistice for that purpose. If there was a will to do it, a proper way could easily be made clear.

Mr. Hunter said, that there was not unanimity in the South upon the subject of undertaking the maintenance of the Monroe Doctrine, and it was not probable that any arrangement could be made by which the Confederates would agree to join in sending any portion of their Army into Mexico. In this view he expressed the joint opinion of the Commissioners; indeed, we had determined not to enter into any agreement that would require the Confederate arms to join in any invasion of Mexico.

Mr. Lincoln and Mr. Seward stated that the feeling in the North was very strong for maintaining the Monroe Doctrine.

The conversation was again diverted from that view of the subject by Mr. Lincoln. He repeated that he could not entertain a proposition for an Armistice on any terms, while the great and vital question of re-union was undisposed of. That was the first question to be settled. He could enter into no treaty, convention or stipulation, or agreement with the Confederate States, jointly or separately, upon that or any other subject, but upon the basis first settled, that the Union was to be restored. Any such agreement, or stipulation, would be a *quasi* recognition of the States then in arms against the National Government as a separate Power. That he never could do.

I stated that as President, being Commander-in-Chief of the Armies of the United States, he might, without doubt, enter into a *Military* Convention. The arrangement suggested contemplated nothing but a Military Convention between the two Parties at war. All that was suggested could be easily effected in that way, if there was a willingness on both sides.

Mr. Lincoln admitted that a Military Convention could be properly entered into by him as President for some of the purposes proposed, but repeated his determination to do nothing which would suspend military operations, unless it was first agreed that the National Authority was to be re-established throughout the country.

Judge Campbell now renewed his inquiry how restoration was to take place, supposing that the Confederate States were consenting to it?

Mr. Lincoln replied; By disbanding their armies and permitting the National Authorities to resume their functions.

Mr. Seward interposed and said, that Mr. Lincoln could not express himself more clearly or forcibly in reference to this question, than he had done in his message to Congress in December before, and referred specially to that portion in these words:

"In presenting the abandonment of armed resistance to the National Authority, on the part of the insurgents, as the only indispensable condition to ending the war on the part of the Government, I retract nothing heretofore said as to Slavery. I repeat the declaration made a year ago, that, 'while I remain in my present position, I shall not attempt to retract or modify the Emancipation Proclamation, nor shall I return to slavery any person who is free by the terms of that Proclamation, or by any of the Acts of Congress.' If the people should, by whatever mode or means, make it an Executive duty to reenslave such persons, another, and not I, must be their instrument to perform it.

"In stating a single condition of peace, I mean simply to say that the war will cease on the part of the Government whenever it shall have ceased on the part of those who began it."

After referring to this and stating its substance from memory, Mr. Seward went on to illustrate the meaning, by saying that the war would cease whenever the civil officers of the Federal Government should be permitted to discharge their duties under the laws of the United States—in other words, whenever the due execution of the laws of the United States should be submitted to in the Confederate States.

Judge Campbell said that the war had necessarily given rise to questions which must, it seemed to him, require stipulation or agreement of some sort, or assurances of some sort, which ought to be adjusted understandingly, before a harmonious restoration of former relations could properly be made. He alluded to the disbandment of the army, which would require time, and the disposition of its supplies. He alluded to the Confiscation Acts on both sides, and stated that property had been sold under them, and the title would be affected by the facts existing when the war ended, unless provided for by stipulations.

Mr. Seward replied, that as to all questions involving rights of property, the courts would determine; and that Congress would, no doubt, be liberal in making restitution of confiscated property, or providing indemnity, after the excitement of the times had passed off.

I asked Mr. Lincoln what would be the *status* of that portion of the Slave population in the Confederate States, which had not then become free under his Proclamation; or in other words, what effect that Proclamation would have upon the entire Black population? Would it be held to emancipate the whole, or only those who had, at the time the war ended, become actually free under it?

Mr. Lincoln said, that was a judicial question. How the Courts would decide it, he did not know, and could

give no answer. His own opinion was, that as the Proclamation was a *war measure*, and would have effect only from its being an exercise of the war power, as soon as the war ceased, it would be inoperative for the future. It would be held to apply only to such slaves as had come under its operation while it was in active exercise. This was his individual opinion, but the Courts might decide the other way, and hold that it effectually emancipated all the slaves in the States to which it applied at the time. So far as he was concerned, he should leave it to the Courts to decide. He never would change or modify the terms of the Proclamation in the slightest particular.

Mr. Seward said there were only about two hundred thousand slaves, who, up to that time, had come under the actual operation of the Proclamation, and who were then in the enjoyment of their freedom under it; so, if the war should then cease, the *status* of much the larger portion of the slaves would be subject to judicial construction. Mr. Lincoln sustained Mr. Seward as to the number of slaves who were then in the actual enjoyment of their freedom under the Proclamation. Mr. Seward also said, it might be proper to state to us, that Congress, a day or two before, had proposed a Constitutional Amendment* for the immediate abolition of slavery throughout the United

* *Be it Resolved by the Senate and House of Representatives of the United States in Congress assembled:* That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States, which, when ratified by three-fourths of said Legislatures, shall be valid to all intents and purposes, as a part of said Constitution, namely:

ARTICLE XIII.

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

States, which he produced and read to us from a newspaper. He said this was done as a *war measure*. If the war were then to cease, it would probably not be adopted by a number of States, sufficient to make it a part of the Constitution; but presented the case in such light as clearly showed his object to be, to impress upon the minds of the Commissioners that, if the war should not cease, this, as a war measure, would be adopted by a sufficient number of States to become a part of the Constitution, and without saying it in direct words, left the inference very clearly to be perceived by the Commissioners that his opinion was, if the Confederate States would then abandon the war, they could of themselves defeat this amendment, by voting it down as members of the Union. The whole number of States, it was said, being thirty-six, any ten of them could defeat this proposed amendment.

I inquired how this matter could be adjusted, without some understanding as to what position the Confederate States would occupy towards the others, if they were then to abandon the war. Would they be admitted to representation in Congress?

Mr. Lincoln very promptly replied, that his own individual opinion was, they ought to be. He also thought they would be; but he could not enter into any stipulation upon the subject. His own opinion was, that when the resistance ceased and the National Authority was recognized, the States would be immediately restored to their practical relations to the Union. This was a form of expression repeatedly used by him during the conversation, in speaking of the restoration of the Union. He spoke of it as a "restoration of the States to their practical relations to the Union."

Upon my urging the importance of some understanding

on this point, even in case the Confederate States should entertain the proposition of a return to the Union, he persisted in asserting that he could not enter into any agreement upon this subject, or upon any other matters of that sort, with parties in arms against the Government.

Mr. Hunter interposed, and in illustration of the propriety of the Executive entering into agreements with persons in arms against the acknowledged rightful public authority, referred to repeated instances of this character between Charles I, of England, and the people in arms against him.

Mr. Lincoln in reply to this said: I do not profess to be posted in history. On all such matters I will turn you over to Seward. All I distinctly recollect about the case of Charles I, is, that he lost his head in the end.

This was the familiar manner in which Mr. Lincoln, throughout the conversation, spoke of and to Mr. Seward. In the same familiar manner he addressed me throughout, as was his custom with all his intimate acquaintances when in Congress.

I insisted that if he could, as a war measure, issue his Proclamation for Emancipation, which he did not venture to justify under the Constitution on any other grounds, he could certainly, as a like war measure, or as a measure for putting an end to the war rather, enter into some stipulation on this subject.

He then went into a prolonged course of remarks about the Proclamation. He said it was not his intention in the beginning to interfere with Slavery in the States; that he never would have done it, if he had not been compelled by necessity to do it, to maintain the Union; that the subject presented many difficult and perplexing questions to him; that he had hesitated for some time, and had resorted to this measure, only when driven to it

by public necessity; that he had been in favor of the General Government prohibiting the extension of Slavery into the Territories, but did not think that that Government possessed power over the subject in the States, except as a war measure; and that he had always himself been in favor of emancipation, but not immediate emancipation, even by the States. Many evils attending this appeared to him.

After pausing for some time, his head rather bent down, as if in deep reflection, while all were silent, he rose up and used these words, almost, if not, quite identical:

Stephens, if I were in Georgia, and entertained the sentiments I do—though, I suppose, I should not be permitted to stay there long with them; but if I resided in Georgia, with my present sentiments, I'll tell you what I would do, if I were in your place: I would go home and get the Governor of the State to call the Legislature together, and get them to recall all the State troops from the war; elect Senators and Members to Congress, and ratify this Constitutional Amendment *prospectively*, so as to take effect—say in five years. Such a ratification would be valid in my opinion. I have looked into the subject, and think such a prospective ratification would be valid. Whatever may have been the views of your people before the war, they must be convinced now, that Slavery is doomed. It cannot last long in any event, and the best course, it seems to me, for your public men to pursue, would be to adopt such a policy as will avoid, as far as possible, the evils of immediate emancipation. This would be my course, if I were in your place.

Mr. Seward also indulged in remarks at considerable length on the progress of the Anti-Slavery sentiment of the country, and stated that what he had thought would

require forty or fifty years of agitation to accomplish, would certainly be attained in a much shorter time.

Judge Campbell inquired of Mr. Seward if he thought, that *agitation* upon the subject of the political relations between the two races would cease upon the emancipation of the Blacks—the point to which heretofore it had been entirely confined.

Mr. Seward replied, perhaps not, or possibly not.

Other matters were then talked over relating to the evils of immediate emancipation, if that policy should be pressed, especially the sufferings which would necessarily attend the old and the infirm, as well as the women and children, who were unable to support themselves. These were fully admitted by Mr. Lincoln, but in reference to them, in that event, he illustrated all he could say by telling the anecdote, which has been published in the papers, about the Illinois farmer and his hogs.* The conversation then took another turn.

Mr. Hunter inquired of Mr. Lincoln, what would be

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* Mr. Lincoln had a wonderful talent for illustrations of this sort. His genius for Anecdotes was fully equal, if not superior, to that of Æsop for Apologues or Fables. They were his chief resort in conveying his ideas upon almost every question. His resources for producing them, seemed to be inexhaustible, and they were usually exceedingly pointed, apt, and telling in their application. The one on this occasion was far from being entitled to a place on a list of his best and most felicitous hits of this character. The substance of it was this :

An Illinois farmer was congratulating himself with a neighbor upon a great discovery he had made, by which he would economize much time and labor in gathering and taking care of the food crop for his hogs, as well as trouble in looking after and feeding them during the winter.

"What is it ?" said the neighbor.

"Why, it is," said the farmer, "to plant plenty of potatoes, and when they are mature, without either digging or housing them, turn the hogs in the field and let them get their own food as they want it."

"But," said the neighbor, "how will they do when the winter comes and the ground is hard frozen ?"

"Well," said the farmer, "let 'em root !"

the result of a restoration of the Union, according to his idea, as to Western Virginia. Would the "Old Dominion" be restored to her ancient boundaries, or would Western Virginia be recognized as a State in the restored Union?

Mr. Lincoln said he could only give an individual opinion, which was, that Western Virginia would be continued to be recognized as a separate State in the Union.

Mr. Hunter after this went into a sort of recapitulation of the subjects talked over in the interview, and the conclusions which seemed to be logically deducible from them; which amounted to nothing as a basis of peace, in his judgment, but an unconditional surrender on the part of the Confederate States and their people. There could be no agreement, no treaty, nor even any stipulations as to terms—nothing but unconditional submission. A good deal of force was given to the points in this summation by the tone in which the whole was expressed.

Mr. Seward promptly replied by insisting that no words like unconditional submission had been used, or any importing, or justly implying degradation, or humiliation even, to the people of the Confederate States. He wished this to be borne in mind.

Mr. Hunter repeated his view of the subject. What else could be made of it? No treaty, no stipulation, no agreement, either with the Confederate States jointly, or with them separately, as to their future position or security! What was this but unconditional submission to the mercy of conquerors?

Mr. Seward said they were not conquerors further than they required obedience to the laws. The force used was simply to maintain National Authority in the execution of laws. Nor did he think that in yielding to the execution of the laws under the Constitution of the United States, with all its guarantees and securities for

personal and political rights, as they might be declared to be by the Courts, could be properly considered as unconditional submission to conquerors, or as having anything humiliating in it. The Southern people and the Southern States would be under the Constitution of the United States, with all their rights secured thereby, in the same way, and through the same instrumentalities, as the similar rights of the people of the other States were.

Mr. Hunter said: But you make no agreement that these rights will be so held and secured!

Mr. Lincoln said that so far as the Confiscation Acts, and other penal acts, were concerned, their enforcement was left entirely with him, and on that point he was perfectly willing to be full and explicit, and on his assurance perfect reliance might be placed. He should exercise the power of the Executive with the utmost liberality. He went on to say that he would be willing to be taxed to remunerate the Southern people for their slaves. He believed the people of the North were as responsible for slavery as the people of the South, and if the war should then cease, with the voluntary abolition of slavery by the States, he should be in favor, individually, of the Government paying a fair indemnity for the loss to the owners. He said he believed this feeling had an extensive existence at the North. He knew some who were in favor of an appropriation as high as Four Hundred Millions of Dollars for this purpose. I could mention persons, said he, whose names would astonish you, who are willing to do this, if the war shall now cease without further expense, and with the abolition of slavery as stated. But on this subject he said he could give no assurance—enter into no stipulation. He barely expressed his own feelings and views, and what he believed to be the views of others upon the subject.

Mr. Seward said, that the Northern people were weary of the war. They desired peace and a restoration of harmony, and he believed would be willing to pay as an indemnity for the slaves, what would be required to continue the war, but stated no amount.

After thus going through with all these matters, in a conversation of about four hours, of which I have given you only the prominent leading points, and these in substance only, there was a pause, as if all felt that the interview should close. I arose and stated that it seemed our mission would be entirely fruitless, unless we could do something in the matter of the Exchange of Prisoners. This brought up that subject.

Mr. Lincoln expressed himself in favor of doing something on it, and concluded by saying that he would put the whole matter in the hands of General Grant, then at City Point, with whom we could interchange views on our return. Some propositions were then made for immediate special exchanges, which were readily agreed to.

I then said: I wish, Mr. President, you would re-consider the subject of an Armistice on the basis which has been suggested. Great questions, as well as vast interests, are involved in it. If, upon so doing, you shall change your mind, you can make it known through the Military.

Well, said he, as he was taking my hand for a farewell leave, and with a peculiar manner very characteristic of him: Well, Stephens, I will re-consider it, but I do not think my mind will change, but I will re-consider.

The two parties then took formal and friendly leave of each other, Mr. Lincoln and Mr. Seward withdrawing first from the saloon together. Col. Babcock, our escort, soon came in to conduct us back to the steamer on which we came.

During the interview, no person entered the saloon

besides the parties named, except a colored servant or steward, who came in occasionally to see if anything was wanted, and to bring in water, cigars, and other refreshments.

This is as full and accurate an account as I can now give of the origin, the objects, and conduct of this Conference, from its beginning to its end. In giving it, as stated before, I have not undertaken to do more than to present substantially, what verbally passed between all the parties therein mentioned.

At City Point we again had an interview with Gen. Grant. He evidently regretted very much that nothing had been accomplished by the Conference. The subject of the Exchange of Prisoners was then mentioned to him, and what Mr. Lincoln said about it, when he expressed a like willingness for an immediate and general Exchange. That subject was then left with him and our Commissioner of Exchange, Col. Ould. Thus ended this Mission.

3d. It now remains according to the order prescribed, to say something of its results. A consideration of these will necessarily bring us to the close of the war, for the end was now rapidly approaching.

On the return of the Commissioners to Richmond, everybody was very much disappointed, and no one seemed to be more so than Mr. Davis. He thought Mr. Lincoln had acted in bad faith in the matter, and attributed this change in his policy to the fall of Fort Fisher, in North Carolina, which occurred on the 15th of January, after Mr. Blair's first visit to Richmond. The fall of this Fort was one of the greatest disasters which had befallen our Cause from the beginning of the war—not excepting the loss of Vicksburg or Atlanta. Forts Fisher and Caswell guarded the entrance to the Cape Fear River,

and prevented the complete blockade of the port of Wilmington, through which a limited Foreign Commerce had been carried on during the whole time. It was by means of what cotton could thus be carried out, that we had been enabled to get along financially, as well as we had; and at this point also, a considerable number of arms and various munitions of war, as well as large supplies of subsistence, had been introduced. All other ports, except Wilmington, had long since been closed by Naval siege. Forts Jackson and St. Philip, which guarded the mouth of the Mississippi and the entrance to New Orleans, had been captured in March, 1862. Fort Pulaski, at the mouth of the Savannah, had fallen on the 12th of April, in the same year; and Fort Macon in North Carolina, a month or two earlier. Forts Gaines, Powell, and Morgan, at Mobile, had also fallen in August, 1863. Fort Sumter at Charleston, it is true, had still held out, and had never been taken, but the harbor there had been virtually closed by a strict blockade; so that the closing of the port of Wilmington was the complete shutting out of the Confederate States from all intercourse by sea with Foreign Countries. The respiratory functions of External Trade, so essential to the vitality of all Communities, had been performed for the whole Confederacy, mainly, for nearly three years, through the small aperture of this little Port, choked to wheezing as it was, by a cordon of armed ships, drawn around its neck. The passing in and out of necessary Commerce at this place, all the time, was very much like breathing through a quill in extreme cases of quinsy or croup; still, as such breathing often saves life, so this channel of External Trade was of the utmost importance to us at that time. The closing of this Port, therefore, and the great advantage against us secured by it, was what Mr. Davis supposed to be the

cause of a change of policy on the part of the Administration at Washington.

We reported to him, verbally, all that had occurred at the Conference, and much more minutely in detail than I have given it to you. In this report to him, I gave it as my opinion, that if he were not himself mistaken as to Mr. Blair's knowledge of the policy of the Administration at Washington, and of his being in its confidence; in other words, if there was *really* at that time, entertained by Mr. Lincoln, any such views as those suggested by Mr. Blair, I was not at all disappointed myself at the result of the interview at Fortress Monroe. I thought the publicity of the Mission was enough to account for its failure, without attributing it to any bad faith, either on the part of Mr. Blair or Mr. Lincoln; that I had expressed the opinion to Judge Campbell and Mr. Hunter, when we saw our departure announced in the papers as it was, (the whole North being in a stir upon the subject by the time we reached City Point,) that this would most probably defeat our accomplishing anything, even if Mr. Lincoln really intended to do anything on that line; and that it was in this view of the subject *solely*, I had made the request of him, at the close of the interview, to *reconsider* the matter of the Armistice.

I called Mr. Davis's attention specially to the fact, that in reply to that request Mr. Lincoln declared he *would reconsider* it; and notwithstanding the qualification with which he made the declaration, yet I thought if there ever had been *really* anything in the *projèt*, Mr. Davis would still hear from it in a quiet way through the Military, after all the then "hubbub" about Peace Negotiations had subsided.* In this view of the subject, I

* Not long afterwards, Gen. Ord, of the Federal Army, in command below Richmond, did approach Gen. Longstreet, commanding on the

gave it to him as my opinion, that there should be no written report by the Commissioners touching the Conference, especially as a full disclosure of its *real objects* could not, with propriety, then be made; and that any report without this, however consistent with the facts, as far as they should be set forth, would fail to give full information upon the *exact* posture of the affairs to which it related, by which the public mind in reference to it would be more or less misled.

He insisted that a written report should be made, and the other Commissioners concurring with him, I again yielded my views on that point, and joined them in the Report* which you have seen, believing, as I did, that if I declined, more harm would certainly result from a misconstruction of my course and reasons in the matter, than would by conforming to his views and those of my Colleagues.

The question then was, what was next to be done?

Mr. Davis's position was, that inasmuch as it was now settled beyond question, by the decided and pointed declarations of Mr. Lincoln, that there could be no Peace short of *Unconditional Submission* on the part of the People of the Confederate States, with an entire change of their Social Fabric throughout the South, the People

Confederate side, with a proposition for a Military Convention of some sort, and stated that it could be entered into if Gen. Lee should be clothed with proper authority, etc. Whether this came from the promised *reconsideration* or not, the author does not know.

Of the nature of this proposition or its objects, he knows nothing, except what was published in the papers. It was responded to, as thus appeared, by Gen. Lee being clothed with authority, under instructions, to treat with Gen. Grant upon the *subject of Peace!*

Gen. Grant replied, that he had no authority to treat upon the question of Peace, or to enter into a Convention on any subject which was not strictly of a *Military character*, and that Gen. Ord must have referred to some subject on which he (Gen. Grant) was authorized to act.

* See *Appendix* R, No. 1.

ought to be, and could be, more thoroughly aroused by Appeals through the Press and by Public Addresses, to the full consciousness of the necessity of renewed and more desperate efforts, for the preservation of themselves and their Institutions. By these means they might yet be saved from the most humiliating threatened degradation. In these lay the only hope left of escaping such a Calamity. He himself seemed more determined than ever to fight it out on this line, and to risk all upon the issue.

By the course he proposed, I understood him to hold the opinion, that Richmond could *still* be defended, notwithstanding Sherman had already made considerable progress on his march from Savannah; and that our Cause could *still* be successfully maintained, without any change in the internal policy upon the subjects referred to before. His general views and purposes at the time, were set forth with that firmness and decision so characteristic of him, in the Message* he sent to Congress on the Report of the Commissioners, and in a speech he made at the African Church, (a noted place for public speaking in the City of Richmond,) on the night of the second day after our return. The newspaper sketches of that speech were meagre, as well as inaccurate, in several particulars, and, upon the whole, came far short of so presenting its substance even, as to give those who did not hear it anything like an adequate conception of its full force and power. It was not only bold, undaunted, and confident in its tone, but had that loftiness of sentiment and rare form of expression, as well as magnetic influence in its delivery, by which the passions of the masses of the people are moved to their profoundest depths, and roused to the highest pitch of excitement. Many who had heard this Master of Oratory in his most

* See *Appendix* R, No. 1.

brilliant displays in the Senate and on the hustings, said they never before saw Mr. Davis so really majestic! The occasion, and the effects of the speech, as well as all the circumstances under which it was made, caused the minds of not a few to revert to like appeals by Rienzi and Demosthenes.

While it was well calculated to awaken associations and suggest comparisons of that sort, it, nevertheless by the character of its policy, equally reminded me of the *famous charge* of the "*Six Hundred*" at Balaklava, of which some one—I forget who—in witnessing it, said, in substance: "It is brilliant; it is grand; but it is not war!"

However much I admired the heroism of the sentiments expressed, yet in his general views of policy to be pursued in the then situation, I could not concur. I saw nothing to prevent Sherman himself from proceeding right on to Richmond and attacking Lee in the rear, to say nothing of any movements by Grant, who then had an Army in front, of not much, if any, under 200,000 men. Lee's forces were not over one fourth of that number. Sherman's army, when united with Schofield's and Terry's, which were joining him from Wilmington, North Carolina, would be swelled to near 100,000. To meet these, the Confederates had in his front, nothing but the fragments of shattered armies, amounting in all to not one half the number of the Federals.

When the progamme of action, thus indicated by Mr. Davis in our interviews, as well as in his Message and the speech referred to, was clearly resolved upon, I, *then*, for the first time, in view of all the surroundings, considered the Cause as utterly hopeless. It may be that it was utterly hopeless any how; that nothing could have saved it at that time, or at any time. It may be that if the course which I thought would or could then save it, or

would or could have saved it at any time, had been adopted, it would have come as far short of success, as the one which was pursued; and it may be, that the one which was taken on this occasion, as well as on all the other occasions, on which I did not agree, was the very best that could have been taken. These are now all matters purely of speculation, as I said before; and it is not my purpose at this time to discuss them, or to pass any judgment in reference to them, one way or the other. I doubt not that all—the President, the Cabinet, and Congress—did the very best they could, from their own convictions of what was best to be done at the time.

The ablest and truest men often differ upon vital questions; and all are liable to err in judgment. I wish, therefore, in all I say on this occasion touching these and kindred subjects, as well as what I say in relation to the conduct of others in regard to them, to be understood as only presenting the views from which my own convictions sprung, and the motives by which I was actuated throughout, especially in declining, as I did, to appear and speak at the meeting which was addressed by Mr. Davis as stated, and also at another Grand Meeting arranged to take place a few days after, in Capitol Square, for similiar purposes. I declined, because I could not undertake to impress upon the minds of the people the idea that they could do what I believed to be impossible, or to inspire in them hopes which I did not believe could ever be realized.

It was then that I withdrew from Richmond. My last interview with Mr. Davis before leaving, was after my thus declining to address the meetings proposed. He inquired what it was my purpose to do? I told him it was to go home and remain there. I should neither make any speech, nor even make known to the public in any way

my views of the general condition of affairs, but quietly abide the issues of fortune, whatever they might be. Differing as we did, at that time, upon these points, as we had upon others, we parted in the same friendship which had on all occasions marked our personal intercourse.

I left Richmond in no ill-humor with Mr. Davis, or with any purpose of opposing or obstructing the execution of the designs of the Administration, in any way; but because I could not sanction a Policy which I thought would certainly end in disaster, and I did not wish to be where my opinions might, by possibility, be the cause of divisions and dissensions, which would just as certainly lead to the same result. General confidence in the Administration was essential to success on any line, and this I did not wish to weaken or impair in others at this most critical juncture, though I could not, myself, approve the course which had been taken. I, therefore, left on the 9th of February, and reached home the 20th, where I remained in perfect retirement, until I was arrested on the 11th of May.

In the meantime was enacted the last scenes in the Grand Drama of this terrible conflict of arms, which we have so rapidly glanced at, in considering the conflict of the principles out of which it arose. Only a few matters now, connected with its closing events, on the same line, remain to be noticed.

Mr. George Davis, of North Carolina, had succeeded Mr. Thomas H. Watts as Attorney-General. Mr. George A. Trenholm, of South Carolina, had been put at the head of the Treasury Department, upon the resignation of Mr. Memminger, in June, 1864. Mr. Seddon, also, who had succeeded Mr. Randolph, as Secretary of War, resigned that position about the time I left Richmond. This position was immediately assigned to Mr. Breckinridge, then a Major-General.

After Sherman had proceeded in his famous march beyond Columbia, leaving a blackened waste in his track, and when our affairs were "*in extremis*"—almost "*in articulo mortis*"—Gen. Joseph E. Johnston, upon the earnest appeal of Members of Congress and the Virginia Legislature, was again assigned to the command of the remnants of the shattered Confederate Armies alluded to, in the Carolinas, which did not exceed 35,000 effective men in all. With these he was to oppose the advancing Federal forces in front of not much, if any, under a hundred thousand.

Grant commenced operations as early as the season would permit. On the 2d of April, he succeeded, by a concentration of forces, in making breaches in Lee's lines of defence near Petersburg. The whole line for the defence of the Capital then extended at least thirty-five miles in length. By these breaches, made in this line on the 2d of April, Lee was necessarily compelled to retire, and thus give up Richmond at last. Several bloody and heroic struggles ensued. The remaining thinned, but resolute and undaunted columns of the noble Confederate Chief, like the Spartan band at Thermopylæ, were now pressed to a death-grapple by the surrounding legions of the Monster Army of the Potomac under Grant. The tragic *finale* was at hand! On the 9th of April, at Appomattox Court House, the sword of Lee was surrendered! Not much else pertaining to the "annihilated" Army of Northern Virginia, was left to be passed under the *formula* of that ceremony!*

Mr. Davis and his Cabinet had left Richmond on the night of the 2d of April, after Lee's lines were thus broken, as stated. They went as far as Danville, Virginia, where they remained for several days, and where Mr.

* See Correspondence on Surrender, *Appendix S, No.* 1.

Davis issued another most stirring and animating address; but after being informed of what had occurred at Appomattox Court House, he and the Cabinet proceeded to Greensboro, North Carolina, where some days afterwards, in consultation with Generals Johnston and Beauregard and his Cabinet, Gen. Johnston was authorized by him, to make such terms as he might be able with Gen. Sherman, for a Termination of the war, and a general Pacification. The result of this was the celebrated Sherman and Johnston Convention, which was formally agreed to and signed on the 18th of April, by these two commanding Generals of the respective sides.*

But while these distinguished parties were thus negotiating, little did they know of what had occurred and was going on elsewhere. Four days before, on the night of the 14th of April, Mr. Lincoln had been assassinated, which produced a state of feeling never before known in the country. The Vice President, Mr. Andrew Johnson, immediately succeeded to the Presidential office. From the great excitement created by the horrible act, by which Mr. Lincoln had been taken off, or from some other most unfortunate cause, this Sherman-Johnston Convention was disapproved by the newly installed President at Washington.

Upon being notified of this fact by Gen. Sherman, Gen. Johnston then did the next best thing in his power. He entered into a stipulation with Gen. Sherman, by which he surrendered all the Confederate forces north of the Chattahoochee River, upon similar terms to those agreed to between Generals Lee and Grant, in reference to the forces under Gen. Lee.†

The course of Gen. Johnston was promptly followed

* See this Paper in *Appendix S, No.* 2.

† See Terms of Surrender, *Appendix S, No.* 3.

by Gen. "Dick" Taylor commanding in Alabama, who surrendered his forces to General Edward R. S. Canby, upon similar terms on the 4th of May. A like surrender of all the Confederate forces west of the Mississippi, was made by Gen. E. Kirby Smith, to the same Federal officer, on the 26th of the same month. All other smaller detachments of Confederate forces scattered about in various parts of the country, had, in the meantime, been surrendered by their officers in command, upon the same or similar terms. Kirby Smith's surrender was the last.

The whole number of Confederates thus surrendered, from the 9th of April to the 25th of May, according to the muster rolls, amounted to a little under 175,000 in number. This embraced quite a number who, from disease, were not actively in the field at the time. Making due allowance for these, there was, therefore, then, hardly more than 150,000 Confederates under arms. The whole number of Federal forces then in the field, and afterwards mustered out of service, as their records show, amounted in round numbers to 1,050,000.

Thus ended this greatest of *modern* wars—if not the greatest, in some respects, "known in the history of the human race." It lasted four years, and a little over, as we have seen, marked throughout by many sanguinary conflicts, with heroic exploits on both sides, which it has not been in the line of our investigation to notice, but all of which deserve to be, if they have not been, duly chronicled in proper place. Even in memory, many of them will be perpetuated as legends, and thus treasured as themes for story and song for ages to come.

One of the most striking features in it, was the great disparity between the number of the forces on the opposite sides. From its beginning to its end, near, if not quite, *two millions* more Federals were brought into the

field than the entire force of the Confederates. The Federal records show that they had, from first to last, over 2,600,000 men in the service; while the Confederates, all told in like manner, could not have much, if any, exceeded 600,000! No People on earth ever maintained the great Right of Self-government, so long as the Confederates did in this contest, with such sacrifices of blood and treasure, against such odds!

The entire loss on both sides, including those who were permanently disabled, as well as those killed in battle and who died from wounds received and diseases contracted in the service, amounted, according to Mr. Greeley's estimate, which is more likely to be under than over the mark, to the "stupendous aggregate of One Million of Men!"

The like aggregate of expenditure of money on both sides, including the loss and sacrifice of property, could not have been less than *Eight Thousand Millions* of Dollars!—a sum fully equal to three-fourths of the assessed value of the taxable property of the entire country, when it commenced!

In concluding our Review, may we not well ask, as the dying soldier did in the first great battle on the Plains of Manassas: "What was all this for?"

It remains for us now to see what it has so far come to. This subject has been set down for our next conversation.

COLLOQUY XXIV.

RESULTS OF THE WAR—REFUSAL OF MR. JOHNSON TO APPROVE THE SHERMAN-JOHNSTON CONVENTION—EFFECTS OF THIS—THE PRESIDENT'S POLICY—THE RECONSTRUCTION POLICY OF CONGRESS—THE XIVTH AMENDMENT TO THE CONSTITUTION—GENERAL SITUATION OF THE SOUTH—CONDITION OF THINGS IN GEORGIA—GOVERNOR BROWN'S POSITION—THE ACTUAL RESULTS OF THE WAR THUS FAR—THE ABOLITION OF SLAVERY—THE ADOPTION OF THE XIIITH AMENDMENT, BUT NO ESSENTIAL FEATURE IN THE FEDERAL SYSTEM AS YET AFFECTED—TENDENCIES TO ULTIMATE CENTRALISM AND EMPIRE.

MR. STEPHENS. We come now, gentlemen, to the consideration of the Results of this terrible Conflict of arms, which grew out of the Conflict of Principles referred to in the beginning, especially its effects upon the general character of the Institutions of the States severally, as well as upon the nature and character of their relations to the Union, or upon the Federal System itself. This double conflict, both in the council-chamber and on the field, we have seen, was between the defenders of the Principles of Federation on one side, and the advocates of Consolidation on the other; or in other words, between the defenders and opposers of the Sovereign Right of local Self-government on the part of the Peoples of the several States engaged in it.

In considering these Results in this view, up to this time, we can, of course, at present, only note existing facts, and actual changes already effected, so far as they bear upon State and Federal affairs; and in connection with them, indulge such speculations as to the future, as these facts seem most reasonably to warrant. The real

and permanent results of this War upon our Institutions, and complex system of Governments, are not yet fully developed. Though Peace has been proclaimed, the smoke from the battle fields still clouds the horizon. President Johnson himself seems to be almost as much in the dark, upon what will be the ultimate consequences of the War, as he was when, as Senator, he offered the celebrated Resolution which we have specially noticed, declaring its objects and purposes. As he then did not "see his way clearly," so, at the surrender of the Confederate Armies, he seemed to be quite as incapable of having a clear perception of the legitimate consequences which necessarily and logically followed the doctrines and principles of that Resolution. According to these doctrines and principles, which expressly set forth the objects of the War on the Federal side not to be a subjugation of the Peoples of the Confederate States, nor for the purpose of overthrowing or interfering with their Rights or established Institutions, but to preserve the Union of the States with all their Dignity, Equality and Rights unimpaired, as they then existed under the Constitution,* he ought by all means, it seems to me, as President, to have ratified and confirmed the "Sherman-Johnston Convention," before alluded to. This, as its terms show,† was a complete abandonment of the War, and a formal engagement on the part of the Confederates, no longer to resist the due execution of the laws of the United States. This engagement, as we have seen, had been entered into on the part of the Confederates, in pursuance of authority from President Davis, Commander-in-Chief of the Armies of the Confederate States.

In considering the results of the War, therefore, as far as they have as yet developed themselves, and observing

* See this Resolution, *Ante*, p. 457. † See *Appendix* S, No. 2.

to what they have as yet led, in the view it is proposed to take of them, it is not only important, but essential to note specially the most prominent facts bearing upon the subject in hand since the surrender up to this time. These, according to their importance, in my judgment, I will now proceed to state in regular order.

1. In the first place, then, the most important matter bearing upon the points we have in hand and which claims special attention, was this disapproval by Mr. Johnson of the "Sherman-Johnston Convention" referred to. His action on this occasion, in my opinion, must ever be considered as great an error in accomplishing his object, as was his error in the beginning in holding that the Union of the States under the Constitution could be preserved and rightfully maintained by force. This most extraordinary, if not fatal error of disapproving that Convention, is the more worthy of special notice here, from the fact that this action was so inconsistent with his own avowed principles, as well as with the avowed policy of Mr. Lincoln throughout the war, even down to the Fortress Monroe Conference, as we have seen. General Sherman whether expressly clothed with authority by Mr. Lincoln, to enter into that Convention, or not, in doing it and agreeing to the terms which he did, certainly acted not only in strict conformity with the principles of Mr. Johnson's Resolution, which had been sanctioned by every member of the Senate and by every member of the House with two exceptions, but with the uniformly avowed policy of Mr. Lincoln throughout the war. Indeed, the facts warrant the belief that General Sherman, in entering into that Convention, acted under express authority, verbal if not written, from Mr. Lincoln himself: for it is well known that, just before it was entered into, he had gone round to City Point, where

he had met, and had a personal interview with Mr. Lincoln; and had consulted him fully as to the course he should take in winding up the war, which he saw was now rapidly approaching its end. On these matters he had consulted him, even down to the minute detail as to what course he should take toward Mr. Davis—whether he should make a point to capture him, or let him escape. This clearly appears from the newspaper accounts of a speech made by General Sherman in Ohio, not long afterwards. It was in this speech he related the very characteristic as well as felicitous anecdote, by which Mr. Lincoln, in that interview, illustrated his position, views, and wishes (exceedingly politic as they were) in regard to the arrest of Mr. Davis, and to which you, Judge Bynum, referred in illustration of your own position, a few days ago.*

Now, if President Johnson had, on this occasion, approved that Convention, he would have carried out his own principles as well as the policy of Mr. Lincoln, and the States would have been immediately restored (whether for better or worse,) to their "practical relations to the

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* This is the newspaper account:

"President Lincoln and Jeff Davis.—General Sherman says he asked President Lincoln explicitly when at City Point, whether he wanted him to capture Jeff Davis or let him escape, but the President gave him no reply except a story about a temperance lecturer, who, one day, after a long ride in the hot sun, stopped at the house of a friend, and was regaled with lemonade. His host *insinuatingly* asked, if he wouldn't like the *least drop* of something stronger to brace up his nerves after the exhausting heat and exercise?

"'No,' replied the lecturer. 'I couldn't think of it; I'm opposed to it on principle. But,' he added, with a longing glance at the black bottle that stood conveniently at hand, 'if you could manage to put in a drop *unbeknownst* to me, I guess it wouldn't hurt me much.'

"'Now, General,' said Mr. Lincoln, in conclusion, 'I'm bound to oppose the escape of Jeff Davis; but if you could manage to let him slip out *unbeknownst like*, I guess it wouldn't hurt me much.'"

Union," which was the whole professed object of the war; and he would have saved himself from those inextricable difficulties about "*Reconstruction*," in which he has since been involved, by a departure from them. The National Authority, as Mr. Lincoln styled it, would have been immediately restored, and this, according to his idea, was a Restoration of the Union.

But instead of giving his approval to this Convention, and thus, at once, effecting a complete Restoration of the Union, or of the "States to their practical relations" to it, Mr. Johnson most strangely directed the war to be pushed to the overthrow of all the existing State Govments in all the Confederate States (except Tennessee, Kentucky and Missouri), and the arrest and imprisonment of all their chief Executive Officers, and the temporary establishment of complete Military rule throughout the entire limits of the Confederacy, with the exception mentioned. This, therefore, as just stated, must be looked upon as an error of Mr. Johnson, differing in no respect in principle from the error of Mr. Lincoln in the inauguration of the war at the beginning. It was, moreover, a clear violation of the understanding of the Confederates, of the terms upon which their arms had been surrendered. The then existing State Governments and their laws, were clearly recognized in these terms.

2. The next fact to be noticed in this connection, is the Proclamation issued by Mr. Johnson as President, on the 29th of May, which was a virtual announcement of the close of the war, with an offer of Amnesty and Pardon upon certain conditions, to all who had participated in it on the Confederate side, except fourteen designated classes. Now according to the principles as well as purposes set forth in his own Resolution referred to before, when resistance had ceased, and the last Confederate arm had

been surrendered, and when the Federal Civil Officers had been permitted to perform their functions in all the States, without let or hindrance, then the Insurrection, or Rebellion, as he held the war to be on the part of the Confederates, was certainly put down, and the Union was, of course, instantly restored; and all the States should have been so recognized under their then existing State Constitutions; for the war had been professedly waged against *individuals* and not against organized Communities or States, or against any of their Institutions, much less their Constitutions! The States could be recognized only in their organized character, as they existed by the terms of their fundamental law. But this he did not do. We are therefore brought to another step in the progress of events to be specially noted.

3. On the same day—29th of May—Mr. Johnson, as Commander-in-Chief of the Army of the United States, issued another Proclamation, by which, as such Commander-in-Chief, he appointed Wm. W. Holden Military or Provisional Governor of the State of North Carolina, basing it upon a declaration that no Civil Government then existed in that State. This fact being so announced, the Proclamation went on to set forth the Terms and Conditions upon which certain classes of Electors under the Constitution of North Carolina as it existed when the war commenced to the exclusion of others, might form a new Constitution and State Government, which would be recognized by him as the legitimate Government of that State. Similar Proclamations were subsequently issued by him, in relation to the other Confederate States which were in the same condition.

Out of the Principles upon which these Proclamations were based and issued, have arisen all those other agitating questions, to which I have just referred, about "Re-

construction," in which he, the Congress, and the whole Country are now embroiled.

But just at this point, let it be borne in mind that, in pursuance of these Proclamations, the classes designated by him in all the States respectively, did proceed to make new Constitutions, to organize new State Governments, and to elect members of the Senate and House of Representatives of the Congress of the United States. This was all done as speedily as could be done, after the issuance of the Proclamations in reference to each of the States respectively. In the formation of their new Constitutions, however, two other prominent conditions were subsequently imposed by Executive requisitions not embraced in the Proclamations. One was the Abolition of Slavery, and the other the Repudiation of what was called the War Debt on the part of each State respectively. The power exercised in the issuance of these Proclamations, and in the imposition of these Executive requisitions upon the State Conventions, must again be looked upon as differing in no respect whatever, so far as principle is concerned, from the powers claimed by Mr. Lincoln in his Proclamations heretofore reviewed. Mr. Johnson, as yet, seems to have been, as Saul of Tarsus on his way to Damascus, "breathing out threatenings and slaughter!" Still, the great majority of the masses of the Southern People, being exceedingly desirous for Peace and Harmony, notwithstanding the deep wrongs thus inflicted, were willing to accept the entire situation, and to comply in good faith, with all the terms thus imposed—especially as the whole was avowedly based on the idea, that when those terms should be complied with the States would then be restored "to their practical relations to the Union." With these feelings and views, they did thus in *good faith* comply. Moreover, their

Legislatures elected under their new Constitutions, ratified the proposed Thirteenth Amendment* to the Constitution of the United States; and by these ratifications on their part, that new provision in the organic law of the Union, was carried and proclaimed to be a part of the Constitution. Without counting their votes, it was lost!

In their action, throughout, on these subjects, they were influenced mainly by the strong hope that, notwithstanding the Union would be thus restored, somewhat like the violent and unskilful resetting of dislocated joints with some ruptured ligaments, yet, when all the members of the Federal Body-Politic should be once more in their proper places and their normal functions restored, the whole, after awhile, would again assume healthful and vigorous action, by which future tranquillity, happiness, and prosperity would be amply secured. These were the feelings and views by which they were influenced in promptly complying with what is known as the President's Policy.

But now a new obstacle arose in a different quarter, which brings us to the consideration of another important step in the progress of events. The Thirty-ninth Congress assembled in December, 1865. Soon after its assemblage, all the States embraced in these Proclamations, except Texas, were thoroughly reorganized under the Executive Policy, as just stated, with Senators and Members of Congress ready to take their seats, which Mr. Seward, who was Mr. Johnson's as well as Mr. Lincoln's Secretary of State, had declared were still empty and ready for them in the National Councils. This Congress, both in the Senate and House of Representatives, it must be recollected, refused to admit the Senators and Members elected from the States thus reorganized under the Execu-

* See *Ante*, page 611.

tive policy. They repudiated not only the Resolution of the 26th of July, 1861, referred to, as Mr. Johnson had done himself, but also repudiated the principles upon which he had acted; not upon the grounds, however,—which consistency required—that the Union was restored when the Insurrection, or Rebellion, so-called, had been put down; but upon the grounds, that Mr. Johnson had not gone far enough in his action towards the great object of Centralism aimed at from the beginning by the Party leaders of this Congress. They turned over the whole subject to a Joint Committee of the two Houses, known as the celebrated "Reconstruction Committee." To this grand Joint Committee, organized upon the model of a Jacobin Junto, was given the entire control of the whole subject. The *Restoration* of the Union as it was, (even with the abolition of Slavery, so-called,) was not what they wanted. They demanded a thorough *Reconstruction*, so far as the Confederate States were concerned. This Committee now openly proclaimed that the War had been waged, *not* for the preservation of the Union with the Rights, Dignity and Equality of all the several States unimpaired under the Constitution! The mask so long worn by the leading spirits of the War Party at the North, was now partly raised, and Mr. Johnson himself seems to have discovered for the first time, from the disclosures made, what were the *real objects and purposes* of the controlling leaders of his late associates and allies, from the beginning! The Monster Principle of *ultimate* complete Centralism, from clear indications, now stood before him in new lights, and as he had never viewed it before!

This Committee assumed the position that not only the States reorganized under Mr. Johnson's policy, but even Tennessee, should never more take part in the Public Councils, without being first required not only to change

their domestic Institutions so far as concerned the relations of the two races (constituting parts of their population), but without also being shorn of their Rights, Dignity, and Equality as members of the Union under the Constitution! They thus openly repudiated their many most solemn declarations during the war, and in so doing showed clearly that these declarations were nothing but *specious pretexts* resorted to at the time, by which thousands, and hundreds of thousands, and millions, perhaps, at the North, had been designedly misled and deceived!

This position of the Reconstruction Committee upon these subjects is what led to the open rupture between Mr. Johnson and his late allies, and the mutual denunciations of *treason* and *traitor*, which are now passing between them, and to which I referred some days ago. But, without commenting upon these, may it not most appropriately be here asked, if anything could more completely show the great wrong and injustice of the war on the part of the Federals throughout, than the position assumed by this Reconstruction Committee, and which was affirmed by Congress? During the whole period of four years' bloody strife, their avowed object was nothing more than to compel the Seceding States to return to a renewal of their obligations under the Constitution; and when this object was entirely effected, they stood before the country with the public declaration that they could not *safely permit that to take place* for which so much blood and treasure had been expended!

What a spectacle they thus exhibited! To fully appreciate its monstrous character, it should be considered from two points of view:

The war, remember, was waged by them for this avowed object of making other Parties perform their duties under a Compact, while they, themselves, were, at

the very time and before, as we have seen, openly and confessedly faithless in the discharge of their own duties under the same Compact! Nay, more, this faithlessness on their part, remember also, was the cause of the Secession on the part of the others. Now, the spectacle would have been *bad enough*, if they had stopped with what they had, by superior power, been enabled thus to accomplish, and had been satisfied with results so most wrongfully attained! But how infinitely increased is the *monstrousness* of their conduct, when, not content with the result so wickedly and nefariously reached, they proceeded to make *further* exactions for their own special advantage and greater power! Is there to be found in the annals of mankind a parallel of such unblushing, double-faced, insolent and *infamous* iniquity?

One thing which induced this extraordinary course, was doubtless the discovery of the fact that by the abolition of Slavery, so-called, the Confederate States would be entitled to *thirteen* more members in the House under the then Ratio of Representation, than they had theretofore been under the *three-fifths count* of their Black population, about which so much false clamor had been raised before the war! It now became clearly apparent, that the *just* and *equal Rights* of the South had been curtailed by that clause of the Constitution; and that her political power, in the Federal Government, would be considerably augmented by the change in this respect, which had been effected in the new order of things. The terms at first exacted of the Confederate States by this Reconstruction Committee, whose Report was agreed to in both Houses, were, that these States should agree to and ratify what they proposed to them as a further Amendment to the Constitution of the United States, known as the Fourteenth Amendment, as a condition precedent to

their being allowed Representation in either branch of Congress.* With these Congressional terms, Tennessee, on the 12th of July, 1866, complied. The other States all failed, or refused to do so. This brings us to that scene in the drama now being enacted. How far it will come short of being the last scene of a like character, the great future alone can determine! To what is at present passing, therefore, on the political boards, and exhibiting the *actual* Results of the War up to this time, as well as their general *tendency* to inevitable ultimate results of a far more serious nature, if action upon the line on which the whole has thus far been conducted be not arrested, we must now look.

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* *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of both Houses concurring)*: That the following Article be proposed to the Legislatures of the several States as an Amendment to the Constitution of the United States, which, when ratified by three-fourths of said Legislatures, shall be valid as part of the Constitution, namely:

ARTICLE XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed; but when the right to vote at any election, for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, (being twenty-one years of age, and citizens of the United States), or in any way abridged except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age, in said State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office,

4. The next great fact, therefore, to be here specially noticed, is the adoption by Congress of the "Reconstruction Measures," so-called, which are now pending before the people of those States which have been denied Representation in Congress. The first Act of this character passed Congress in February of this year. This Act more clearly shows the tendency of what may be looked to as the Ultimate Results of the War than any of the previous matters noted. The reasons assigned for this most extraordinary measure on the part of Congress, were no less extraordinary than the measure itself. It is amazing that men with intelligence and any regard for their character, could have had the audaciousness in the face of notorious truths to assign the reasons which they did for their action in this matter! These were given in the Preamble to the Act, and are as follows:

"Whereas, no legal State Governments, or adequate protection for life or property, now exists in the Rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and, Whereas, it is necessary that Peace

civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; but Congress may, by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned; but neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce by appropriate legislation the provisions of this Article.

and Good Order should be enforced in said States, until loyal and Republican State Governments can be legally established!" etc.

Was ever a solemn public declaration made by any respectable Bodies of intelligent men, so utterly inconsistent with well known facts, and facts, too, which had been previously recognized and acted upon by themselves? Were there not legal State Governments then existing in every one of these "Rebel States," so-called? Was not every Department of Civil Government—Legislative, Executive, and Judicial—as regularly administered in them as ever before, and as regularly as in any of the States represented in the Congress which made this declaration? If not, how was it that *their acts* in *ratifying* the *Thirteenth* Amendment to the Constitution of the United States had been regarded as *legal* and *valid* by this very Congress which made this declaration? If these State Governments were not legal, how could that Amendment to the Constitution, carried by their action, be held and declared to be valid? Moreover, were not life and property as thoroughly protected in them, as far as they can be protected by efficient laws, as in any of their own States? If there were violations of law, murders and other outrages, committed in some of them, or all of them, was not the same true of all the States? Where is the State in which outrages of like character were not committed? Had Gen. Grant, who had been sent specially to examine into this matter, in his report, intimated that there was any difference in these particulars between the general state of things South and North? He certainly had not!

But, again, how, with any regard for truth, could these States, in February, 1867, be said to be *Rebel* States? Was there a single man in arms against the General

Government within their entire limits? Was not the whole mass of their entire people perfectly submissive, even to the unjust and unconstitutional demands of the Authorities at Washington? How, also, could they be said to be *disloyal*, in any sense? Had not every officer in them, from their Chief Executives to their lowest Magistrates, in the most *bona fide* manner, resumed their obligations to support and defend the Constitution of the United States? Is there any other test of *loyalty* but this known to the Constitution, either for State or Federal officers? This Preamble, thus fixed to this first Reconstruction Act, can be regarded in no other light, than as one of the most reckless perversions of truth ever put upon public record; while the Act itself must ever be regarded as one of the most palpable usurpations of Power to be found in the history of the world! Well did President Johnson, in his Veto of such a monstrous outrage, say:

"I submit to Congress whether this measure is not, in its whole character, scope, and object, without Precedent, and without Authority—in palpable conflict with the plainest provisions of the Constitution, and utterly destructive of those great principles of Liberty and Humanity for which our ancestors, on both sides of the Atlantic, have shed so much blood, and expended so much treasure?"

And most pertinently did he further add:

"Those who advocated the right of Secession alleged in their own justification, that we had no regard for law, and that their rights of Property, Life, and Liberty would not be safe under the Constitution as administered by us. If we now verify their assertion, we prove that they were, in truth and in fact, fighting for their Liberty; and instead of branding their leaders with the dishonoring

name of *Traitors* against a righteous and legal Government, we elevate them in history in the rank of self-sacrificing Patriots, consecrate them to the admiration of the world, and place them by the side of Washington, Hampden and Sydney!"

Most truthful utterances these! And most remarkable, too, coming as they did from him, who had, himself, just before been so full of "breathing out threatenings and slaughter" against the "self-sacrificing patriots!" Delivered as they were, and under the circumstances they were, they remind us forcibly of some which came from the same Saul of Tarsus after the scales had fallen from his eyes, and he had been brought to see his persecutions of the disciples of the true faith, in their proper light. Paul, after he was brought to a full realization of his great error in thus warring against them, most bitterly repented of all that he had thus done, and especially that he had consented to the death of the martyred Stephen, and had even held the clothes of those who slew him, even though he had believed at the time that he was doing right!

It is true, there is nothing in these expressions of Mr. Johnson, which directly shows that he had then as fully reached a perfect realization of error on his part, in any matter connected with the war, as Paul had in the matter of his persecutions, when the utterances referred to by him were given; and yet there is a good deal in the tone and manner in which Mr. Johnson's expressions were given forth, which clearly indicates that he was very near the same point, whether he had then, or has since, or ever shall, actually reach it or not. The expressions as they stand in the context, were presented only as a strong argument to his late associates and allies, to induce them, if possible, to reconsider and abandon the monstrous

provisions of their measure. Still, he must have felt, as his language unmistakably implies, that if they did not so reconsider and abandon, a *very great wrong* had been done to those who would suffer from them, by *other measures* to which he had unwittingly given his consent—never supposing that they would lead to such ruinous results and most disastrous consequences! This, his words clearly import.

But this and other arguments, strong and pointed as they all were, and coming from the high source they did, produced no effect whatever, but increased rage, upon those to whom they were so conscientiously, earnestly, and truthfully addressed. Deaf in their madness alike to principles, consistency, and all considerations of their own honor, as well as of humanity, they were resolved upon the execution of their purpose, though in it they destroyed every vestige of Civil Liberty, swept away every existing legal barrier for the protection of life and property in ten States, and put nine millions of people in time of profound peace, under absolute military sway! And this too, was done by them under the atrocious pretext of providing for the establishment of peace and good order! They promptly passed this Reconstruction Act, so-called, over the President's veto, by a two-thirds vote in both Houses of Congress!

There is no necessity for looking into, or examining the provisions of this Act in detail. It is enough to know that under it, all the Civil Authorities of ten States are completely subverted, and their entire population subjected—temporarily, at least—to the despotism of Martial Law! Not even a Federal Judge is permitted to interfere, or redress any wrong, whether small or great, inflicted by either of the five Satraps, among whom the several Military Districts are divided. The ostensible

object of this unparalleled measure, with those which have followed it, (as Amendments or Supplements,) was to compel the Southern States to submit to degrading conditions before being allowed future Representation in either branch of Congress.

These conditions in short are :

First. That the States embraced in the Act shall, before being allowed such Representation, agree to the disfranchisement and virtual Attainder of all that class of their White Citizens who had, before the war, received the public confidence so far as to be entrusted with any Civil Office, either Executive, Legislative or Judicial, Federal or State, from the highest to the lowest; and

Second. To the enfranchisement in their stead, of the entire male Black population who have attained the age of twenty-one years.

To commend this monstrous outrage to the favor of their constituents, it was pretended to be justified by those who voted for it, as a proper measure of *punishment* for those who had engaged in the *Rebellion*, so-called, and as a necessary security in the future, for the *Loyal* States, so-called! But while this is the *ostensible* object, the *real* one was doubtless of a very different character. Viewed in its proper light—looking at its *real* design—it must be considered, with all its wrongs, as but another advanced step, *stealthily* taken, under false colors, towards that complete ultimate Consolidation of Power at which these leaders have been aiming all the time, but which they are not yet quite prepared openly to declare!

But viewed in that, or any other light, these measures of Congress again most incontestably prove, even in Mr. Johnson's judgment, on which side the Right lay in that Conflict of arms, which we have so fully reviewed.

In this connection, a negative error of Mr. Johnson

should receive, at least, a passing notice, and the more so from the fact that I believe his *sole object now* is, to restore the Union and maintain the Federal System established by the Fathers. To this end his every energy seems, at this time, to be most patriotically directed, and however much I may have disagreed with him in the past, he is, in my judgment, now, entitled to the confidence, support, and cordial co-operation, of every friend of Constitutional Liberty throughout the Country. The error, however, to which I here allude was, that (with his views of the Constitution and the powers and duties of the President under it and the nature of the Union) he did not refuse to recognize, as the Congress of the United States, any Bodies in which any one of the States of the Union was denied Representation in the House and an equal voice in the Senate. Had he thus proclaimed and thus acted, when the policy of the Reconstruction Committee was at first openly declared, he might have sustained his own views and prevented the consummation of that most iniquitous policy. There were then in Congress enough Anti-Centralists in the Senate and House from the Northern States, with the Senators and Representatives returned from the South, to constitute a majority of a legitimate Congress. By such union, a Constitutional Congress could have been organized; and if Mr. Johnson had invited such union, and recognized such an organization as the *only true Congress* of the United States, as it would have been, these gross usurpations never would have been perpetrated. But no more of that on this occasion. What has been said very clearly exhibits the present situation, and leads us one step further in the review proposed.

5. The next and last great fact to be borne in mind, in considering the Results of the War, and to what it has led thus far in the view we are taking, is that the Cen-

tralists have not as yet *openly* proclaimed their *ultimate* object, much less have they acted in anything done by them up to this time, upon any claim of the actual consummation of that object, which we have seen, is Consolidation and Empire. They have not as yet openly denied the Federative character of the Government, however in direct war upon its Principles their acts have been *covertly* aimed. This is an exceedingly important fact to be specially noted and kept in mind. These monstrous Reconstruction Measures, with all their enormities and *fatal tendencies* towards *ultimate complete* Centralism and Empire, are *still* based upon the assumption that the States, as separate integral parts, constitute members of what is still, *in words*, at least, acknowledged to be a *Federal Union!* All these bold usurpations of power are, upon their face, nothing but resorts to induce, or to compel, *under duress*, the Peoples of the several Southern States to go through the forms of adopting the Fourteenth Amendment, as an additional Article to the Constitution. This policy is avowedly based upon the principle of *voluntary consent* on the part of these States. The programme of the Reconstructionists thus far, proceeds upon the assumption that the voluntary ratification of all Amendments to the Constitution by at least three-fourths of the integral members of the Union is *essential* to their *validity*. It is true, they did not pretend to have any Constitutional power to pass these measures. On the contrary, they openly and avowedly proclaim, that in adopting them they are acting "outside of the Constitution!" This, too, they so proclaim to the world, immediately after taking solemn oaths to support that instrument! But not to stop here to comment upon such gross inconsistency, as well as moral dereliction, the point to be noted is, that nothing *really affecting* the *vital*

principles of the organic structure of our Federative System of Government has yet been accomplished, or is even claimed to have been accomplished. There is, therefore, still hope for the preservation of the essential features of the system, if there is remaining virtue, intelligence, and patriotism enough to save it, on the part of the Peoples of the Northern States. No system of Representative Government can be long maintained by any People who have not the Intelligence to understand it, the Patriotism to approve it, and the Virtue to maintain inviolate both its form and principles as established.

The future destiny, therefore, of the Free Institutions of this Country, is now in the hands of the Peoples of the Northern States. We, at the South, are utterly powerless to do anything in shaping or controlling, at this time, the progress of coming political events. The only hope left to us is, that a reaction on all these questions, in the public mind, in the Northern States, will take place in time to save our Liberties as well as their own. This, you may be assured, can be done only by driving the usurpers from their places, and bringing back the administration of the Federal Government to those principles on which it was so harmoniously and prosperously conducted for the first sixty years of its existence. This is to be done through the ballot-box alone. Should this take place, and the Judicial Department maintain its integrity, all may yet be well, even though this Fourteenth Amendment should go through the mockery of a ratification under the present programme; for, no Amendment of the Constitution proposed as this has been, and adopted as it must be, if at all, can ever be held to be valid by a firm and upright Judiciary.

So, you see, my opinion is, that the Cause which was lost at Appomattox Court House, was not the Federative

Principle upon which American Free Institutions was based, as some have very erroneously supposed. This is far from being one of the Results of the War. The Cause which was lost by the surrender of the Confederates, was only the maintenance of this Principle by arms. It was not the Principle itself that they abandoned. They only abandoned their attempt to maintain it by physical force. This Principle on which rest the hopes of the world for spreading and perpetuating Free Institutions by neighboring States, in my judgment, like the principles of Christianity, ever advances more certainly and safely without resort to arms, than with it. Its teachings are Peace, Harmony and Good-will to all, and is much more sure of attaining its end, when the actions of its advocates are in conformity with its teachings. This Principle, therefore, though abandoned in its maintenance on battle-fields, still continues to live in all its vigor, in the Forums of Reason, Justice and Truth, and will, I trust, there continue to live forever! Its continued existence in our system, with *vital* power, is not yet denied, as we have seen, even by its bitterest and most *covert* enemies, who have been so long making such extraordinary efforts for its destruction and extinction! Obeisance has been done to it by them, even in these despotic Reconstruction Measures. Those who are looking to and desiring *ultimate* Centralism and Empire, have, as yet, in their progress that way, thus far, reached only to the point of attempting to induce by *duress*, certain States, *as States*, and as *Sovereign* States, to conform to their action under the *semblance*, at least, of voluntary consent! This is the present position of affairs on that subject.

Prof. Norton. Being a Conservative, as you know, I agree with you, Mr. Stephens, in the main, in all you have said on the present situation, gloomy as the prospect it

presents certainly is; and I am inclined to think, too, that our friend Judge Bynum, Radical as he is, is not very far from concurring with us, in these general views. This I infer from a remark he made to Major Heister and myself in the walk we took, after the conversation of this morning.

Judge Bynum. Represent me fairly.

Prof. Norton. It is not my wish or intention to do otherwise. The remark I alluded to was, that you were inclined to think Congress had gone too far, and that was why you were so anxious to hear Mr. Stephens upon the Results of the War.

Judge Bynum. Well, that is about correct. While I approved all that was done up to the passage of these Reconstruction Measures, yet, in them, I have thought that they, perhaps, went too far; for, notwithstanding I am a Radical, I am by no means in favor of a Centralization of all power in Congress, or the establishment of an Empire, which, it seems to me, would amount to nearly the same thing. I abhor the very idea of a result of that kind.

Prof. Norton. That is all I mean to state in reference to your position, and I believe we have all come to one point, on which we agree, however much we have or may differ upon others. But what I was going on to say was, that while I agree in the main with all that Mr. Stephens has said about the Results of the War, yet I was not expecting to hear him express himself on the subject in the terms and language which he has. Of course I could not suppose that he approved them, but as Gov. Brown of this State, with whom he had generally agreed and acted on all public questions during the war, had come out in favor of Georgia's acceptance of the terms proposed by Congress, I thought Mr. Stephens was, most probably,

co-operating with him, especially as he has been so silent upon the subject—before the public at least.

Mr. Stephens. I have been thus silent, simply because I have seen no prospect of being able to do any good by anything that I could say to the public, on any of these questions. I do not see that any Southern man can say or do anything, which will have any effect in arresting the tendency of affairs. I have taken no part in the discussions in this State, because I saw that such course would but lead to divisions amongst our own people, and I did not think there was enough that could possibly be accomplished, even in securing a temporary relief, to cause old friends to grow angry with each other and quarrel about. If Gov. Brown and others see fit "to take to life-boats" in our stranded condition, I have no quarrel to make with him or them, for pursuing that course; though I believe that he, and all who make similar ventures, will be swamped in the surfs at last. I see no hope in that course, or any other which we can take. My only hope for relief is in a reaction of public sentiment at the North, as stated. If that comes in time, all may yet be well with us. If not, we must all go under any how; and I prefer, without ill-will towards any, to remain in perfect quiet on the Old Craft as long as she is afloat, and at last, if needs must be, go down with her.

As to the feelings of the people of this State generally upon these measures, I think Mr. Benjamin H. Hill, in one of his stirring "Notes," or, rather, Philippics "on the Situation," gave a very correct statement, in a very few words, when, in speaking of the position of our people in reference to them, he said in substance: "The complying accept, the resolute reject, none approve, while all despise!"

This, in my opinion, is as true of Governor Brown as

of all the rest. While he accepts, I have no idea that he approves. Few men hold the principles of Constitutional Liberty in higher esteem than he does.

In reference to my relations with Gov. Brown, while it is true we did agree upon many leading public questions, before as well as during the war, yet it is also true, we differed very widely upon others; and upon no question have we ever differed more widely than upon this one. Personally, however, I have a very high regard for him, and esteem him as a man of very great ability, as well as integrity. He is, in every respect, entitled to high rank among our public men and statesmen.

Major Heister. You do not agree, then, with those who think, as I see from your papers some do, that his course has been influenced by motives of ambition, excited by temptations offered to him on the "High Mountain," to which he was carried in Washington?

Mr. Stephens. No, not at all. I have no idea of that sort. If, when in Washington, he was taken to any of the places mentioned in the good Book, I think it was not to the "Mountain of Temptations," but rather to the verge of that other place known as the Bottomless Pit, or so near to it as for him to get a view of its horrors below, where his *fears* instead of his *hopes* were operated upon. In other words, in my opinion, his course has been taken more from apprehensions awakened by threats of Attainder, of Confiscation, and the thousands of other ills that might be expected to attend the rejection of the proposed measure, than from any promise of rewards or official position to him, in consideration of his giving them his support. It was to avoid what he considered impending individual as well as public evils, and not to secure special personal benefits or honors to himself that he acted as he did. He came honestly and sincerely, I have

no question, to the conclusion that we might all go further and fare much worse; and hence his recommendation to the people to accept the terms proposed by Congress, and to comply with the conditions offered, however unjustly and wrongfully exacted. With his views and feelings he acted under the conviction that we were a conquered people, and, as such, should accept these terms, as there was, in his opinion, no probability of any better ever be ing offered.

Maj. Heister. You do not think, then, that he was really untrue to the Southern Cause during the war, and is now carrying out the previously cherished purposes of his heart? I have seen this opinion of him expressed by some.

Mr. Stephens. Some people may think and write so, but my opinion is, that no truer man to our Cause lived, while its standard was up, than Gov. Brown.

Maj. Heister. Why, did not he and Holden, of North Carolina, in their quarrels with Mr. Davis, wish to withdraw from the Confederacy and to make terms with Mr. Lincoln by separate State action?

Mr. Stephens. No, sir, never! As to what Governor Holden may have done, or been willing to do in North Carolina, I cannot, of course, speak. I do not even know that gentleman personally, and hence I can say nothing of him. But Governor Brown I do know; and, further, I know that all such statements in regard to him are utterly untrue. It is true, he differed widely with President Davis upon many matters connected with the administration of affairs. This led to what has been called the "quarrel" between them, but while the published official correspondence shows a very decided disagreement between them, yet it was only a disagreement on points of policy as to the best and surest way of securing ultimate

success to our arms. Governor Brown was as true to the Cause as any man in the country. He and Mr. Davis are both men of very strong convictions and great earnestness of purpose. Neither of them are very yielding in their opinions; and while, in my judgment, he sincerely believed that Mr. Davis's policy was not the best to secure success, and endeavored to get him to change it, still, he never for a moment cherished the dastardly idea attributed to him. This clearly appears from his reply to the overture of General Sherman to meet him in Atlanta, in September, 1864, after the fall of that place.

This overture on the part of General Sherman, was doubtless with a view of such separate State action, and sprung perhaps from impressions on his mind produced by charges of this sort against Governor Brown in some of the Confederate newspapers, about that time. In that reply, while Governor Brown claimed, to the fullest extent, the absolute ultimate Sovereignty of the State of Georgia, yet he most emphatically declared that, being then in Confederation with her Southern sisters for the maintenance of the same Sovereignty on the part of each severally, her public faith, thus pledged, should never be violated by him; and that, "Come weal or come woe," the State of Georgia should never by his consent withdraw from that Confederation in dishonor. "She will never make *separate terms* with the enemy," said he, "which may free her territory from invasion, and leave her Confederates in the lurch."

Further, upon the nature of the conflict and the principles involved, he said to General Sherman: The liberties of the people in this country "rest upon the Sovereignty of the States as their chief corner-stone. Destroy the Sovereignty of the States, and the whole fabric falls to the ground, and centralized power with Military Despotism

takes the place of Constitutional Liberty." Thus, said he, "to destroy our Liberties must cost the Northern people their own, and the Republicanism of America must, in future, be regarded as a reproach and a by-word among all nations."

This language sufficiently fixes the character of Governor Brown, and shows the principles by which he was governed throughout the War. If he had entertained such sentiments as were attributed to him; or if he had been a man likely to be influenced by temptations of ambition held out to him, that was certainly an occasion when the weakness and baseness of such a nature would have manifested itself. In my judgment, he then entertained no such views or ideas as were imagined by some; nor is he now influenced by any such as are similarly imputed. This at least is my opinion of him. When the principle involved in the conflict failed to be maintained by arms, he, as I understand him, then gave up, not only the cause, but the principle itself, as lost. His public acts, since, have been governed by this conviction. Our present differences arise from the different views we take of the Results of the War.

In my view, you perceive that while the maintenance of the principle, or the maintenance of the Right of local Self-government was lost on the battle field; yet on other grounds, and in other Forums, it still lives in all its vigor. The issue decided by the sword, was the attempt on the part of the Confederates to maintain this principle and right, by physical force, in withdrawing from the Union. To this extent alone was the great cause affected by the arbitrament of arms; and to this extent alone was it then settled, by their abandonment of its further maintenance in that way; but the principle itself was not abandoned. It involves questions which cannot be settled by arms—no more than questions relating to the diurnal

rotation of the earth, or its annual circuit round the sun. These are matters which belong exclusively to the domain of Reason and Logic. They belong to other arenas—to those of Thought, of Public Discussions, Council Chambers, and Courts of Justice. They can never be brought under the subjection of physical power. Force may control human action, and effect settlements so far as that is concerned; but it can never enslave the human intellect, or disarm truth of its inextinguishable power in its appropriate sphere, upon the human understanding. In this way, by its peaceful, quiet, and effective workings, all great advances and high achievements in civilization have heretofore been made: and all true progress in the science of Government—slow as that has been—as well as in all other departments of human knowledge, have been accomplished! Wars, upon the whole, have done much more in retarding than in advancing either the principles of Liberty, the cause of Civilization, or the general amelioration of mankind.

In this connection it must be borne in mind, that notwithstanding all that was said about the *treason* of the Confederates, about "traitors," about the "Insurrection," and the "Atrocious Rebellion," so-called, the Authorities at Washington have not yet put that question in issue before the Judicial Tribunals. Immediately after the surrender, as we have seen, numerous arrests were made of high Confederate, as well as State Officials; but as yet not a single one of these has been put upon trial.

Prof. Norton. Pray tell us, Mr. Stephens, how long it was before you were discharged, and how you were treated during your imprisonment?

Mr. Stephens. I was arrested on the 11th of May, was taken to Fort Warren, Boston Harbor, as is known, and was discharged on parole the 13th of October thereafter.

It affords me pleasure to state that during the whole of that period of five months and two days, I was treated with the utmost respect and kindness by all, both officers and men, who had charge of me; or at least with the utmost respect and kindness consistent with their duties in obedience to orders from superiors. While in Fort Warren I was very much afflicted with neuralgia, and a complication of diseases, greatly aggravated, if not produced, by my being first put upon soldiers' rations, and closely confined in one of the lower rooms connecting with a casemate, which was below the surface of the adjacent grounds, and which was consequently very humid and damp. Through the kind interposition of the officers, a change was soon allowed as to the matter of diet; and I was permitted by General Dix, who commanded the District, and whose head-quarters were at New York, to be supplied with such articles in this respect as I might desire from the sutler, at my own expense. All went along very well in that particular after this change.

But the close confinement in the quarters which had been assigned me by special orders from superiors, operated very injuriously upon the general enfeebled condition of my health. Indeed I think if a change in this particular also had not been allowed, I should have died. This did not take place until late in August. It was at last effected through the kind interposition of Mr. Senator Henry Wilson of Massachusetts. He visited me, and seeing my situation, went to Washington and interceded in my behalf. The order for the change of quarters came under the hands of President Johnson himself. From this it seemed that the Secretary of War, Mr. Stanton, would not give his consent to it to the last. It had been in vain that Dr. Seaverns, the Surgeon, had for some time recommended and urged the change.

During all this time Dr. Seaverns had been exceedingly kind and attentive in administering to my relief and comfort in every way in his power. So had been Major Appleton, the officer in command of the Fort, and his most estimable wife. All that they could do to alleviate actual suffering and mitigate the necessary discomforts of the situation was done. Their charming little daughter, Mabel, (not four years old,) brought me flowers almost daily. She would get the guard to raise her up, and would put them herself, with her little tiny hand, between the bars of the iron grate of the window, where was placed a vase to receive them, when I was unable to take them myself! Lieutenant Wm. H. Woodman, who had special charge of all prisoners, was also exceedingly kind and unremitting in his attention to my wants and comforts. So too was John Geary, the corporal, whose business it was to attend particularly to my room.

After Major Appleton left the Post, Major Charles F. Livermore, who succeeded him, was equally kind and attentive, as was also his most excellent and amiable wife.

The many, many acts of kindness I received from all these parties, as well as from quite a number of the good people of Boston, during my affliction and imprisonment at Fort Warren, can never be forgotten by me, and can never be thought of without the most grateful emotions! But, as I said, it was to Senator Wilson, I think I was chiefly indebted for the change of quarters.

Judge Bynum. You discovered some good, then, even in as extreme a Radical as Henry Wilson?

Mr. Stephens. Oh, yes; and I doubt not he possesses many more good qualities besides kindness of heart. Human nature is a strange compound at best! No person I have ever yet met with was so bad as not to

have some good qualities; and no one I have ever seen was so good as not to have some bad ones. Perfection is not the lot of humanity. However much I have differed with Mr. Wilson, and do now differ with him, upon many public questions—however great, in my opinion, are his errors, on many subjects; yet I believe he possesses many excellencies of both head and heart. He was certainly very kind to me in a time of great need, for which I felt, at the time, and now and ever shall feel, most profoundly thankful! Indeed I did not then, or now, cherish any resentment even towards Mr. Stanton, whose course and conduct toward me seemed to be so strange as well as cruel, and which I believed if not changed would soon end in my death. The prevailing sentiment with me towards him, and all who were co-operating with him, then was, "Father, forgive them; for they know not what they do!" I thought it not *improbable* that he and they were acting *conscientiously;* while I thought it not less probable that he and others thus acting would live to repent most bitterly what they were then doing.

This, Professor Norton, is all I can now say upon the subject of my arrest and imprisonment. To return, therefore, from this digression to the point I was upon. As I was discharged, so were all the other Confederate and State officials who had been arrested discharged, after an imprisonment more or less prolonged without any criminal accusation being even lodged against them for their participation in the war, except Mr. Davis.

As to Mr. Davis, it is true, after the infamous charge upon which he was arrested—that is, of complicity in the assassination of Mr. Lincoln — was proven to have had no foundation whatever, except the

perjury of suborned witnesses, a formal Bill of Indictment for Treason, in the matter of Secession and the War, was brought in against him. This has not yet been tried, though he has continuously demanded a trial, and urged it in the most earnest manner. His late enlargement on bail, without a trial,* (through the unexampled generosity and magnanimity of Mr. Horace Greeley, Gerrit Smith, Augustus Schell, H. F. Clark, Aristides Welsch, of New York, David J. Jackman, of Pennsylvania, and others, in becoming sureties for his appearance to answer the charge when the Government shall be ready to proceed with it,) may be considered as settling the question, that the officials at Washington do not intend to allow that point on

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* The following news items of the day possess historic interest:

"*Fortress Monroe, May* 11, 1867:—A large crowd was at the steamboat landing at an early hour. Mr. Davis left Fortress Monroe after two years' imprisonment. The leave-taking was touchingly impressive. Mr. Davis walked alongside of Gen. Burton, [the Federal Officer who had him in charge] and Dr. Cooper on the other. Robert Ould and the brother of Mr. Davis from Vicksburg accompanied Mrs. Davis and her sister, followed by several friends. The countenance of Mr. Davis was cheerful. He received many friends with great cordiality on the boat; was dressed in a plain black suit, felt hat, with cane. His face was pale. He is very thin and feeble, and hair quite gray."

After the execution of the bail-bond, a Richmond paper of the next day contained, amongst many other exceedingly interesting incidents attending the whole scene, the following:

"The release of Mr. Davis was now ordered; Gen. Burton and Dr. Cooper went forward and tendered him their warm congratulations. The example of these officers was followed by a host of personal friends, and a scene of unbounded enthusiasm and excitement prevailed.

"A shout which could not be repressed, and which shook the granite walls to their foundations, went up from the excited throng, and amidst the exultant chorus Mr. Davis descended the stairs shaking hands right and left as he passed, and, entering the carriage which was brought him to the court room, returned to the hotel, where he spent some time in receiving the congratulations of the hosts of friends who availed themselves of the opportunity to express their joy and gratitude at his release."

the principle involved in the issue, decided by the arbitrament of arms, to come before the Judicial Forum for decision and adjudication there. An arbitrament on the Arena of Reason, Logic, Truth, and Justice, they have, thus far, eschewed and avoided; so that the great fact is to be borne in mind, that up to this time, nothing really affecting this "Corner-Stone" of our Federal Institutions, as Governor Brown styled the principle in his reply to General Sherman, has, as yet, been definitely settled, except the abandonment of an attempt to maintain it by a resort to arms.

This, then, is one of the main differences between Governor Brown and myself. To his idea that we are a conquered people, and as such should make the best terms we can, my reply is, that this was not the understanding at the time of the surrender. The States, as States, were distinctly recognized in that surrender, as we have seen; nor have, even, the Reconstructionists at Washington, as yet, acted upon the *avowed* assumption that we are thus conquered. These monstrous measures so proposed by Congress, are acknowledged to be without authority by those who have passed them, and can, therefore, be considered as nothing but gross usurpations. The Courts have yet to pass upon them. These measures, in my judgment, can never receive the sanction of that Department of the Government—not even in the view that we are a conquered people. Conquerors must govern their subjects according to the provisions of their own fundamental law. This is well established by the laws of Nations. The fundamental law of Congress, by which the Courts must be governed, is the Constitution of the United States. This gives Congress no power, in time of Peace, to suspend the Writ of "*Habeas Corpus*," nor to declare Martial Law, to say nothing of the other

enormities of these measures over any class of people, whether citizens, aliens, denizens or subjects. We are bound to believe, therefore, that the Supreme Court of the United States will hold these measures, when they come before that body, to be gross and palpable usurpations of power, and *utterly null and void!*

But if this Court should not so hold; if this Tribunal should decide not only that we are a conquered people, but further, that Congress, representing the Conquerors, can properly govern us *as they see fit*, outside of the limitations of the Constitution of the United States; and can properly deny us, if they choose, the great American Right of Self-government for the future, then, even in that view, my reply is, let our Conquerors govern us *as they see fit!*

We, it is true, cannot resist, or offer any violent opposition. We can only bear with patience and fortitude, as best we may, what is imposed upon us; but in the name of all that is sacred, do not let us attempt to *govern ourselves*—not as *we see fit*, but as our *Conquerors see fit!* That would be but *their* government at last, without any of its responsibility. By every consideration, then, we should not, by giving these measures a formal approval, put ourselves in the position of being told, when the disastrous consequences follow, which will inevitably ensue, that it was *we*, ourselves, and not *they*, who brought such ruin upon the country!

By our thus acting, perhaps after awhile, sooner or later, when the people of the Northern States become thoroughly impressed, as Judge Bynum, Radical as he is, seems now inclined to be, with the dangerous tendencies of this whole Reconstructive policy to their own Institutions, a similar cry to that which went up from Virginia in Colonial days in regard to the Boston Port Bill, will again be raised and heard from one extent of the land to

the other! The cry then was: "The cause of Boston is the cause of us all!" These, we have seen, were the stirring notes which led to the establishment of our entire system of Constitutional Liberty. The only hope, in my view, now left for its preservation and maintenance on this Continent, is, that another like cry shall hereafter be raised, and go forth from hill-top to valley, from the Coast to the Lakes, from the Atlantic to the Pacific: "*The Cause of the South is the Cause of us all!*"

If this comes in time, all may yet be well. In that event, notwithstanding all that has occurred, I see no reason why the States, once more restored, as they will then be, should not enter upon a new career of greatness exciting increased marvel, if not admiration, in the old world, by higher achievements in progress hereafter to be made than any heretofore attained, through the harmonious workings of the true American Principle of the Sovereign Right of local Self-government on the part of each member of our matchless Federal System, when rightly administered! On these principles, the Union, in my judgment, can be maintained and perpetuated—not by physical power, but by the much stronger attractive principle of "mutual convenience and reciprocal advantage;" and this, too, without any apprehensions of centrifugal tendencies in any of its parts, either from the extent of it boundaries, or the number or diversified interests of its members!

But if such reaction should not take place in the public sentiment of the Northern people, then our present condition will soon be theirs. No fact in the future may be relied upon with more certainty, than that their liberties cannot long survive the loss of ours!

So much, gentlemen, for the present condition of affairs, and the actual practical results thus far, of this gigantic

conflict of arms, upon our Institutions, State and Federal, as well as the general prospect before us.

In the review we have taken, the origin of all these late troubles as well as present ills, and the still greater ones now threatening, have been traced to their proper source—to their primal cause. That, we have seen, was a violation of one of the essential principles of the organic structure of our new and wonderful system of a Federative Union of Sovereign States. From this violation of principle, all these direful consequences have come, as effects follow causes.

Here our review properly closes.

It was undertaken, you recollect, not so much with the intention of vindicating the rightfulness of my own course in going with my State in the matter of Secession, as in vindication of the Rightfulness of the great Cause of those with whom my fortunes in the terrible and most lamentable contest were cast.

Now that we have gone through with the whole, as stated before, I will not ask your judgment upon the matter. That, I am content, notwithstanding all that is now said about "traitors" and "rebels," to leave to the arbitrament of the intelligent, unbiased, and impartial of all times and countries. This judgment, I feel assured, will be just as Mr. Johnson so clearly foresaw it would be. By it the Confederates, so far from being branded with the epithets of "rebels" and "traitors," will be honored as "self-sacrificing Patriots," fighting for their Liberties throughout, and their Heroes and Martyrs in History will take places "by the side of Washington, Hampden, and Sydney!"

It affords me pleasure, however, to say, in winding up, that, while in our long and social interchange of views, and discussions of the various questions brought up in

review, in which we have occasionally so widely differed upon some points, yet upon one we are at last all so fully agreed; and that is, in our abhorrence of the very idea of anything like Imperialism in this Country! Perfect agreement on this point is the more agreeable to me, because this presents the only real *living issue* of paramount importance before the Peoples of the several States. The great vital question now is: Shall the Federal Government be arrested in its progress, and be brought back to original principles, or shall it be permitted to go on in its present tendencies and rapid strides, until it reaches complete Consolidation!

Depend upon it, there is no difference between Consolidation and Empire; no difference between Centralism and Imperialism. The consummation of either must necessarily end in the overthrow of Liberty and the establishment of Despotism. To speak of any Rights as belonging to the States, without the innate and unalienated Sovereign power to maintain them, is but to deal in the shadow of language without the substance. Nominal Rights without Securities are but Mockeries!

Nothing can be truer than that the States under our system possess no Rights but Sovereign Rights. All their reserved Rights are necessarily Sovereign Rights. They hold nothing by grant or favor from the Federal Government. On the contrary, the Federal Government itself possesses no Right, and is intrusted with the exercise of no Power, except by delegation from the Sovereignty of the several States. Sovereignty itself, as we have seen, is, from its very nature, indivisible! There never was a greater truth, more pointedly uttered than that by Mr. Jefferson, that the States of this Union "are not united upon the principle of unlimited submission to their General Government." The Administration of our Govern-

ment, therefore, must be brought back and made to conform in its action, to these principles thus announced by the Great Author of the System, and under which all the great achievements of the past were made. If this is not done, it is utterly vain to look for, or expect anything, but ultimate Centralism and Despotism!

These are words of truth, expressed in an earnestness, which I trust you will excuse; but they are words which, however received or heeded by the people of this day, will be rendered eternally true by the developments of the future!

But without further speculation upon this subject or any other, let me, in conclusion, barely add: If the worst is to befall us; if our most serious apprehensions and gloomiest forebodings as to the future, in this respect, are to be realized; if Centralism is ultimately to prevail; if our entire system of free Institutions as established by our common ancestors is to be subverted, and an Empire is to be established in their stead; if that is to be the last scene in the great tragic drama now being enacted: then, be assured, that we of the South will be acquitted, not only in our own consciences, but by the judgment of mankind, of all responsibility for so terrible a catastrophe, and from all the guilt of so great a crime against humanity! Amidst our own ruins, bereft of fortunes and estates, as well as Liberty, with nothing remaining to us but a good name, and a Public Character, unsullied and untarnished, we will, in the common misfortunes, still cling in our affections to "the Land of Memories," and find expression for our sentiments when surveying the past, as well as of our distant hopes when looking to the future, in the grand words of Father Ryan, one of our most eminent Divines, and one of America's best poets:

"A land without ruins is a land without memories—a

"land without memories is a land without liberty! A
"land that wears a laurel crown may be fair to see, but
"twine a few sad cypress leaves around the brow of any
"land, and be that land beautiless and bleak, it becomes
"lovely in its consecrated coronet of sorrow, and it wins
"the sympathy of the heart and history! Crowns of roses
"fade—crowns of thorns endure! Calvaries and crucifixes
"take deepest hold of humanity—the triumphs of Might
"are transient, they pass away and are forgotten—the
"sufferings of Right are *graven deepest on the chronicles*
"*of nations*!

"Yes! give me a land where the ruins are spread,
"And the living tread light on the hearts of the dead;
"Yes, give me a land that is blest by the dust,
"And bright with the deeds of the down-trodden just!
"Yes, give me the land that hath legend and lays
"Enshrining the memories of long-vanished days;
"Yes, give me a land that hath story and song,
"To tell of the strife of the Right with the Wrong;
"Yes, give me the land with a grave in each spot,
"And names in the graves that shall not be forgot!
"Yes, give me the land of the wreck and the tomb,
"There's a grandeur in graves—there's a glory in gloom!
"For out of the gloom future brightness is born,
"As after the night looms the sunrise of morn;
"And the graves of the dead, with the grass overgrown,
"May yet form the *footstool* of Liberty's throne,
"And *each* single wreck in the war-path of Might,
"Shall *yet* be a *rock* in the Temple of Right!"

APPENDIX.

A.

DECLARATION OF THE IMMEDIATE CAUSES WHICH INDUCE AND JUSTIFY THE SECESSION OF SOUTH CAROLINA FROM THE FEDERAL UNION

The People of the State of South Carolina, in Convention assembled, on the 26th day of April, A.D., 1852, declared that the frequent violations of the Constitution of the United States, by the Federal Government, and its encroachments upon the reserved rights of the States, fully justified this State in then withdrawing from the Federal Union; but in deference to the opinions and wishes of the other slave-holding States, she forbore, at that time, to exercise this right. Since that time, these encroachments have continued to increase, and further forbearance ceases to be a virtue.

And, now, the State of South Carolina having resumed her separate and equal place among Nations, deems it due to herself, to the remaining United States of America, and to the Nations of the world, that she should declare the immediate causes which have led to this act.

In the year 1765, that portion of the British Empire embracing Great Britain, undertook to make laws for the government of that portion composed of the thirteen American Colonies. A struggle for the right of Self-government ensued, which resulted, on the 4th of July, 1776, in a Declaration, by the Colonies, "that they are, and of right ought to be, Free and Independent States; and that, as Free and Independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which Independent States may of right do."

They further solemnly declared, that "whenever any form of Govern-

ment becomes destructive of the ends for which it was established, it is the right of the people to alter or abolish it, and to institute a new Government." Deeming the Government of Great Britain to have become destructive of these ends, they declared that the Colonies "are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain is, and ought to be, totally dissolved."

In pursuance of this Declaration of Independence, each of the thirteen States proceeded to exercise its separate Sovereignty; adopted for itself a Constitution, and appointed officers for the administration of Government in all its Departments—Legislative, Executive, and Judicial. For purposes of defence, they united their arms and their counsels; and, in 1778, they entered into a League known as the Articles of Confederation, whereby they agreed to entrust the administration of their external relations to a Common Agent, known as the Congress of the United States, expressly declaring, in the first article, "that each State retains its Sovereignty, Freedom, and Independence, and every power, Jurisdiction, and right which is not, by this Confederation, expressly delegated to the United States in Congress assembled."

Under this Confederation, the war of the Revolution was carried on, and on the 3d of September, 1783, the contest ended, and a definitive Treaty was signed by Great Britain, in which she acknowledged the Independence of the Colonies in the following terms:

"ARTICLE 1.—His Britannic Majesty acknowledges the said United States, viz.: New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be FREE, SOVEREIGN AND INDEPENDENT STATES; that he treats with them as such; and for himself, his heirs and successors, relinquishes all claims to the Government, Propriety and territorial rights of the same and every part thereof."

Thus were established the two great principles asserted by the Colonies, namely: the right of a State to govern itself; and the right of a People to abolish a Government when it becomes destructive of the ends for which it was instituted. And concurrent with the establishment of these principles, was the fact, that each Colony became and was recognized by the Mother Country as a FREE, SOVEREIGN AND INDEPENDENT STATE.

In 1787, Deputies were appointed by the States to revise the Articles of Confederation, and on 17th September, 1787, these Deputies recommended, for the adoption of the States, the Articles of Union, known as the Constitution of the United States.

The Parties to whom this Constitution was submitted, were the several Sovereign States; they were to agree or disagree, and when nine of them agreed, the Compact was to take effect among those concurring;

and the General Government, as the Common Agent, was then to be invested with their authority.

If only nine of the thirteen States had concurred, the other four would have remained as they then were—Separate, Sovereign States, independent of any of the provisions of the Constitution. In fact, two of the States did not accede to the Constitution until long after it had gone into operation among the other eleven; and during that interval, they each exercised the functions of an Independent Nation.

By this Constitution, certain duties were imposed upon the several States, and the exercise of certain of their powers was restrained, which necessarily implied their continued existence as Sovereign States. But, to remove all doubt, an amendment was added, which declared that the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people. On 23d May, 1788, South Carolina, by a Convention of her people, passed an Ordinance assenting to this Constitution, and afterwards altered her own Constitution, to conform herself to the obligations she had undertaken.

Thus was established, by Compact between the States, a Government, with defined objects and powers, limited to the express words of the Grant. This limitation left the whole remaining mass of power subject to the clause reserving it to the States or to the people, and rendered unnecessary any specification of reserved rights.

We hold that the Government thus established is subject to the two great principles asserted in the Declaration of Independence; and we hold further, that the mode of its formation subjects it to a third fundamental principle, namely: the law of Compact. We maintain that in every Compact between two or more Parties, the obligation is mutual; that the failure of one of the contracting Parties to perform a material part of the agreement, entirely releases the obligation of the other; and that where no arbiter is provided, each Party is remitted to his own judgment to determine the fact of failure, with all its consequences.

In the present case, that fact is established with certainty. We assert, that fourteen of the States have deliberately refused for years past to fulfil their Constitutional obligations, and we refer to their own Statutes for the proof.

The Constitution of the United States, in its Fourth Article, provides as follows:

"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."

This stipulation was so material to the Compact, that without it that

Compact would not have been made. The greater number of the contracting Parties held slaves, and they had previously evinced their estimate of the value of such a stipulation by making it a condition in the Ordinance for the government of the territory ceded by Virginia, which now composes the States north of the Ohio River.

The same Article of the Constitution stipulates also for rendition by the several States of fugitives from justice from the other States.

The General Government, as the Common Agent, passed laws to carry into effect these stipulations of the States. For many years these laws were executed. But an increasing hostility on the part of the non-slave-holding States to the Institution of Slavery has led to a disregard of their obligations, and the laws of the General Government have ceased to effect the objects of the Constitution. The States of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Illinois, Indiana, Michigan, Wisconsin and Iowa, have enacted laws which either nullify the Acts of Congress or render useless any attempt to execute them. In many of these States the fugitive is discharged from the service or labor claimed, and in none of them has the State Government complied with the stipulation made in the Constitution. The State of New Jersey, at an early day, passed a law in conformity with her Constitutional obligation; but the current of Anti-Slavery feeling has led her more recently to enact laws which render inoperative the remedies provided by her own law and by the laws of Congress. In the State of New York even the right of transit for a slave has been denied by her tribunals; and the States of Ohio and Iowa have refused to surrender to justice fugitives charged with murder and with inciting servile insurrection in the State of Virginia. Thus the Constitutional Compact has been deliberately broken and disregarded by these non-slave-holding States, and the consequence follows that South Carolina is released from her obligation.

The ends for which this Constitution was framed, are declared by itself to be "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."

These ends it endeavored to accomplish by a Federal Government, in which each State was recognized as an equal, and had separate control over its own Institutions. The right of property in slaves was recognized by giving to free persons distinct political rights, by giving them the right to represent, and burthening them with direct taxes for three-fifths of their slaves; by authorizing the importation of slaves for twenty years; and by stipulating for the rendition of fugitives from labor.

We affirm that these ends for which this Government was instituted have been defeated, and the Government itself has been made destructive of them by the action of non-slave-holding States. Those States

have assumed the right of deciding upon the propriety of our domestic Institutions; and have denied the rights of property established in fifteen of the States and recognized by the Constitution; they have denounced as sinful the Institution of Slavery; they have permitted the open establishment among them of societies, whose avowed object is to disturb the peace and to eloign the property of citizens of other States. They have encouraged and assisted thousands of our slaves to leave their homes; and those who remain, have been incited by emissaries, books, and pictures to servile insurrection.

For twenty-five years this agitation has been steadily increasing, until it has now secured to its aid the power of the Common Government. Observing the *forms* of the Constitution, a Sectional Party has found within that article establishing the Executive Department, the means of subverting the Constitution itself. A geographical line has been drawn across the Union, and all the States north of that line have united in the election of a man to the high office of President of the United States whose opinions and purposes are hostile to slavery. He is to be entrusted with the administration of the Common Government, because he has declared that that "Government cannot endure permanently half slave, half free," and that the public mind must rest in the belief that Slavery is in the course of ultimate extinction.

This Sectional Combination for the subversion of the Constitution, has been aided in some of the States by elevating to citizenship persons, who, by the Supreme Law of the land, are incapable of becoming citizens; and their votes have been used to inaugurate a new policy, hostile to the South, and destructive of its peace and safety.

On the 4th of March next, this Party will take possession of the Government. It has announced, that the South shall be excluded from the common territory; that the Judicial Tribunals shall be made sectional, and that a war must be waged against Slavery until it shall cease throughout the United States.

The Guaranties of the Constitution will then no longer exist; the equal rights of the States will be lost. The slave-holding States will no longer have the power of Self-government, or Self-protection, and the Federal Government will have become their enemy.

Sectional interest and animosity will deepen the irritation, and all hope of remedy is rendered vain, by the fact that public opinion at the North has invested a great political error with the sanctions of a more erroneous religious belief.

We, therefore, the People of South Carolina, by our Delegates, in Convention assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, have solemnly declared that the Union heretofore existing between this State and the other States of North America is dissolved, and that the State of South Carolina has resumed her position among the Nations of the world, as a Separate and Independent

State; with full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which Independent States may of right do.

B.

GEORGIA PLATFORM OF 1850.

To the end that the position of this State may be clearly apprehended by her Confederates of the South and of the North, and that she may be blameless of all future consequences—

Be it resolved by the people of Georgia in Convention assembled, First. That we hold the American Union secondary in importance only to the rights and principles it was designed to perpetuate. That past associations, present fruition, and future prospects, will bind us to it so long as it continues to be the safe-guard of those rights and principles.

Second. That if the thirteen original Parties to the Compact, bordering the Atlantic in a narrow belt, while their separate interests were in embryo, their peculiar tendencies scarcely developed, their revolutionary trials and triumphs still green in memory, found Union impossible without compromise, the thirty-one of this day may well yield somewhat in the conflict of opinion and policy, to preserve that Union which has extended the sway of Republican Government over a vast wilderness to another ocean, and proportionally advanced their civilization and national greatness.

Third. That in this spirit the State of Georgia has maturely considered the action of Congress, embracing a series of measures for the admission of California into the Union, the organization of Territorial Governments for Utah and New Mexico, the establishment of a boundary between the latter and the State of Texas, the suppression of the slave-trade in the District of Columbia, and the extradition of fugitive slaves, and (connected with them) the rejection of propositions to exclude slavery from the Mexican Territories, and to abolish it in the District of Columbia; and, whilst she does not wholly approve, will abide by it as a permanent adjustment of this sectional controversy.

Fourth. That the State of Georgia, in the judgment of this Convention, will and ought to resist, even (as a last resort) to a disruption of every tie which binds her to the Union, any future Act of Congress abolishing Slavery in the District of Columbia, without the consent and petition of the slave-holders thereof, or any Act abolishing Slavery in places within the slave-holding States, purchased by the United States for the erection of forts, magazines, arsenals, dock-yards, navy-yards, and other like purposes; or in any Act suppressing the slave-trade between slave-

holding States; or in any refusal to admit as a State any Territory applying, because of the existence of Slavery therein; or in any Act prohibiting the introduction of slaves into the Territories of Utah and New Mexico; or in any Act repealing or materially modifying the laws now in force for the recovery of fugitive slaves.

Fifth. That it is the deliberate opinion of this Convention, that upon the faithful execution of the Fugitive Slave Bill by the proper authorities, depends the preservation of our much loved Union.

C.

LETTER OF THIRTEEN GENTLEMEN OF MACON, AND MR. STEPHENS'S REPLY, ON THE RUPTURE IN THE DEMOCRATIC CONVENTION, AT CHARLESTON, IN 1860.

MACON, Ga., MAY 5th, 1860.

SIR: We are alarmed by the state of things developed in the Democratic Convention at Charleston. The discord and disorganizing spirit which prevailed there threaten the integrity and overthrow of the Democratic Party. We are filled with painful forebodings at the prospect of the Democratic Party being slaughtered in the house of its friends—a catastrophe which will put in equal peril the Union of the States and the safety of the South. Clinging to the fate and fortunes of both, we invoke your counsels in this crisis. We believe the Democracy of Georgia should be represented in the adjourned National Convention at Baltimore. Will you please give us your views candidly and promptly for publication?

Your friends and fellow-citizens,

ROBERT COLLINS, JOHN J. GRESHAM, JAS. W. ARMSTRONG, JAMES DEAN, JOHN B. ROSS, PULASKI S. HOLT, A. E. COCHRAN, W. K. DEGRAFFENRIED, SAMUEL B. HUNTER, JOSEPH CLISBY, THOMAS L. ROSS, JAMES A. NISBET, WM. LUNDY.

CRAWFORDVILLE, GA., MAY 9, 1860.

GENTLEMEN: Your letter, of the 5th inst., was received last night, and I promptly respond to your call as clearly and fully as a heavy press of business engagements will permit. I shall endeavor to be no less pointed and explicit than candid. You do not, in my judgment, over-estimate the importance of the questions now pressing upon the public mind, growing out of the disruption of the Charleston Convention. While I was not greatly surprised at that result, considering the

elements of its composition, and the general distemper of the times, still I deeply regret it, and, with you, look with intense interest to the consequences. What is done cannot be undone or amended; that must remain irrevocable. It would, therefore, be as useless, as ungracious, to indulge in any reflections, as to whose fault the rupture was owing to. Perhaps, and most probably, undue excitement and heat of passion, in pursuit of particular ends connected with the elevation or overthrow of particular rivals for preferment, more than any strong desire, guided by cool judgment, so necessary on such occasions, to advance the public good, was the real cause of the rupture. Be that as it may, however, what is now to be done, and what is the proper course to be taken? To my mind the course seems to be clear.

A State Convention should be called at an early day—and that Convention should consider the whole subject calmly, and dispassionately, with "the sober second thought," and determine whether to send a representation to Richmond or to Baltimore. The correct determination of this question, as I view it, will depend upon another; and that is, whether the doctrine of Non-Intervention by Congress, with Slavery in the Territories, ought to be adhered to, or abandoned by the South. This is a very grave and serious question, and ought not to be decided rashly or intemperately. No such small matters, as the promotion of this or that individual, however worthy or unworthy, ought to enter into its consideration. It is a great subject of public policy, affecting the vast interests of the present and the future. It may be unnecessary, and entirely useless, for me to obtrude my views upon this question, in advance of the meeting of such Convention, upon whom its decision may primarily devolve. I cannot, however, comply with your request, without doing so to a limited extent, at least. This, I shall do. In the first place, then, I assume, as an unquestioned and unquestionable fact, that *Non-Intervention*, as stated, has been for many years received, recognized, and acted upon, as the settled doctrine of the South. By *Non-Intervention*, I mean the principle, that Congress shall pass no law upon the subject of Slavery in the Territories, either for, or against it, in any way—that they shall not interfere or act upon it at all—or, in the express words of Mr. Calhoun, the great Southern leader, that Congress shall "leave the whole subject where the Constitution and the great principles of Self-government place it." This has been eminently a Southern doctrine. It was announced by Mr. Calhoun, in his speech, in the Senate, on the 27th of June, 1848; and, after two years of discussion, was adopted as the basis of the adjustment finally made in 1850. It was the demand of the South, put forth by the South, and since its establishment has been again and again affirmed and re-affirmed as the settled policy of the South, by Party Conventions and State Legislatures, in every form that a people can give authoritative expression to their will and wishes. This cannot now be matter of dispute. It is history, as

indelibly fixed upon the record as the fact that the Colony of Georgia was settled under the auspices of Oglethorpe, or that the war of the American Revolution was fought in resistance to the unjust claim of power on the part of the British Parliament.

I refer to this matter of history connected with the subject under consideration, barely as a starting point—to show how we stand in relation to it. It is not a new question. It has been up before, and whether rightly or wrongly, it has been decided—decided and settled just as the South asked that it should be—not, however, without great effort and a prolonged struggle. The question now is, shall the South abandon her own position in that decision and settlement? This is the question virtually presented by the action of the Seceders from the Charleston Convention, and the grounds upon which they based their action; or stated in other words, it amounts to this; whether the Southern States, after all that has taken place on the subject, should now reverse their previous course, and demand Congressional *intervention* for the protection of slavery in the Territories, as a condition of their remaining longer in the Union? For I take it for granted that it would be considered by all as the most mischievous folly to make the demand, unless we intend to push the issue to its ultimate and legitimate results. Shall the South, then, make this demand of Congress, and when made, in case of failure to attain it, shall she secede from the Union as a portion of her delegates (some under instructions, and some from their own free will,) seceded from the Convention, on their failure to get it granted there?

Thus stands the naked question, as I understand it, presented by the action of the Seceders, in its full dimensions—its length, breadth, and depth, in all its magnitude.

It is presented not to the Democratic Party alone; it is true, a Convention of that Party may first act on it, but it is presented to the country, to the whole people of the South, of all Parties. And men of all Parties should duly and timely consider it, for they may all have to take sides on it, sooner or later.

It rises in importance high above any Party organization of the present day, and it may, and ought to, if need be, sweep them all from the board. My judgment is against the demand. If it were a new question, presented in its present light, for the first time, my views upon it might be different from what they are. It is known to you and the country, that the policy of *Non-Intervention*, as established at the instance of the South, was no favorite one of mine. As to my position upon it, and the doctrine now revived, when they were original and open questions, as well as my present views, I will cite you to an extract from a speech made by me in Augusta, in July last, on taking final leave of my constituents. I could not restate them more clearly or more briefly. In speaking of, and reviewing this matter, I then said:

"And, as you all may know, it (*Non-Intervention*) came short of what

I wished. It was, in my view, not the full measure of our rights. That required, in my judgment, the enactment by Congress, of all needful laws for the protection of slave property in the Territories, so long as the territorial condition lasted.

"But an overwhelming majority of the South was against that position. It was said that we who maintained it, yielded the whole question by yielding the jurisdiction—and that, if we conceded the power to protect, we necessarily conceded with it the power to prohibit. This, by no means, followed, in my judgment. But such was the prevailing opinion. And it was not until it was well ascertained that a large majority of the South would not ask for, or even vote for, Congressional protection, that those of us who were for it yielded to non-intervention, because, though it came short of our wishes, yet it contained no sacrifice of principle—had nothing aggressive in it, and secured, for all practical purposes, what was wanted; that is, the unrestricted right of expansion over the common public domain, as inclination, convenience, or necessity may require on the part of our people. * * *

"Thus the settlement was made—thus the record stands, and by it I am willing still to stand, as it was fully up to the demands of the South, through her Representatives at the time, though not up to my own; and as by it the right of expansion to the extent of population and capacity is amply secured."

In this you clearly perceive what I think of the proper course now to be taken on the same subject. While, in the beginning of this controversy, I was not favorable to the policy adopted, yet I finally yielded my assent. It was yielded to the South—to the prevailing sentiment of my own section. But it never would have been yielded if I had seen that any of our important rights, or any principle essential to our safety or security, could, by possiblity, result from its operation. Nor would I now be willing to abide by it, if I saw in its practical workings any serious injury to the South likely to arise from it. All Parties in the South, after the settlement was made, gave it the sanction of their acquiescence, if not cordial approval. What, then, has occurred since to cause us to change our position in relation to it? Is it that those of the North who stood by us in the struggle from 1848 to 1850, did afterward, stand nobly by us in 1854, in taking off the old Congressional Restriction, of 1820, so as to have complete *Non-Intervention* throughout the length and breadth of the common public domain? Was this heroism on their part, in adhering to principle, at the hazard and peril of their political lives and fortunes, the cause of present complaint? This cannot be; for never was an Act of Congress so generally and so unanimously hailed with delight at the South, as this one was—I mean the Kansas-Nebraska Act of 1854? It was not only indorsed by all Parties in Georgia, but every one who did not agree to its just provisions, upon the subject of Slavery, was declared to be unfit to hold

Party associations with any Party not hostile to the interests of the South. What, then, is the cause of complaint now? Wherein has this policy worked any injury to the South, or wherein is it likely to work any?

The only cause of complaint I have heard is, that *Non-Intervention*, as established in 1850, and carried out in 1854, is not understood at the North as it is at the South; that, while we hold that, in leaving "the whole subject where the Constitution and the great principles of Self-government place it," the common territories are to remain open for settlement by Southern people with their slaves, until otherwise provided by a State Constitution, the friends and supporters of the same doctrine at the North maintain that, under it, the people of an organized Territory can protect or exclude slave property before the formation of a State Constitution. This opinion, or construction of theirs, is what is commonly dubbed "Squatter Sovereignty." Upon this point of difference in construction of what are "the great principles of Self-government," under the Constitution of the United States, a great deal has been said and written.

We have heard it in the social circle—in the forum—on the hustings—and in the halls of legislation. The newspapers have literally groaned with dissertations on it. Pamphlets have been published for and against the respective sides. Congress has spent months in its discussion, and may spend as many years as they have months, without arriving at any more definite or satisfactory conclusion in relation to it, than Milton's perplexed spirits did upon the abstruse questions on which they held such high and prolonged debate when they reasoned—

> "Of Providence, foreknowledge, will, and fate;
> Fixed fate, free will, foreknowledge, absolute,
> And found no end in wandering mazes lost."

It is not my purpose now to enter the list of these disputants. My own opinions upon the subject are known; and it is equally known that this difference of opinion, or construction, is no new thing in the history of this subject. Those who hold the doctrine that the people of the Territories, according to the great principles of Self-government, under the Constitution of the United States, can exclude Slavery by Territorial Law, and regulate slave property as all other property, held the same views they now do, when we agreed with them to stand on those terms. This fact is also historical. The South held, that under the Constitution, the Territorial Legislatures could not exclude Slavery—that it required an Act of Sovereignty to do this. Some gentlemen of the North held, as they now do, that the Territorial Legislatures could control slave property as absolutely as they could any other kind of property, and by a system of laws could virtually exclude Slavery from amongst them, or prevent its introduction if they chose.

That point of difference it was agreed, by both sides, to leave to the Courts to settle. There was no cheat, or swindle, or fraud, or double dealing in it. It was a fair, honorable, and Constitutional adjustment of the difference. No assertion or declaration by Congress, one way or the other, could have affected the question in the least degree; for if the people, according to "the great principles of Self-government," under the Constitution, have the right contended for by those who espouse that side of the argument, then Congress could not and cannot deprive them of it. And if Congress did not have, or does not have, the power to exclude Slavery from a Territory, as those on our side contended, and still contend they have not, then they could not and did not confer it upon the Territorial Legislatures. We of the South held that Congress had not the power to exclude, and could not delegate a power they did not possess—also, that the people had not the power to exclude under the Constitution, and therefore the mutual agreement was to take the subject out of Congress, and leave the question of the power of the people where the Constitution had placed it—with the Courts. This is the whole of it. The question in dispute is a judicial one, and no Act of Congress, nor any resolution of any Party Convention can in any way affect it, unless we abandon the first position of Non-Intervention by Congress.

But it seems exceedingly strange to me, that the people of the South should, at this late day, begin to find fault with this Northern construction, as it is termed—especially since the decision of the Supreme Court, in the case of *Dred Scott*. In this connection, I may be permitted to say, that I have read with deep interest the debates of the Charleston Convention, and particularly the able, logical, and eloquent speech of the Hon. Wm. L. Yancey, of Alabama. It was, decidedly, the strongest argument I have seen on his side of the question. But its greatest power was shown in its complete answer to itself. Never did a man, with greater clearness, demonstrate that "Squatter Sovereignty," the bug-bear of the day, is not in the Kansas Bill, all that has been said to the contrary, notwithstanding. This, he put beyond the power of refutation. But he stopped not there—he went on, and by reference to the decision of the Supreme Court alluded to, he showed, conclusively, in a most pointed and thrilling climax, that this most frightful doctrine could not, by possibility, be in it, or in any other Territorial Bill—that it is a Constitutional impossibility. With the same master-hand he showed that the doctrine of "Squatter Sovereignty" is not in the Cincinnati Platform; then why should we of the South now complain of *Non-Intervention*, or ask a change of Platform?

What else have we to do but to insist upon our allies standing to their agreement? Would it not have been much more natural to look for flinching on their side than on ours? Why should we desire or want any other Platform of principles than that adopted at Cincinnati? If

those who stood with us on it, in the contest of 1856, are willing still to stand on it, why should we not be equally willing? For my life I cannot see, unless we are determined to have a quarrel with the North anyhow on general account. If so, in behalf of common sense, let us put it upon more tenable ground! *These are abundant.* For our own character's sake, let us make it upon the aggressive acts of our enemies, rather than any supposed short-comings of our friends, who have stood by us so steadfastly in so many Constitutional struggles. In the name of patriotism and honor, let us not make it upon a point which may so directly subject us to the charge of breach of plighted faith. Whatever may befall us, let us ever be found, by friend or foe, as good as our word. These are my views, frankly and earnestly given.

The great question, then, is, shall we stand by our principles, or shall we cutting loose from our moorings, where we have been safely anchored so many years, launch out again into unknown seas, upon new and perilous adventures, under the guide and pilotage of those who prove themselves to have no more fixedness of purpose or stability, as to objects or policy, than the shifting winds by which we shall be driven? Let this question be decided by the Convention, and decided with that wisdom, coolness, and forecast which becomes statesmen and patriots. As for myself, I can say, whatever may be the course of future events, my judgment in this crisis is, that we should stand by our principles "through woe" as well as "through weal," and maintain them in good faith, now and always, if need be, until they, we, and the Republic, perish together in a common ruin. I see no injury that can possibly arise to us from them—not even if the Constitutional impossibility of their containing "Squatter Sovereignty" did not exist, as has been conclusively demonstrated. For, if it did exist in them, and were all that its most ardent advocates claim for it, no serious practical danger to us could result from it.

Even according to that doctrine, we have the unrestricted right of expansion to the extent of population. It is admitted that slavery can, and will go, under its operation, wherever the people want it. Squatters carried it to Tennessee, Kentucky, Missouri, Alabama, Mississippi, and Arkansas, without any law to protect it, and to Texas against a law prohibiting it, and they will carry it under this doctrine to all countries where climate, soil, production, and population will allow. These are the natural laws that will regulate it under *Non-Intervention*, according to that construction; and no act of Congress can carry it into any Territory against these laws, any more than it could make the rivers run to the mountains, instead of the sea. If we have not enough of the right sort of population to compete longer with the North in the colonization of new Territories and States, this deficiency can never be supplied by any such act of Congress as that now asked for. The attempt would

be as vain as that of Xerxes to control the waters of the Hellespont by whipping them in his rage.

The times, as you intimate, do, indeed, portend evil. But I have no fears for the Institution of Slavery, either in the Union or out of it, *if our people are but true to themselves*—true, stable and loyal to fixed principles and settled policy; and if they are *not thus true*, I have little hope of anything good, whether the present Union last or a new one be formed. There is, in my judgment, nothing to fear from the "Irrepressible Conflict" of which we hear so much. Slavery rests upon great truths, which can never be successfully assailed by reason or argument. It has grown stronger in the minds of men the more it has been discussed, and it will still grow stronger as the discussion proceeds and time rolls on. Truth is omnipotent, and must prevail! We have only to maintain the truth with firmness, and wield it aright. Our system rests upon an impregnable basis, that can and will defy all assaults from without. My greatest apprehension is from causes within—there lies the greatest danger. We have grown luxuriant in the exuberance of our well being and unparalleled prosperity. There is a tendency everywhere, not only at the North, but at the South, to strife, dissension, disorder, and anarchy. It is against this tendency that the sober-minded and reflecting men everywhere should now be called upon to guard.

My opinion, then, is, that delegates ought to be sent to the adjourned Convention at Baltimore. The demand made at Charleston by the Seceders ought not to be insisted upon. Harmony being restored on this point, a nomination can doubtless be made of some man whom the Party, everywhere, can support, with the same zeal, and the same ardor with which they entered and waged the contest in 1856, when the same principles were involved.

If, in this, there be a failure, let the responsibility not rest upon us. Let our hands be clear of all blame. Let there be no cause for casting censure at our door. If, in the end, the great National Democratic Party—the strong ligament, which has so long bound and held the Union together—shaped its policy and controlled its destinies—and to which we have so often looked with a hope that seldom failed, as the only Party North on which to rely, in the most trying hours when Constitutional rights were in peril, let it not be said to us, in the midst of the disasters that may ensue, "you did it!" In any and every event, let not the reproach of Punic faith rest upon our name. If everything else has to go down, let our untarnished honor, at least, survive the wreck.

ALEXANDER H. STEPHENS.

D.

LETTER OF MR. STEPHENS TO DR. Z. P. LANDRUM, OF LEXINGTON, GEORGIA, ON THE RUPTURE IN THE DEMOCRATIC CONVENTION, AT BALTIMORE, IN 1860.

CRAWFORDVILLE, GA., JULY 1, 1860.

MY DEAR SIR: Yours of the 26th ultimo was duly received, and I now return you an answer by the earliest mail that will bear it. But I confess my utter inability to give you any definite or satisfactory response to your several inquiries. The condition of public affairs, in my judgment, is truly deplorable, and I see but little prospect of it being bettered by any effort of patriotism on my part. Your professional practice has doubtless presented you with many cases where the symptoms indicated a malignity of disease beyond the power of medical skill. Such, you will excuse me in saying, are the symptoms of our public disorders, in my judgment, at this time. I see no remedy, can make no prescription—and can suggest nothing. The "*vis medicatrix naturæ*," is the only hope, and when this is the only hope, the best course is to leave the patient quietly to himself.

It is useless to discuss questions relating to the origin of this state of things, or how the evils that are upon us, or the worse ones ahead now threatening, could have been avoided. The times seem to be sadly out of joint.

In reply to what you say of my power, and that patriotism and statesmanship must "save us, else we perish," I can only say, with an oppressed heart, that there are periods in every Nation's history, when passions get the better of reason, when no human power can avail anything, when patriotism and statesmanship are alike submerged under the irresistible wave. At such times no power short of that which said to the troubled waters of Galilee's Sea, "Peace, be still!" can allay the storm. This is that unseen, but all-prevailing, and all-controlling power of Providence, which shapes the fortunes of men, and guides the destiny of States. What is to be the future of this country, I cannot say. I cannot even venture a conjecture. All I can do is to indulge a hope, strong or weak, as it may be, that all may yet be well. How this is to be, I do not see; it was the prospect of the events we now have upon us, "the shadows" of which I saw in advance of their approach, with the full conviction and consciousness that *I* could do nothing to avert them, that caused me to retire from that position of responsibility I had so long held, and in which I felt satisfied I could no longer be useful.

The real evils of the times the people do not understand. It springs from no defect in their Government, from no "Irrepressible Conflict" of interest between the two great sections of the Union, from no danger to the rights, interest, honor, or safety of either, but from the want of true

patriotism on the part of our public men in all sections; from the want of devotion to the country, for the country's sake; from a want of loyalty to principle; nay, more, directly from the ambition of aspirants for place and power. This begets personal strife, prompted by jealousy and envy, and hate. These are amongst the strongest, as well as the worst passions of human nature. They are not confined to humanity; even in Heaven (it is said) they once exhibited their power and fury. If there they made devils of angels, what may we not expect them to make of men on earth? The good, the virtuous, and the wise, may look on and lament. Sometimes wise counsels may arrest and prevent most mischievous consequences, at others they are as impotent as chaff to stay the force of a storm. What influence had La Fayette's sage admonitions on the passions of the frenzied populace of France, aroused and led on by demagogues? I need not indulge, however, any longer in this strain.

To come to particulars. I assure you I am pained and grieved at what was done at Baltimore. The Charleston Rupture was bad enough, but that at Baltimore was much worse. What the friends of Mr. Douglas meant by pressing his nomination in the face of the secession of Tennessee, Kentucky, and Virginia, to say nothing of other States, I cannot imagine. As I view the field, he has no probable chance of election. Why they should put him up to be beaten is strange to me. I cannot understand it. They certainly have not as much regard for his noble spirit, great talents, and merits as I have. Madness and folly seem to have ruled the hour. The only use or public benefit his running can be, it seems to me, is for him to carry enough Northern Electoral votes to defeat Mr. Lincoln before the people, and to throw the election into the House, where his Party rival, Mr. Breckenridge, may make him a stepping-stone in his elevation to power and place. In this way he may possibly, by his back and shoulders, enable Mr. Breckenridge to succeed in his election, and benefit the country by the defeat of Mr. Lincoln. But what honor this will be to Mr. Douglas I think it would be difficult for his friends to show. If this position had been *necessary* for any one, I would have assigned it to some other—some one who could, and would have rendered the country great public service, and at the same time might have been gaining and not losing public reputation himself. Again, his friends, it seems to me, must have known that his nomination, made under the circumstances that it was, could not have the power of keeping the National Organization together. It was virtually a rupture of it. The usages of the Party and its constitution, it will be said, (however the facts may be,) were violated in putting him forth as its nominee, without the concurrence of two-thirds of the Electoral votes. This will effectually produce general demoralization.

The consequence is, we are and shall be, during the whole canvass.

entirely at sea. No one will be looked to as the regularly appointed standard-bearer of the flag of the National Organization. The rupture is complete, and may be final. How that will be, the future must determine. This election, at best, can but be a scrub race between the Democratic candidates. The National Democratic Party is in the position of the old Republican Party in 1824. The same fate may be in reserve for it. That never was again re-organized, though another National Organization did spring up out of the fragments and dissolving elements of old organizations, which was sufficient, under Providence, to save our Institutions; and so it may be again.

It is consoling to the patriot at least to indulge in the hope that such may be the case. But that the South will ever get an Act of Congress protecting slave property in the Territories, I have no idea. That those who now insist upon such an article in a National Party creed ever expect to see such an Act passed, I have no idea. For many of them say that they would not vote for such a law. And that such a law would never be of the least advantage to the South, I am well satisfied. Hence, I was, and am clear in my conviction that it was not only not patriotic, but exceedingly unwise and mischievous to insist upon such an interpolation on the old National Party Platform, and particularly at this juncture. But I will not confine my remarks to this juncture; for I verily believe that *Non-Intervention* by Congress with Slavery in the Territories, is a proper and safe doctrine at all times. For this reason I acquiesced in it, when and as I did. Had the Party at this time continued to stand on it with Mr. Douglas, they would have carried the country by an overwhelming majority, and would have annihilated the "Black Republican Organization," as it is called, for all time to come. This is my opinion. As matters now stand, this great result is put almost upon the chances of the turning of a die. If Douglas can carry enough Northern States to defeat Lincoln's election in the Electoral Colleges, the contest will then come up in the House; when, if the South unite with California and Oregon, Lincoln may be defeated.

But the seat of the Democratic member from Oregon (Mr. Stout) is now contested, and I have no doubt a majority in the present House will vote him out, in case the election for President shall go before that body. Then there is great danger that a strife will arise between the friends of Bell and Breckenridge, in case they both be on the list of the three highest voted for by the Colleges. In that event, there will be no hope but in staving off the election until the 4th of March, when the Senate will have to make the choice under the Constitution. But in all these chances, in view of the passions and prejudices of bad men, aiming at rule and power, who does not see in advance the imminent danger at every turn, of some outbreak that may lead to revolution? Have we not fallen upon evil times, when so much has been hazarded to accom-

plish no object higher or worthier than the gratification of personal envy, hate, revenge, and ambition? The prospect is gloomy enough, but, my dear sir, I do not despair of the Republic; though I do not at this time see in what way anything I can do or say would be of the least benefit, yet I am not without hope that deliverance in some way is in store for us. As to whether a Douglas ticket should be run in Georgia, I can give no advice either for or against it. What those Southern States—Alabama and Louisana—which voted for Mr. Douglas at Baltimore, as they did, meant by their course, or what they expected to accomplish by it, I do not know. I have received no explanations. What Governor Johnson expects to accomplish, I do not know. I have heard nothing from any of them. I see the editor of the *Constitutionalist* speaks as if he thinks the South will go for Douglas. To me, this seems little short of utter dementation. Still I may be mistaken. I only speak to you my individual opinions, formed from observations such as I can make in my quiet retreat, without mingling at all with the outside world, except through the medium of the public press. Had Douglas been nominated at Charleston (even after the Secession took place), he would have carried the South against a Richmond nomination. But at present it is impossible. The Baltimore Convention, instead of stopping the break in the levee, only made it deeper and wider. It is now, in my judgment, entirely beyond control. Nothing but a subsidence of the waters will ever arrest it. I think, moreover, that the declination of Fitzpatrick, and the general enthusiasm for Breckinridge and Lane in the South, will greatly damage Douglas in the North, if it does not entirely break him down there. As the prospect of his election diminishes, as it will very soon, even with those who were foolish enough to put him up as they did—thousands will abandon him to get on the winning side. Some from spite, and some from personal motives, so that in the end I should not be greatly surprised to see Lincoln elected by the people. In this state of things, so far as I am concerned, I am satisfied that the best course I can take is, to leave the whole matter with those who have undertaken the management of the crisis. Should it turn out well, no one will be more rejoiced than myself. Should it turn out badly, while I shall feel relieved of all personal responsibility—should I be in life—I shall endeavor to do whatever the dictates of patriotism may point out, whenever an occasion shall arise, when I see any prospect for doing good. At this time, I repeat, I see none. I expect, therefore, in this contest, to be perfectly silent. I see no good to be accomplished by any word that I can say. The popular fever must run its course. I do not wish any one to be influenced by my views, one way or the other. Every one should act from the dictates of his own judgment. If the "worst comes," and we shall be precipitated into disunion, even by what I deem unwise counsels, which is not at all improbable, I shall yield to that misfortune as to all others. My

destiny is with Georgia; whatever awaits her people, awaits me, so long as I live. Whatever errors her people or her rulers commit in controlling the common destiny of all of us, I shall endeavor to bear my share of the consequences of them with that patriotism which prompts a loyal heart to go for his country, right or wrong. At present, my patriotism embraces the whole country, North and South, and I have spent the best of my days in promoting the Union, harmony, peace, rights, interests, and happiness of the whole. But if for any cause a division takes place, then Georgia will be my country; her people will be my people, and their cause will be my cause! I do trust that this division will not take place. I see no necessity for it. Still it may come. And if it does, my judgment as to the necessity of the thing, or the propriety of the course of our public men, that may induce it and hasten it, will not influence my action when the great fact is upon us.

Excuse this long letter. It is written, as you see from its date, on Sunday. I give it to you as a sort of pious offering, not altogether unsuited to the sacredness of the day. There are occasions when attention to bodily suffering of ourselves or our friends, as well as personal cares, are not thought to be out of place on this day. Even Christ, after ministering in this way on that day, asked those about him, "Which of you shall have an ass, or an ox fall into a pit, and will not straightway pull him out on the Sabbath day?" The illustration is good to the extent that good may be performed on Sunday. And with a consciousness that what I have said or written has been prompted by no motive, but the public good, which concerns us all so deeply, I have no further apology to offer you for this deed on the Sabbath, though I make no attempt to get the country out of its difficulties, for I see no way to do it.

In reply to your inquiries after my health, I have to say that it is very feeble indeed. I am barely able to be up. I have quit all professional labors. I suffer from extreme debility, accompanied with vertigo. The cause or nature of the malady I do not understand. When I was at Athens, attending the Supreme Court, I consulted Dr. Moore, who thought it was brought on by exposure to the sun. I had been very much thus exposed on my farm, during the hot days in May, just before the first attack. I am on no treatment or régime, except rest and quiet.

To your other inquiry about our National flag, all I can say is, that the designer of the present flag was Captain Reid, of the privateer brig, General Armstrong, in the war with England, in 1812. The dates and particulars I cannot give, or wherein the device of the present flag differs from the old one. The full history of the stars and stripes I expect would be entertaining if not useful. The Stars, as a matter of course, represent States. The origin of the Stripes, I think, if searched out would be found to be a little curious. All I know upon that point is, that on the 4th day of July, 1776, after the Declaration of Independence

was carried, a Committee was appointed by Congress, consisting of Mr. Jefferson, Dr. Franklin, and John Adams to prepare a *device* for a *Seal* of the United States. Each member of the Committee prepared a device, and then they combined something of the ideas of each in one they reported. Mr. Jefferson was to combine their ideas. The seal he thus reported had on one side of it the Goddess of Liberty and the Goddess of Justice, supporting a *shield* with six quarterings, denoting the six countries from which the Colonies had mainly been peopled, to wit: England, Scotland, Ireland, France, Germany, and Holland. The motto on this seal was "*E pluribus unum.*" This seal, as reported, or the *device* in full as reported, was never adopted. But in it we see the emblems in part, which are still preserved in the flag.

The stripes or lines, which on Mr. Jefferson's original plan were to designate the six quarterings of the shield, as signs of the six countries from which our ancestors came, are now, I believe, considered as representations of the old thirteen States, and with most persons the idea of a shield is lost sight of. You perceive, that by drawing six lines or stripes on a shield figure it will leave seven spaces of the original color, and of course give thirteen apparent stripes; hence the idea of their being all intended to represent the old thirteen States. My opinion is, that this was the origin of the stripes. Mr. Jefferson's quartered shield for a seal device was seized upon as a national emblem that was put upon the flag. We now have the stars as well as the stripes. When each of these were adopted I cannot say; but the flag, as it now is, was designed by Captain Reid, as I tell you, and adopted by Congress. The first one with his device, which Congress adopted, was put over the Capitol. It was made by the wife and daughters of Captain Reid.

Please remember me to Miss Grattan and to Mrs. Gilmer—to both give my kind regards. And though this letter is written entirely and exclusively for yourself, and not for the public, in any sense of the word, yet I have no objection to your reading it to Mrs. Gilmer if you think proper. In it she will but hear repeated several thoughts and opinions she heard from me last fall, on a memorable occasion. It was the last night Mr. Gilmer ever sat up and talked with his friends, a conversation I shall never forget, for the strong faith and confidence he then expressed, in the ultimate virtue and intelligence of the people to arrest the evil tendencies of the times, greatly strengthened my own hopes, weaker then than now. What has occurred since has not disappointed me at all. It has not even surprised me. I was expecting it, and am now expecting a much worse state of things before any wholesome reaction takes place, if it ever does.

I must repeat to you, that what I have said is not for public use in any sense. I do not wish your own action to be governed in the least by that line which I think proper to take myself. Do as you think best. Present my kind regards to Mrs. Landrum and accept for both of you

my best wishes for all the happiness this world can bestow, as well as that in a life to come, which is in reserve for the virtuous and the good.

Yours truly,

ALEXANDER H. STEPHENS.

DR. Z. P. LANDRUM, LEXINGTON, GA.

E.

SPEECH OF ALEXANDER H. STEPHENS, FAVORING THE ELECTION OF MESSRS. DOUGLAS AND JOHNSON AS PRESIDENT AND VICE-PRESIDENT, DELIVERED IN THE CITY HALL PARK, AUGUSTA, GA., SEPTEMBER 1, 1860.

FELLOW-CITIZENS :—I appear before you in obedience to a call made on me by those whose call could not be refused. The sacrifice of personal feelings or wishes, on such occasions, is not to be taken into the account. If it were, I assure you I should not be here. I had hoped never again to be drawn into the active struggles, the strifes, and excitements of politics. The address I made on the 2d of July, of last year, near this spot, on taking leave of you, and this District, as Representative in Congress, I intended to be the last speech of the kind I should ever make. I trusted that in no event, or under any circumstances, should I ever be called on again to mingle in public affairs. All the questions with which I had been connected in the public councils having been settled upon terms satisfactory to us—upon terms thought to be just and honorable to all sections of the Union—it was but natural to look upon that settlement as permanent, and to indulge the hope of a happy and prosperous future for the country. But how illusory are all our hopes! How changed the prospect before us now from what it was twelve months ago! Then everything was encouraging to the heart of the patriot—would that I could say the same now. Those agitating questions, then thought to be settled, have been opened up afresh, and all that was done in their settlement is attempted to be undone. You ask me what I think of the present state of the country? I told you, in the speech alluded to, that the peace and safety of the country, in my judgment, depended upon an adherence to the principles of the settlement of those questions then made. I tell you the same now. I tell you candidly and frankly that the signs of the times, as I read them, portend evils of the gravest magnitude. There is an attempt made to depart from the principles of that settlement.

At this time, and for some months past, the tendencies have been decidedly toward National disruption, and general anarchy. This conviction is beginning to force itself upon the minds of all. Can these ten-

dencies be checked? Can the threatened disasters be avoided or prevented? If so, how, and in what way? What course should the patriot, looking only to the public good, public peace, welfare, and safety, take in the complicated contest before us? These are questions which now crowd upon our consideration. On them I propose to address you to-night. They present a wide field for thought and reflection—abounding in subjects of deepest interest and gravest import. I can only touch upon a few of them. My physical strength will not allow me to attempt more, if, indeed, it will sustain me in the limited view I have marked out for myself. I assume, in the outset, that the Government, as it exists, is worth preserving; nay, more, with all its errors and defects, with all its corruptions in administration, and short-comings of its officers, it is the best Government on earth, and ought to be sustained, if it can be, on the principles upon which it was founded.

First, then, as to the duty of Democrats in the approaching Presidential election; for to that Party I specially address myself. The choice of Chief Magistrate is the now pressing and absorbing issue. Greater and more momentous issues may be behind; but I wish not to lift the curtain of the future, it is with the present we now deal. For whom should Democrats vote? There are two tickets in the field claiming to be Democratic; which one is entitled to and should receive the votes of the Democrats? To this I answer, that, in my judgment, the National ticket, bearing the names of Douglas and Johnson, is the one entitled to Democratic support.

The nominees on this ticket are the representatives of the Party, put forth according to the usages of the Party, and are the representatives of the long-established principles of the Party. Nay, more, they are the representatives of the only principles upon which, in my judgment, the Union of the States, and the rights of all sections, can be maintained. For this reason I would urge this ticket, not only upon all Democrats, but upon all well-wishers of their country, whether called Democrats, Whigs, or Americans. Allow me briefly to notice some of the prominent objections urged against this ticket by the partisans and friends of the other ticket claiming to be the true Democratic Party.

These relate to the manner of the nomination, the principles of the Platform, and especially to certain opinions of Mr. Douglas, whose name heads the ticket.

First, as to the manner of the nomination. It is said he failed to get two-thirds of the votes in the Convention—that by Democratic usage from 1832 down, no candidate could be nominated without a two-third vote.

I would not notice this point, if so much stress had not been put upon it by those who advocate the other ticket. Not only in the press, but in the speeches of leading men, and in the address to the public, put forth by the Seceders Convention's Executive Committee, this point is

made prominent, and urged as one of the main reasons why Democrats should feel under no Party obligation to support the ticket of the regularly constituted Democratic Convention. In my judgment, Mr. Douglas did receive two-thirds of the votes of the Convention, according to the usages of the Party, and according to the proper construction of what is known as the two-third rule.

It is immaterial to me whether he received the nomination according to the interpretation or construction of that rule at Charleston or not. I mean the construction that the nominees should receive two-thirds of all the Electoral votes. That construction was wrong. It was an interpolation. It was inconsistent with the clear meaning—the letter, as well as the spirit—of the rule. The letter of the rule in most, if not all the Conventions from 1832, running through 1836, 1840, 1844, 1848, 1852, and 1856, was that the nominees should receive two-thirds of all the votes cast or given in the Convention. It is immaterial whether, in point of fact, in all other Conventions, the nominees did actually receive two-thirds of the entire Electoral vote or not—there never was before such a secession as was at Charleston and Baltimore; the question is what is the right construction of the rule requiring two-thirds of the votes of the Convention to make a nomination, and when will its requisition be complied with? This principle of a two-third vote is well understood in the Parliamentary law of the country. It is fixed in the Constitution of the United States, and in the Constitution of our own State, perhaps of most of the States of the Union. It is a principle often carried into practical operation in Congress, and in our State Legislatures. For instance, in the Constitution of the United States, Article First, Section Seven, and clause two, we have this provision:

"Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; If he approve, he shall sign it; but if not, he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, *two-thirds of that House* shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law."

Now, what has been the universal construction given to the words "*two-thirds of that House*" in practical legislation? Has it been that it required two-thirds of all the members constituting the House and Senate to pass a bill over the veto of the President? Never! The construction given, from the beginning down to the present time, without an exception, was, and is, that two-thirds of those voting, in each House, may pass a bill over the Executive veto, though there be barely a quorum present and voting. Such has been the uniform con-

struction, not of this, but another clause, which authorized the expulsion of a member of either House, by a two-third vote—two-thirds of those voting, if there be a quorum, is all that is necessary for a compliance with that clause of the Constitution. So in our own State Constitution it is provided:

"That the Governor shall have the revision of all bills passed by both Houses, before they become laws, but two-thirds of both Houses may pass a law notwithstanding his dissent."

Under this clause of our State Constitution, the construction has been uniformly given. Two-thirds of those voting in each House, if a quorum be present, is all that is required. Again, in another article of our Constitution, we have a provision for its amendment, in these words:

"No part of this Constitution shall be altered, unless a bill for that purpose, specifying the alteration intended to be made, shall have been read three times in the House of Representatives and three times in the Senate, on three several days in each House, and agreed to by two-thirds of each House, respectively; and when any such bill shall be passed, in manner aforesaid, the same shall be published at least six months previous to the next ensuing election for members of the General Assembly, and if such alterations, or any of them so proposed, should be agreed to, in the first session thereafter, by two-thirds of each branch of the General Assembly, after the same shall have been read three times, on three separate days, in each respective House, then, and not otherwise, the same shall become a part of this Constitution."

Under this clause, two-thirds of each branch of the General Assembly has always been held to mean two-thirds of those voting on any proposed amendment—provided a quorum were present. Some of the most important amendments that have been made to the Constitution, since its first adoption, were made by a much smaller number than two-thirds of the entire House, in either branch. The one establishing the Supreme Court was made by a vote not much over a majority in each House. If a Constitution can be thus amended—if this construction holds and obtains in all such cases, both Federal and State, why should it not be held in a similar rule, founded on similar principles in a Party Convention, especially as that Convention had adopted the rules of the House of Representatives of the United States, where always a two-third vote is held to be two-thirds of those voting on any question?

It is immaterial with me, then, whether Mr. Douglas got two hundred and twelve, or one hundred and ninety-six, or one hundred and eighty-one and a half, or one hundred and fifty-four, as has been variously contended; in either case he got two-thirds of those voting in the Convention, as it then stood—as it was then constituted. If there were but one hundred and ninety-six members present when he got one hundred and eighty-one and a half, he got two-thirds of the body, according

to all our Parliamentary rules of construction. And if the Alabama and Louisiana delegates, who voted for him, be counted out, and after reducing his vote to one hundred and fifty-four, as is contended by some, the Convention having but one hundred and ninety-six in it, still he had two-thirds, according to the same rule or principle of construction which would authorize a bill to be passed over an Executive veto, or cause any change to be made in the fundamental law of our own State. I therefore consider him the regularly nominated candidate of the Democratic Party, and as such entitled to the support of his Party.

No other rule of construction can be practically worked. How would it be with Breckinridge and Lane, who are claimed to be the representatives of the National Democratic Party? In the Convention that nominated them, the same two-thirds rule, if I am not mistaken, was adopted—the old rule of the Party, I mean, and not the construction put upon it at Charleston, for with that construction they never could have made a nomination. Their Convention consisted of but one hundred and five Electoral votes—very little over *one-third*, all told, of the Electoral vote of the Union—so that if the same construction had been put upon it in that Convention, which is insisted should be in the other, they never could have nominated anybody—if they had balloted until doomsday. Then let no man abandon his Party on the ground that the candidate was not regularly nominated. So much for this point. I pass to another objection.

This, in the order, relates to the Platform. The Platform, it is said, is not sound—it is not National—it does not sustain the rights of the South. And what is the Platform adopted? I need not read it—it is known to you all. It is the well-known Platform of the Party based upon the doctrine of *Non-Intervention* by Congress with Slavery in the States or Territories, as set forth at Cincinnati in 1856, with an additional resolution, affirming the decision of the Supreme Court, in the Dred Scott case. Was not this all that our State Convention had asked? Was not this Platform, even without the additional resolution, sound enough in 1856? Was it not broad enough, and strong enough, for the Democracy of the whole Union then? And if so then, why not now? Do principles change so soon? Has anything occurred since, requiring any new tests? If so, when, and where, and what? Did not Northern friends fail to adhere to it? Did they not rather renew their pledge to it, with the additional demand, as to the Dred Scott decision, made by our State Convention last December?

If, then, this Platform of principles was sufficient to guard and protect our rights, and interest, and honor, in 1856, why is it not in 1860, especially with the additional guarantee given? This question I propound to all candid and reflecting minds. It is one that the country expects an answer to, by those who left the Convention because of the principles adopted, and whose secession has produced the strifes and

divisions that now pervade the land. The only answer to it I have yet seen has been given by a Committee of the Seceding Delegation from this State. It is in their address, assigning the reasons for their course. It will be recollected that though they quit the Convention at Charleston, yet by great efforts made, were by urgent solicitation re-appointed to Baltimore, via. Richmond. But they did not enter the Convention at Baltimore, after they got there, and for not doing so gave these reasons:

"That we are blameless in this matter, seems too plain to admit of a doubt. We could not enter a Convention, as a favor, at the sacrifice of principle, and of the honor and Sovereignty of our State. Nor have our demands been exorbitant or exacting. We have simply asked for protection for our property from the Government which demands our allegiance. These seem to us to be co-relative duties—allegiance to Government in return for protection to life, liberty, and property. It appears to us unnecessary to argue the question, for the absolute right of protection to property by the Government, in all its branches, is undenied by any man of any Party. But the application of this to our slaves, in the Territories, is denied, and refused upon the untenable and fanatical ground that property is not recognized in slaves."

This is signed by three gentlemen who stand high in the estimation of the public. The statement seems to imply, if it means anything, that the Convention to which they had been sent had refused to recognize a universally admitted principle of right, "upon the untenable and fanatical ground that property is not recognized in slaves." I have nothing to say against the character of these gentlemen. One of them is the Speaker of the House of Representatives of your State Legislature —another a gentleman of position in Savannah, and another an editor with high personal standing in Albany. But I do say that I think it would be a difficult task for them to sustain this statement by proof. What action of the Convention justifies it? What part of the Platform adopted declares that "property is denied in slaves?" Nay, more, what member of the Convention, who refused their demand, holds any such "untenable and fanatical" opinions? Not one, I venture to affirm. Then why was this statement made? They must answer who gave it as the best reason they had why they should be held blameless for the manner in which they performed the great public trust committed to their charge. Seeing no evidence of any such fanatical sentiment in the action of the Convention, or on the part of any member of it; having been satisfied with the Platform in 1856, and seeing no good reason to change my opinion in relation to it, I am therefore satisfied with it still. It was, in my judgment, good then, and good now, and will be good for all time to come. In its own language, it contains the only wise and safe solution of those sectional questions which have so often fearfully threatened the peace of the Union, and which may yet

be its destruction, if the principles therein set forth be departed from. So much, therefore, for the objection to the Platform.

I come now to the man. Here, I doubt not, lies the chief one of all the objections. We should have had no secession, no complaint about the want of a two-third vote, no objection to the Platform, had any other man been the decided choice of the Convention, but Mr. Douglas. The secession was not from principle; not from the manner of voting; but from the man whose strength, in the Convention, was far ahead of any of his competitors for the nomination.

Let us, then, examine the objections to him. That he is a man of great ability, all admit. His integrity and purity of character none assail. That he was the favorite of the Convention, no one can deny. Whether he really had a majority, or not, as a first choice, no one will pretend but what he had at least three times as many, as a first choice, as any other man before the Convention. Then, what are the objections to him, which are sought to justify the rupture of the Party because of his nomination?

The sum and substance of their objections, as I understand them, amount to this, and this only, that he refuses to declare it to be the duty of Congress to do what his assailants say they will not do themselves. They say it is the duty of Congress to protect Slavery in the Territories, and yet say that they will never discharge this duty by voting for any such law. He refuses to make any such declaration of duty never to be performed. This is about the whole difference between him and his assailants, for all practical purposes, so far as the question of protection is concerned, about which we hear so much. He says, he does not believe it to be his duty to do a certain thing, and therefore will not do it. They say they believe it to be their duty to do the same thing, but without a therefore or a wherefore say they will not do it.

This seems to me, I repeat, to be the sum and substance of the objections to Mr. Douglas's peculiar views upon the Territorial policy of the country; for it is a matter of very little importance, none, practically, whatever, whether the people of a Territory have a right to protect or exclude slave property, or whether it is the duty of Congress to pass laws to protect it in the Territories, if their Legislatures refuse to protect or adopt unfriendly legislation, if this duty on the part of Congress is never to be performed—and that is my understanding of the position of the Protectionists.

But it is said that Mr. Douglas entertains views and doctrines inconsistent with the equal rights of the South—that, according to his doctrine, slave property in the Territories does not stand upon the same footing with other property. This is the substance of the objection, as I have met with it; and, if it be well founded, it is a good one. I should never advocate the election of any man to the Presidency, who denied the

equality of States, and the equality of rights of the citizens of all the States, both as to person and property in the public Territories.

My position on this subject is so well and fully set forth, in what is known as the Minority Report, at the last June Convention of the Democratic Party at Milledgeville, I will read two of those resolutions.

"*Resolved*, That we reaffirm the Cincinnati Platform, with the following additional propositions:

"1st. That the citizens of the United States have an equal right to settle with their property, of any kind, in the organized Territories of the United States, and that under the decision of the Supreme Court of the United States, in the case of Dred Scott, which we recognize as the correct exposition of the Constitution in this particular, slave property stands upon the same footing as all other descriptions of property, and that neither the General Government, nor any Territorial Government can destroy or impair the right to slave property in the common Territories, any more than the right to any other description of property; that property of all kinds, slaves as well as any other species of property, in the Territories, stands upon the same equal and broad Constitutional basis, and subject to like principles of recognition and protection in the Legislative, Judicial, and Executive Departments of the Government.

"2d. That we will support the man who may be nominated by the Baltimore Convention for the Presidency who holds the principles set forth in the foregoing proposition, and who will give them his indorsement; and that we will not hold ourselves bound to support any man who may be the nominee who entertains principles inconsistent with those set forth in the above propositions, or who denies that slave property in the Territories does stand on an equal footing and on the same Constitutional basis of other descriptions of property."

These resolutions were offered in that Convention by Hon. H. V. Johnson, our candidate for the Vice Presidency. They, in my judgment, set forth true, correct, and sound doctrines, and upon them I stand to-night.

To my amazement, I see the Executive Committee of the Seceding Convention at Baltimore have published these resolutions, with a view to show that Gov. Johnson, standing on them, could not support Mr. Douglas. They virtually admit that the principles set forth in them are right, and say, that according to the second resolution offered by Mr. Johnson, before the Georgia Convention, we stand pledged not to support, or vote for Mr. Douglas.

Let us see whether they or I am mistaken. Let us see what Mr. Douglas's views upon this subject are. Let him speak for himself. He has spoken often, repeatedly. He is upon the record; and I shall now read his position from the record. Here is what he said in the Senate, on the 23d February, 1859, in a discussion with Mr. Brown, of Missis-

sippi, on this very subject. I read from the *Congressional Globe.* Hear what Mr. Douglas himself says, as to his position:

"We," that is, he and Senator Brown, who goes for Congressional protection, "agree that, under the decision of the Supreme Court of the United States, slaves are property, standing on an equal footing with all other property; and that, consequently, the owner of a slave has the same right to emigrate to a Territory and carry his slave property with him, as the owner of any other species of property has to move there and carry his property with him.

"MR. DOOLITTLE. Will the honorable Senator allow me——

"MR. DOUGLAS. I am replying to the Senator from Mississippi now, and would prefer, therefore, to go on.

"MR. DOOLITTLE. I wish to put a question to the honorable Senator from Illinois on that point.

"MR. DOUGLAS. I desire to deal with this point now. At another time the Senator can present his point. The right of transit to and from the Territories is the same for one species of property as it is for all others. Thus far, the Senator from Mississippi and myself agree that slave property in the Territories stands on an equal footing with every other species of property. Now, the question arises, to what extent is property, slaves included, subject to the local law of the Territory? Whatever power the Territorial Legislature has over other species of property, extends, in my judgment, to the same extent, and in like manner, to the slave property. The Territorial Legislature has the same power to legislate in respect to slaves that it has in regard to any other property to the same extent, and no further. If the Senator wishes to know what power it has over slaves in the Territories, I answer, let him tell me what power it has to legislate over every other species of property, either by encouragment or by taxation, or in any other mode, and he has my answer in regard to slave property.

"But the Senator says that there is something peculiar in slave property, requiring further protection than other species of property. If so, it is the misfortune of those who own that species of property. He tells us that if the Territorial Legislature fails to pass a slave-code for the Territories, fails to pass police regulations to protect slave property, the absence of such legislation practically excludes slave property, as effectually as a Constitutional prohibition would exclude it. I agree to that proposition. He says, furthermore, that it is competent for the Territorial Legislature, by the exercise of the taxing power, and other functions within the limits of the Constitution, to adopt unfriendly legislation, which practically drives slavery out of the Territories. I agree to that proposition. That is just what I said, and all I said, and just what I meant, by my Freeport speech, in Illinois, upon which there has been so much comment throughout the country.

"But, the Senator says that while non-action by the Territorial

Legislature excludes Slavery; and while the Territorial Legislature may, within the limits of the Federal Constitution, adopt such a system of unfriendly legislation, as, in effect to exclude Slavery from its limits, yet it is wrong for the Legislature to pursue that policy; and, because the Territorial Legislature ought not to adopt that line of policy, he will not be content with such legislation, but will appeal to Congress and demand a Congressional code of laws protecting Slavery in the Territories, in opposition to the wishes of the people. Well, sir, his conclusion is a logical one, unless my position is right. All men must agree that non-action by the Territorial Legislature is practical exclusion. If the people of a Territory want Slavery, they will protect it by a Slave-code. If they do not want Slavery—if they believe it is not necessary—if they are of opinion that their interests do not require it, or will be prejudiced by it, they will not furnish the necessary remedies and police regulations, usually called a Slave-code for its protection."—(*Congressional Globe*, p. 1,244, *Part Second*, Feb. 23, 1859.)

From this, it clearly appears that Mr. Douglas does recognize property in slaves, and that, in his opinion, this species of property in the Territories stands upon the same broad Constitutional basis of right and equality as all other kinds of property—and, because it is property, he contends that it is, like all other kinds of property, a rightful subject of legislation by the law-making power in the Territory—no more and no less.

But hear him further, in the same speech:

"Mr. Green. Will the Senator permit me to ask him a single question?

"Mr. Douglas. Certainly.

"Mr. Green. If a law, merely providing protection, is to be called a slave-code, then I ask, if larceny, in general terms, were punished by the Territorial law, and the Legislature should except the larceny of slaves, would he say he would submit to that, at the option of the Legislature?

"Mr Douglas. It is immaterial to me, whether you call this legislation a slave-code or by any other name. I will call it by any name the Senate chooses. I wish it to be understood, however, and to use such language as conveys the idea. I take the language of the Senator from Mississippi, if that is satisfactory. All I have to say, on the point presented by the Senator from Missouri, is this: While our Constitution does not provide remedies for stealing negroes, it does not provide remedies for stealing dry goods, or horses, or any other species of property. You cannot protect any-property in the Territories, without laws furnishing remedies for its violation, and penalties for its abuse. Nobody pretends that you are going to pass laws of Congress making a criminal code for the Territories with reference to other species of property.

"The Congress of the United States never yet passed an Act creating

a criminal code for any organized Territory. It simply organizes the Territory, and leaves its Legislature to make its own criminal code. Congress never passed a law to protect any species of property in the organized Territories; it leaves its protection in the Territorial Legislatures. The question is whether we shall make an exception as to Slavery. The Supreme Court makes no such distinction. It recognizes slaves as property. When they are taken to a Territory, they are on an equal footing with other property, and dependent upon the same system of legislation for protection as other property. While all other property is dependent on the Territorial legislation for protection, I hold that slave-property must look to the same authority for its protection."

And further on, in the same speech, he uses this language—in reply to another inquiry from Senator Brown:

"MR. DOUGLAS. I am ready to answer any inquiry of the Senator from Mississippi, whether, if I believe the Maine Liquor Law to be unconstitutional and wrong, and if a Territorial Legislature should pass it, I would vote here to annul? I tell him no.

"If the people of Kansas want a Maine Liquor Law, let them have it. If they do not want it, and any citizen thinks that law violates the Constitution, let him make a case, and appeal to the Supreme Court. If the Court sustains his objection, the law is void. If it overrules the objection, the decision must stand until the people, who alone are to be affected by it, may choose to repeal it. So I say with reference to Slavery. Let the Territorial Legislature pass just such laws in regard to Slavery as they think they have a right to enact under the Constitution of the United States. If I do not like those laws, I will not vote to repeal them: but anybody aggrieved may appeal to the Supreme Court, and if they are constitutional, they must stand; and if they are unconstitutional, they are void. That was the doctrine of Non-Intervention, as it was understood at the time the Kansas-Nebraska bill was passed. That is the way it was explained and argued in the Senate and in the House of Representatives, and before the country. It was distinctly understood that Congress was never to intervene for or against Slavery, or for or against any other Institution in the Territories, but leave the Courts to decide all Constitutional questions as they might arise, and the President to carry the decrees of the Court into effect; and, in case of resistance to his authority in executing the judicial process, let him use, if necessary, the whole military force of the country, as provided by existing laws."

In these extracts is a full and clear exposition of those views of Mr. Douglas, which have been so fiercely denounced. I have read them to you at large, that you may judge for yourselves whether they put that kind of property upon any other basis in the Territories than all other kinds of property; whether all, in his view, does not stand on the same

equal Constitutional footing. In these views you also have a clear exposition of *Non-Intervention* or *Non-Action*, as Mr. Calhoun called it, on the part of Congress. The whole subject of Slavery in the Territories was to be left to the people, subject to no limitation or restriction but the Constitution of the United States. If the Territorial Legislature passed any law infringing upon the rights of the slave-holder, or the rights of any person holding other kinds of property, either by taxation or any other kind of law, the subject was to be left to the Courts, with an appeal to the Supreme Court, but not to Congress. Property of all kinds was put upon the same footing. And so far from Mr. Douglas warring against the decision of the Supreme Court, as is alleged in the last extract read, it appears that he stands pledged to the execution of the judicial process, whatever it may be, in any case, with the whole military force of the country.

The question I am now presenting is not what his opinions are as to the extent of the power of the Territorial Legislatures over slaves or other property, but that he puts all upon the same footing, and that they have no more power over rights to slaves than over other kinds of rights of person and property. Their powers over all rightful subjects of legislation, under the Constitution, are the same, and to be left to the Courts and not to Congress. If he ever uttered a sentiment different from those now presented on this subject, in the many speeches he has made upon it in the Senate, or on the stump, I have never met with it. The other day at Saratoga, in New York, he used this language :—

"I believe in the equality of the States, and in the equal rights of the citizens of all the States in the Territories of the United States. Whatever rights the citizens of any State may enjoy in the Territories pertain alike to the citizens of all the States, and on whatever terms the citizen of any State may move into the Territories with his property, the citizen of every other State may go and carry his property, and enjoy the same under the protection of the law."

If the Territorial Legislatures pass unconstitutional laws in relation to slave property, or any other kind of property, all alike are to be left to the Courts and not to Congress. In the Judicial, Executive, and Legislative Departments of a Territorial Government, slaves stand upon the same principles of recognition as other property under the Constitution of the United States, and entitled to protection on the same principles as other property.

All rights of persons and property of every kind stand upon the same footing. When we advance a step further, and inquire how far a Territorial Legislature may constitutionally impair the right or usefulness of any kind of property, by any system of laws they may enact, a new question arises. On this I differ with Mr. Douglas. It is not, however, a point involving, in my judgment, either our equality in the Union, our honor as a people, or any principle essential to our security or future

safety. It is a matter affecting alone the private rights of those who go into the Territories. This difference of opinion between him and those who take the same view of it as I do, it is agreed on both sides, are to be determined by the highest judicial tribunal in the land.

By some it is contended that this point has already been decided by the Supreme Court in the Dred Scott case. If so, then there is an end of the question. For he has again and again indorsed every principle decided in that case; and all that is necessary is for the Executive to see that the decision is carried into effect by the whole military force of the country, if need be.

But fellow-citizens, there is nothing that men, and even lawyers, and learned lawyers, differ more widely about than upon the principles embraced in a judicial question. So it is in this case. I am not going into an argument upon its merits; suffice it to say that, in my judgment, principles were decided in that case that would control those involved in a case arising under such a Territorial law. But until such a case does arise, it cannot be definitely and judicially settled. He and others who indorse every word of the Dred Scot decision believe, and I have no doubt, honestly believe, that the principle decided in that case would not control a case arising under a law that might be passed by a Territorial Legislature.

I have been asked informally two questions, which I will here answer.

The first is: How, differing from Mr. Douglas on this point, as I do, I can give him my support?

I answer, because I look upon the matter as involving no principle of any vital importance.

Practically, it amounts to nothing. With Mr. Douglas's view, Slavery will go wherever the people want it, and no law of Congress or a Territorial Legislature will every carry it where they do not want it. Under the operation of his principles, whether right or wrong, our right of expansion to the utmost limit of capacity and population is complete; on the question, therefore, of the right or power of the people of an organized Territory through their Territorial Legislature, either directly or indirectly, to exclude Slavery while in a Territorial condition, and before they come to form a State Constitution, I stand where Burke, one of the greatest statesmen that England or any other country ever produced, stood upon the same question of the right or power of the British Parliament to tax the Colonies. That was a question upon which great and learned men differed, and so is this; and on this, I say to you to-night, what he said on the other in the House of Commons:

"Sir, I think you must perceive that I am resolved this day to have nothing to do with the question of the right of taxation. Some gentlemen startle, but it is true. I put it totally out of the question. It is less than nothing in my consideration. I do not wonder, nor will you, sir, in that gentleman of profound learning are fond of displaying it on

this profound subject. But my consideration is narrow, confined, and wholly limited to the policy of the question. I do not examine whether the giving away a man's money be a power accepted and reserved out of the general trust of Government, and how far all mankind, in all forms of polity, are entitled to an exercise of that right by the charter of nature ; or whether, on the contrary, a right of taxation is necessarily involved in the great principle of legislation, and inseparable from the ordinary supreme power. These are deep questions, where great names militate against each other, where reason is perplexed, and an appeal to authorities only quicken confusion. For high and revered authorities lift up their heads on both sides, and there is no sure footing in the middle. This point is the great "Serbonian bog betwixt Damatia and Mount Cassius old, where armies whole have sunk."

Whether the people of a Territory have this right or not, under the Constitution, and whatever may be the decision of the Supreme Court on it, I am perfectly willing for them to exercise it. If they have not got it "*ex debito justitia*," I would, if I could, give it to them "*ex gratia.*" If they have not got it as matter of right, being one of the essential principles of Self-government under our system, as many high authorities believe they have, I would, if I could, grant it to them as matter of favor. This is no new position with me ; it is but a repetition of what I said in the House of Representatives on this subject on the 17th of January, 1856 ; that was before the decision of the Supreme Court. But my opinion as to the *policy* of the question in unchanged. Here is what I then said, and I feel no disposition to modify the sentiments now :—

"Now, sir, as I have stated, I voted for this bill leaving the whole matter to the people to settle for themselves, subject to no restriction or limitation but the Constitution. With this distinct understanding of its import and meaning, and with a determination that the existence of this power being disputed and doubted, it would be better and much more consistent with our old time Republican principles to let the people settle it than for Congress to do it. And, although my own opinion is that the people, under the limitations of the Constitution, have not the rightful power to exclude Slavery so long as they remain in a Territorial condition, yet I am willing that they may determine it for themselves, and when they please. I shall never negative any law they may pass, if it is the result of a fair legislative expression of the popular will. Never ! I am willing that the Territorial Legislature may act upon the subject when and how they may think proper. We got the Congressional restriction taken off.

"The Territories were made open and free for immigration and settlement by the people of all the States alike, with their property alike. No odious and unjust discrimination or exclusion against any class or portion ; and I am content that those who thus go there from all sections,

shall do in this matter as they please under their organic law. I wanted the question taken out of the halls of Federal Legislation. It has done nothing but disturb the public peace for thirty-five years or more. So long as Congress undertakes to manage it, it will continue to do nothing but stir up agitation and sectional strife. The people can dispose of it better than we can. Why not then, by common consent, drop it at once and forever? Why not you, gentlemen, around me, give up your so-called and so-miscalled Republican ideas of restoring the Missouri Restriction, and let the people in the far off Territories of Kansas and Nebraska look after their own condition, present and future, in their own way."

So much, then, for the first question asked me. I see nothing dangerous in these doctrines of Mr. Douglas to our Institutions—nothing at war in the least with the great fundamental principles of popular rights upon which the whole fabric of Self-government rests. I am perfectly willing for the pioneers of civilization who quit the old States for new homes in the west, to form and regulate their own domestic Institutions in their own way, and make all other laws according to their liking. It was in this way our fathers settled this goodly land, and made the wilderness to blossom as the rose. They were all "squatters," in the popular slang of the day. When they wanted slaves of the African race, they had them, and I am perfectly willing that their descendants, with emigrants from all the other States who colonize and settle our broad Territories, shall exercise the same rights of Self-government that they did. If these opinions make a man a "squatter sovereign," then I am one. Nicknames will never drive me from the maintenance of sound principles.

Having noticed the most prominent objections urged against supporting the National ticket, as I have seen them in the press, I come now, fellow-citizens, to some of the reasons why I give that ticket a warm and cordial support. The points wherein I differ from Mr. Douglas are small, compared with those wherein we agree. Upon all questions of Constitutional law he is a strict constructionist—of the straightest sect of the State Rights school. Upon our peculiar Institution, so far from being unsound, unsafe, or dangerous on all the essential principles upon which it rests, and its permanency depends, he is on the side of reason and truth. He holds that the Negro is of an inferior race—that he is not and cannot be a citizen of the United States—that he was not intended to be embraced in the Declaration of Independence—that subordination to the White race is his natural and normal condition—that his *status* in society is a question, not of moral right, but one of political and social economy; and that every State and organized Community have the right to fix and settle this *status* for themselves.

These are the great principles and truths upon which our system rests, and upon which it must depend on the fields of our battles with the

public opinion of the world. On this arena we have got to meet our opponents sooner or later. We live in an age of discussion—all questions of science and arts, morals and governments, must pass this ordeal. The Institution of African slavery amongst us cannot escape it. If it does not stand upon the immutable principles of nature, as I believe it does, it must go down, and ought to go down. And in the vindication of these great fundamental truths, relating to Negro inequality and his natural subordinate position, which lie at the foundation of our social fabric, no man, North or South, or in the world, has displayed more boldness and power than this same much abused and grossly misrepresented Stephen A. Douglas.

No man has ever uttered these, or any other truths, in this country, with more peril or hazard to himself. Whether in the Senate or on the hustings, whether at the South or the North—whether before party friends or Abolition mobs, he has never shrunk from their utterance from fear, favor, or affection. When duty required him to speak, he has never been silent. See him breasting the anathemas of the three thousand New England clergymen, hurled against him for the defence of your rights, under the Constitution. See him at Chicago, imperilling even life itself in vindication of the same cause—your rights under the Constitution—and say if it comes with a good grace, from a Southern man, to denounce him as an enemy to us or ours.

Was there ever blacker ingratitude, since Adam's first great fall, than such demonstrations against such a man? Were I to remain silent while I hear them, and see him so unjustly slain, by those who know not what they do, I should feel myself to be as guilty of innocent blood as those who stood by and held Stephen's clothes while he was stoned to death. Whatever may be his opinions of Popular Sovereignty, or Squatter Sovereignty, or the right of Self-government, on the part of all organized Communities—call it what you will—they are the same now that they have always been—the same that they were in 1856, when he was the favorite of the Georgia Democracy for the Presidency. I thought of his doctrine then just as I do now. If others have changed their opinions since, he has not. It is one of the qualities about him that increases my admiration, that he is no time-server—he does not change with the popular current—he bends to no storm—he maintains his fidelity and integrity to principle through woe as well as through weal.

One of the most manly exhibitions of moral courage and nerve this country ever witnessed, was seen in his contest in Illinois in 1858. With the Abolition hosts in front, and all the forces of the Administration, so unnaturally and unjustly brought in the rear, he fought the battle single-handed and alone, achieving a victory unparalleled in the history of politics in this country. Why should not such a man receive our support? Not only Democratic, but Whig and American—a united Southern, as well as a national support? Are his principles not national, equal and

just to all? Of his associate on the ticket, I need not speak here. Herschel V. Johnson needs no indorsement from any man in Georgia. No son of hers was ever more sensitively alive to all your great and most vital interests. He has been tried in the Senate, and the Executive Chair, in the highest and most responsible offices, proving himself to be equal to any and every occasion.

Fellow-citizens, there is much more I wish to say—much upon the protection Platform of those who call themselves the true Democracy; but my strength has failed—I am completely exhausted. I can only add: Look at the questions in all their bearings, to your past records, to your present and future security, and as patriots, do your duty, trust the rest with God.

[Here Mr. S., being unable longer to stand, took his seat. The audience remaining quiet, calls were made for Cumming, Wright, and others; but no one of the gentlemen called for appearing, Mr. Geo. W. Lamar arose on the steps, and announced that Mr. S. would be able to proceed in a few minutes. After some enlivening airs from the brass band, Mr. S. arose, with great physical weakness, and proceeded.]

I do not feel, fellow-citizens, as if, in justice to myself, I ought to attempt to say more to-night; but there is no cause in which I would more willingly die than in the cause of my country; and I would just as soon fall here, at this time, in the advocacy of those principles upon which its past glory has been achieved, its present prosperity, and its future hopes depend, as anywhere else, or on any other occasion. I told you, at the outset, that the signs of the times portend evil. I gave you this as my deliberate judgment; the future must make its own disclosures. But you need not be surprised to see these States, now so peaceful, contented, prosperous, and happy, embroiled in war in less than twelve months. There are occasions too grave for excitement, or any appeal to the passions. Believe me, I mean all I say; the most terrific tornadoes, those which demolish cities, destroy whole fleets, and sweep everything before them, come most unexpectedly. So do the most violent revolutions amongst men. The human passions are the same everywhere. They are dangerous elements for public men, politicians, and Party leaders to deal with.

The condition of the country threatens the most violent conflict of sectional feeling, antipathy, and animosity, at no distant day. Should an outbreak occur, where is the power that can control it? A ball may be put in motion by one who cannot stop it; a fire may be kindled by hands that cannot quench it. Those who begin revolutions seldom end them. I do not mean to say that the secession movement at Charleston and Baltimore was a Disunionist movement, or intended as such by all those who joined in it. I do not mean to say that Messrs. Breckinridge and Lane, who gave that movement their countenance, by accepting nominations under it, are Disunionists. I know both these gentlemen

well, and doubt not their patriotism. Had either of them, or both, received the nominations from the regular Democratic Convention, I should have given them as warm a support as I do Messrs. Douglas and Johnson. Neither do I mean to say that the great mass of those who support the Seceders' ticket are Disunionists—no, far from it. But I do mean to say that the movement, whatever may have been the motives in which it originated, and by which it is countenanced and supported, whether by good men or bad, tends to disunion—to civil strife—may lead to it—and most probably will, unless arrested by the virtue, intelligence, and patriotism of the people. Is the cause assigned sufficient to put in hazard such even probable results? If it is, let the hazard be made; but if not, let us pause and consider. Much as I am attached to the Union, and as clearly convinced as I am that it is best for the interests and welfare of all sections, that it shall be preserved and maintained, if it can be, consistently with the rights, honor and security of all parts, yet I hold it subordinate to these great objects of its formation: life itself, dear as it must be held by all subordinate to essential rights and honor. This is true of individuals, and it is true of States and Nations. It was with these views and feelings, the *ultimatum* of our State was set forth in what is known as the Georgia Platform, in 1850. As I did then, so do I now, hold the Union subordinate to the objects therein set forth. On that Platform Georgia planted herself then, and on it I trust she will continue to stand. On the principles of that Platform I believe the Union ought to be maintained, and can be, if our Southern people are but true to themselves.

Now, this Secession movement, if pushed to its legitimate consequences, is a departure from those principles. In politics, as in morals, the first false step is the dangerous step. It matters but little what men intend when they set out in error. One step leads the way to another. "*Facilis decensus averno.*" Feelings, views, and objects change as they progress. Ideas that the mind would have revolted at, at first, are soon cordially embraced. The Scriptural character of Hazael is a striking illustration of human weakness in this particular. This Charleston Secession movement, I say, is founded upon a departure from principle. Not only a departure from the Georgia Platform, and from the long-established principles of the National Democratic Party, but upon an entire change of position of the entire South, of all Parties, not of all individuals, in relation to the power and jurisdiction of the Federal Government over the subject of African Slavery.

I need not be reminded that this was not my position, and that of a few others. This I know, and if I had that personal vanity that could indulge individual gratification at the remotest hazard of the public welfare, I might now be claiming great credit for myself. All this I am aware of; but I have no such vanity. My position, however, was not that of the South on this question. It was overruled; I yielded to the demands

of the South. A settlement of this question was made according to their demands; and with me, when a matter is settled, it is settled forever.

What I affirm is, that the position of the South, for seventy years, has been a denial of the jurisdiction of Congress over the subject of Slavery in the States and Territories. It was upon this denial of jurisdiction that the South resisted the reception of Abolition petitions. This position is directly reversed at Charleston and Baltimore.

If we go to Congress with a request, a petition, or demand, to pass a law to protect Slavery in the Territories, why may not, on the same principle, so far as jurisdiction of the question is concerned, the Anti-Slavery men of the North go before the same body with their request, petition or demand, and ask that such law shall not be passed, or that one of the contrary character shall be passed? The door of jurisdiction, which has been closed so long, will be clearly and fully opened by this Secession movement, if it is sustained by the people. And I fear it will be like the opening of that great door on the confines of hell, "grating harsh thunder" on its turning hinges, which permitted the escape from the bottomless pit of all the foul fiends with which this once heaven-like earth of ours has been cursed?

I say I fear the most mischievous consequences from this change of position. What is to be gained by it? What is proposed to be gained by it? Do those who favor it ever expect to get a law passed by Congress carrying out the principles of their Platform? So far from it, the most prominent of their leaders openly assert that they will never vote for such a law themselves. Mr. Breckinridge, their candidate, has declared in his letter of acceptance just as fully against such a law, as Mr. Douglas ever did. Then what possible good can ever come of the movement, even if an election could be carried by it? But that, all must see, is utterly impossible. Then what is to come of it? What is to be the result? If no good can follow, may not great mischief? This, to me, appears a most palpable and inevitable result.

It may secure the election of the Republican candidate. Whether it it will succeed in this or not, time alone can disclose. But if it does, what then? Yes, what then? Let those answer who started the movement. To me, it seems clear, that the running of a Breckinridge and Lane ticket, at the South, can have no possible effect but to increase the chances of Mr. Lincoln, which were fearfully close before. With a united Democracy, North and South, on the old Platform of principles, I should not have permitted myself to doubt as to the result, under the lead of Mr. Douglas, or Mr. Breckinridge, Mr. Cobb, Mr. Hunter, or any other of the distinguished competitors for the nomination.

But now the only hope is that Mr. Douglas may be able to carry enough Northern Electoral votes, over Mr. Breckinridge and Lincoln both, to save the country from the excitements and dangers of a Republican triumph. This may be done. The news from New York, Illinois,

Indiana, and several other Northern States is such as to furnish grounds of hope, if not to inspire confidence. But it cannot be done by giving aid and comfort to this seceding movement. On the contrary, it will be done by an effort of patriotism rising superior to, and stronger than, the power of that movement. This is my judgment; I give it to you for what it is worth, consider of it as you think best. I do not give it to you as a partisan; I have no personal or partisan feelings on the subject. In all that I have said, I have been governed solely by considerations of the public good.

[Here Mr. Stephens, after returning thanks to the ladies who had honored the occasion with their presence, and addressing some remarks to them pertinent to the subject, and the influence of women in public affairs, though they took no active part in politics, and appealing to all classes, young and old, fathers, mothers, brothers, sisters, boys, and all, to exert whatever influence they possessed in the cause of their country in this hour of her great need; and expressing hope that, under Providence, the late bright prospect of a great future and high career for our young Republic, not yet having reached manhood, might not be cut off and blasted, but that it should continue, for ages to come, to bless untold millions, again took his seat amidst loud and prolonged applause.]

F.

RULES FOR THE GOVERNMENT OF THE CONFEDERATE CONGRESS. MONTGOMERY, ALABAMA, 1861.

Mr. Stephens, from the Committee on Rules, made the following report:

I. The vote upon all questions in this Congress, except as hereafter otherwise provided, shall be taken by States; each State shall be entitled to one vote. A majority of all the States represented shall be necessary to carry any question. The delegates from each State may designate the member to cast the vote for their State, and upon the motion of any member seconded by one-fifth of the members present, or at the instance of any one State, the Yeas and Nays of the entire body shall be spread upon the journals upon any question.

II. Any number of members from a majority of the States now represented or hereafter to be represented by duly accredited delegates from States seceding from the United States of America, shall constitute a quorum to transact business.

III. The President having taken the Chair, and a quorum being present, the journal of the preceding day shall be read, and any mistakes in the entries shall upon motion then be corrected.

IV. No member shall speak to another, or otherwise interrupt the

business of the Congress while the journals or public papers are being read, or when any member is speaking in debate.

V. Every member when he speaks shall address the Chair standing in his place, and when he has finished shall sit down.

VI. No member shall speak more than twice in any one debate on the same question and on the same day, without leave of a majority of the members present.

VII. When two or more members rise at the same time, the President shall name the person to speak, but in all cases the member who shall first rise and address the chair shall speak first.

VIII. The President shall preserve order and decorum ; may speak to points of order in preference to other members, rising from his seat for that purpose ; and shall decide questions of order subject to an appeal by any one State ; and may call any member to the Chair to preside temporarily not to extend beyond that day's session. He may participate in the debates.

IX. When any member is called to order by the President or any member, he shall sit down, and every question of order shall be decided by the President without debate, subject, to an appeal to the body.

X. If any member be called to order by another member for words spoken, the exceptionable words spoken shall immediately be taken down in writing, that the President may be better able to judge the matter.

XI. No member shall in debate use any language reflecting injuriously upon the character, motives, honor or integrity of any other member.

XII. No motion shall be debated until the same shall receive a second ; and when a motion shall be made and seconded, it shall be reduced to writing, if desired by the President or any member, delivered in at the table and read, before the same shall be debated.

XIII. Any motion or proposition may be withdrawn by the mover at any time before a decision, amendment, or other action of the body upon it, except a motion to reconsider, which shall not be withdrawn without leave of the body.

XIV. When a question has been once made and carried in the affirmative or negative, a motion to reconsider shall be entertained at the instance of any State, if made on the same day on which the vote was taken, or within the two next days of actual session. When a motion to reconsider shall be made, its consideration shall take precedence of the regular order of business, unless a majority of the members present shall fix some other time.

XV. When a question is under debate, no motion (except one to reconsider some other question passed upon) shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit or amend, which several motions shall have precedence in the order they stand arranged, and the motion to adjourn shall always be in order, and decided without debate.

XVI. If the question for decision contain several parts, any member may have the same divided, but on a motion to strike out and insert, it shall not be in order to move for a division of the question; but the rejection of a motion to strike out and insert one proposition shall not prevent a motion to strike out and insert a different proposition, nor prevent a subsequent proposition simply to strike out, nor shall the rejection of a motion simply to strike out, prevent a subsequent motion to strike out and insert.

XVII. In filling up blanks the largest sum and longest time shall be first put.

XVIII. The unfinished business in which the Congress may be engaged on adjournment shall be the first business in order on the next day's sitting.

XIX. After the Journal is read, and the unfinished business, if any, of the previous day's sitting is disposed of, the regular order of business shall be as follows:

1. The call of the States, alphabetically, for memorials, or any matter, measure, resolution, or proposition which any member may desire to bring before the Congress.

2. The call of Committees for reports—the call of the Committees to be made in the order of their appointment—such reports of Committees as may not be otherwise disposed of when made, shall be numbered in the order in which they are presented and be placed in that order on the Calendar of the regular orders of the day.

3. The Calendar, or the regular orders of the day shall then be taken up, and every resolution, proposition, or measure, shall be disposed of in the order in which it there stands. No special order shall be made against this rule, except by a vote of a majority of the States, and such majority may, at any time, change the order of business.

XX. Every resolution or measure submitted for the action of the Congress shall receive three readings previous to its being passed; the President shall give notice at each reading whether it be the first, second, or third reading. No resolution or measure shall be committed or amended until it shall have been twice read, after which it may be subject to motion to amend or to refer to a committee. And all such matters on second reading shall first be considered by the Congress in the same manner as if the Congress were in Committee of the Whole; the final question on the second reading of any matter not referred to a committee, shall be "whether it shall be engrossed and read a third time," and no amendment shall be received after the engrossment for a third reading has been ordered. But it shall at all times be in order before the final passage or action on any matter, to move its commitment, and should such commitment take place, and any amendment be reported by the committee, the whole shall be again read a second time and considered as in Committee of the Whole, and then the aforesaid question shall be again put.

XXI. After any matter is ordered to be engrossed and it has been read a third time the question shall be, Shall the resolution (or the matter whatever it may be) now pass?

XXII. All resolutions or other matter on the second and third reading may be read by the title, unless the reading of the whole shall be desired by a majority of those present.

XXIII. The titles of resolutions and other matters submitted, and such parts thereof only as shall be affected by proposed amendments, shall be inserted on the journals.

XXIV. No motion for the Previous Question shall be entertained: but upon the call of any member for "The Question," if seconded by a majority of the States present, the vote shall be immediately taken on the pending question, whatever it may be, without further debate.

XXV. A motion to lay any amendment on the table prevailing, shall carry with it only the amendment, and not the original proposition or matter.

XXVI. Stenographers and reporters for the press, wishing to take down the proceedings of the Congress, may be admitted by the President, who shall assign such places to them on the floor to effect their object, as shall not interfere with the convenience of the members when in open session.

XXVII. On motion, made and seconded by another member, to close the doors on the discussion of any business, which may in the opinion of a member require secrecy, the President shall direct the doors to be closed and the gallery to be cleared, and during the discussion of such question, no one shall be permitted to remain upon the floor but the members of the body and its officers.

XXVIII. Any officer or member of the Congress, convicted of disclosing any matter directed by the body to be held in confidence, shall be liable, if an officer, to dismissal from service, and in case of a member, to suffer expulsion from the body.

XXIX. All motions to print extra copies of any bill, report, or other document, shall be referred to the Committee on Printing.

XXX. All propositions affecting our foreign relations, or looking to the defence, shall be submitted to the Congress while in secret session.

XXXI. All cases that may arise in the proceedings of this Congress, not provided for in the foregoing rules, shall be governed by the general principles of Parliamentary law as laid down in Jefferson's Manual.

G.

CONSTITUTION FOR THE PROVISIONAL GOVERNMENT OF THE CONFEDERATE STATES OF AMERICA.

We, the Deputies of the Sovereign and Independent States of South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, invoking the favor of Almighty God, do hereby, in behalf of these States, ordain and establish this Constitution for the Provisional Government of the same : to continue one year from the inauguration of the President, or until a Permanent Constitution or Confederation between the said States shall be put in operation, whichsoever shall first occur.

ARTICLE I.

SECTION 1.—All legislative powers herein delegated shall be vested in this Congress now assembled until otherwise ordained.

SECTION 2.—When vacancies happen in the representation from any State, the same shall be filled in such manner as the proper authorities of the State shall direct.

SECTION 3.—1. The Congress shall be the judge of the elections, returns and qualifications of its members ; any number of Deputies from a majority of the States, being present, shall constitute a quorum to do business ; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members ; upon all questions before the Congress, each State shall be entitled to one vote, and shall be represented by any one or more of its Deputies who may be present.

2. The Congress may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member.

3. The Congress shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy ; and the yeas and nays of the members on any question, shall, at the desire of one-fifth of those present, or at the instance of any one State, be entered on the journal.

SECTION 4.—The members of Congress shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the Confederacy. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of the Congress, and in going to and returning from the same ; and for any speech or debate, they shall not be questioned in any other place.

SECTION 5.—1. Every bill which shall have passed the Congress, shall, before it becomes a law, be presented to the President of the Confederacy ; if he approve, he shall sign it ; but if not, he shall return it with

his objections to the Congress, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such re-consideration, two-thirds of the Congress shall agree to pass the bill, it shall become a law. But in all such cases, the vote shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal. If any bill shall not be returned by the President within ten days (Sunday excepted) after it shall have been presented to him, the same shall be a law, in like manner, as if he had signed it, unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.—The President may veto any appropriation or appropriations and approve any other appropriation or appropriations in the same bill.

2. Every order, resolution or vote, intended to have the force and effect of a law, shall be presented to the President, and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two-thirds of the Congress, according to the rules and limitations prescribed in the case of a bill.

3. Until the inauguration of the President, all bills, orders, resolutions and votes adopted by the Congress shall be of full force without approval by him.

SECTION 6.—1. The Congress shall have power to lay and collect taxes, duties, imposts and excises, for the revenue necessary to pay the debts and carry on the Government of the Confederacy; and all duties, imposts and excises shall be uniform throughout the States of the Confederacy.

2. To borrow money on the credit of the Confederacy:

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes:

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the Confederacy:

5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures:

6. To provide for the punishment of counterfeiting the securities and current coin of the Confederacy:

7. To establish post offices and post roads:

8. To promote the progress of science and useful arts, by securing, for limited times to authors and inventors, the exclusive right to their respective writings and discoveries:

9. To constitute tribunals inferior to the Supreme Court:

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

13. To provide and maintain a navy:

14. To make rules for the government and regulation of the land and naval forces:

15. To provide for calling forth the militia to execute the laws of the Confederacy, suppress insurrections, and repel invasion:

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the Confederacy, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress:

17. To make all laws that shall be necessary and proper for carrying into execution the foregoing powers and all other powers expressly delegated by this Constitution to this Provisional Government:

18. The Congress shall have power to admit other States:

19. This Congress shall also exercise Executive powers, until the President is inaugurated.

SECTION 7.—1. The importation of African negroes from any foreign country other than the slave-holding States of the United States, is hereby forbidden; and Congress are required to pass such laws as shall effectually prevent the same.

2. The Congress shall also have power to prohibit the introduction of slaves from any State not a member of this Confederacy.

3. The Privilege of the Writ of Habeas Corpus shall not be suspended unless, when in case of rebellion or invasion, the public safety may require it.

4. No Bill of Attainder, or ex post facto law shall be passed.

5. No preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another: nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties, in another.

6. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. Congress shall appropriate no money from the treasury, unless it be asked and estimated for by the President or some one of the Heads of Departments, except for the purpose of paying its own expenses and contingencies.

8. No title of nobility shall be granted by the Confederacy; and no person holding any office of profit or trust under it, shall, without the consent of the Congress, accept of any present, emolument, office, or title of any kind whatever, from any King, Prince, or foreign State.

9. Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble,

and to petition the Government for a redress of such grievances as the delegated powers of this Government may warrant it to consider and redress.

10. A well regulated Militia being necessary to the security of a free State, the Right of the people to keep and bear arms shall not be infringed.

11. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

12. 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.

13. 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.

14. 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 witness against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

15. 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 Confederacy, than according to the rules of the common law.

16. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

17. The enumeration, in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

18. The powers not delegated to the Confederacy by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

19. The Judicial power of the Confederacy shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the States of the Confederacy, by citizens of another State, or by citizens or subjects of any foreign State.

SECTION 8.—1. No State shall enter into any treaty, alliance, or Confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the Confederacy, and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

SECTION 1.—1. The Executive power shall be vested in a President of the Confederate States of America. He, together with the Vice President, shall hold his office for one year, or until this Provisional Government shall be superseded by a Permanent Government, whichsoever shall first occur.

2. The President and Vice President shall be elected by ballot by the States represented in this Congress, each State casting one vote and a majority of the whole being requisite to elect.

3. No person except a natural born citizen, or a citizen of one of the States of this Confederacy at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained the age of thirty-five years and been fourteen years a resident of one of the States of this Confederacy.

4. In case of the removal of the President from office or of his death, resignation or inability to discharge the powers and duties of the said office, (which inability shall be determined by a vote of two-thirds of the Congress,) the same shall devolve on the Vice President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed or a President shall be elected.

5. The President shall at stated times receive for his services, during the period of the Provisional Government, a compensation at the rate of twenty-five thousand dollars per annum; and he shall not receive during that period any other emolument from this Confederacy, or any of the States thereof.

6. Before he enters on the execution of his office, he shall take the following oath or affirmation:

I do solemnly swear (or affirm) that I will faithfully execute the office of President of the Confederate States of America, and will, to the best of my ability, preserve, protect, and defend the Constitution thereof.

SECTION 2.—1. The President shall be Commander-in-Chief of the Army and Navy of the Confederacy, and of the Militia of the several States, when called into the actual service of the Confederacy; he may require the opinion, in writing, of the principle officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the Confederacy, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Congress, to make treaties; provided two-thirds of the Congress concur: and he shall nominate, and by and with the advice and consent of the Congress shall appoint ambassadors, other public ministers and consuls, Judges of the Court, and all other officers of the Confederacy whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers as they think proper in the President alone, in the Courts of law, or in the Heads of Departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Congress, by granting commissions which shall expire at the end of their next session.

SECTION 3.—1. He shall from time to time, give to the Congress information of the state of the Confederacy and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene the Congress at such times as he shall think proper; he shall receive ambassadors and other public ministers: he shall take care that the laws he faithfully executed; and shall commission all the officers of the Confederacy.

2. The President, Vice President, and all civil officers of the Confederacy shall be removed from office on conviction by the Congress of treason, bribery, or other high crimes and misdemeanors: a vote of two-thirds shall be necessary for such conviction.

ARTICLE III.

SECTION 1.—1. The Judicial power of the Confederacy shall be vested in one Supreme Court, and in such inferior Courts as are herein directed, or as the Congress may from time to time ordain and establish.

2. Each State shall constitute a District in which there shall be a Court called a District Court, which, until otherwise provided by the Congress, shall have the jurisdiction vested by the laws of the United States, as far as applicable, in both the District and Circuit Courts of the United States, for that State; the Judge whereof shall be appointed by the President, by and with the advice and consent of the Congress, and shall, until otherwise provided by the Congress, exercise the power

and authority vested by the laws of the United States in the Judges of the District and Circuit Courts of the United States, for that State, and shall appoint the times and places at which the Courts shall be held. Appeals may be taken directly from the District Courts to the Supreme Court, under similar regulations to those which are provided in cases of appeal to the Supreme Court of the United States, or under such regulations as may be provided by the Congress. The commissions of all the Judges shall expire with this Provisional Government.

3. The Supreme Court shall be constituted of all the District Judges, a majority of whom shall be a quorum, and shall sit at such times and places as the Congress shall appoint.

4. The Congress shall have power to make laws for the transfer of any causes which were pending in the Courts of the United States, to the Courts of the Confederacy, and for the execution of the orders, decrees, and judgments heretofore rendered by the said Courts of the United States; and also all laws which may be requisite to protect the parties to all such suits, orders, judgments, or decrees, their heirs, personal representatives, or assignees.

SECTION 2.—1. The Judicial power shall extend to all cases of law and equity, arising under this Constitution, the laws of the United States and of this Confederacy, and treaties made, or which shall be made, under its authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the Confederacy shall be a party; controversies between two or more States; between citizens of different States; between citizens of the same State claiming lands under grants of different States.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by Jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 3.—1. Treason against this Confederacy shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION 1.—1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved and the effect of such proof.

SECTION 2.—1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. 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.

3. A slave in one State, escaping to another, shall be delivered up on claim of the party to whom said slave may belong by the Executive authority of the State in which such slave shall be found, and in case of any abduction or forcible rescue, full compensation, including the value of the slave and all costs and expenses, shall be made to the party, by the State in which such abduction or rescue shall take place.

SECTION 3.—1. The Confederacy shall guaranty to every State in this Union a Republican form of Government, and shall protect each of them against invasion; and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence.

ARTICLE V.

1. The Congress, by a vote of two-thirds, may, at any time, alter or amend this Constitution.

ARTICLE VI.

1. This Constitution, and the laws of the Confederacy which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the Confederacy, shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

2. The Government hereby instituted shall take immediate steps for the settlement of all matters between the States forming it, and their other late Confederates of the United States in relation to the public property and public debt at the time of their withdrawal from them; these States hereby declaring it to be their wish and earnest desire to adjust everything pertaining to the common property, common liability and common obligations of that Union upon the principles of right, justice, equity, and good faith.

3. Until otherwise provided by the Congress, in the City of Montgomery, in the State of Alabama, shall be the Seat of Government.

4. The members of the Congress and all Executive and Judicial officers of the Confederacy shall be bound by oath or affirmation to support this Constitution; but no religious test shall be required as a qualification to any office or public trust under this Confederacy.

H.

CONSTITUTION OF THE CONFEDERATE STATES OF AMERICA.

We, the People of the Confederate States, each State acting in its Sovereign and Independent character, in order to form a Permanent Federal Government, establish justice, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity—invoking the favor and guidance of Almighty God—do ordain and establish this Constitution for the Confederate States of America.

ARTICLE I.

SECTION 1.—All legislative powers herein delegated shall be vested in a Congress of the Confederate States, which shall consist of a Senate and House of Representatives.

SECTION 2.—1. The House of Representatives shall be composed of members chosen every second year by the people of the several States; and the electors in each State shall be citizens of the Confederate States, and have the qualifications requisite for electors of the most numerous branch of the State Legislature; but no person of foreign birth, not a citizen of the Confederate States, shall be allowed to vote for any officer, civil or political, State or Federal.

2. No person shall be a Representative who shall not have attained the age of twenty-five years, and be a citizen of the Confederate States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and Direct Taxes shall be apportioned among the several States, which may be included within this Confederacy, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all slaves. The actual enumeration shall be made within three years after the first meeting of the Congress of the Confederate States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every

fifty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of South Carolina shall be entitled to choose six—the State of Georgia ten—the State of Alabama nine—the State of Florida two—the State of Mississippi seven — the State of Louisiana six, and the State of Texas six.

4. When vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment; except that any Judicial or other Federal officer, resident and acting solely within the limits of any State, may be impeached by a vote of two-thirds of both branches of the Legislature thereof.

SECTION 3.—1. The Senate of the Confederate States shall be composed of two Senators from each State, chosen for six years by the Legislature thereof, at the regular session next immediately preceding the commencement of the term of service; and each Senator shall have one vote.

2. Immediately after they shall be assembled, in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained the age of thirty years, and be a citizen of the Confederate States; and who shall not, when elected, be an inhabitant of the State for which he shall be chosen.

4. The Vice President of the Confederate States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers; and also a President *pro tempore* in the absence of the Vice President, or when he shall exercise the office of President of the Confederate States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the Confederate States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under the Confederate States; but the party

convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment according to law.

SECTION 4.—1. The times, place and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof, subject to the provisions of this Constitution; but the Congress may, at any time, by law, make or alter such regulations, except as to the times and places of choosing Senators.

2. The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

SECTION 5.—1. Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide.

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds of the whole number expel a member.

3. Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the Yeas and Nays of the members of either House, on any question, shall, at the desire of one-fifth of those present, be entered on the Journal.

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SECTION 6.—1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the Confederate States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the Confederate States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the Confederate States shall be a member of either House during his continuance in office. But Congress may, by law, grant to the principal officer in each of the Executive Departments a seat upon the floor of either House, with the privilege of discussing any measures appertaining to his Department.

SECTION 7.—1. All bills for raising the revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills.

2. Every bill which shall have passed both Houses, shall, before it becomes a law, be presented to the President of the Confederate States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress, by their adjournment, prevent its return; in which case it shall not be a law. The President may approve any appropriation and disapprove any other appropriation in the same bill. In such case he shall, in signing the bill, designate the appropriations disapproved; and shall return a copy of such appropriations, with his objections, to the House in which the bill shall have originated; and the same proceedings shall then be had as in case of other bills disapproved by the President.

3. Every order, resolution or vote, to which the concurrence of both Houses may be necessary, (except on a question of adjournment,) shall be presented to the President of the Confederate States; and before the same shall take effect, shall be approved by him; or being disapproved, shall be re-passed by two-thirds of both Houses, according to the rules and limitations prescribed in case of a bill.

SECTION 8.—The Congress shall have power—

1. To lay and collect taxes, duties, imposts, and excises, for revenue necessary to pay the debts, provide for the common defence, and carry on the Government of the Confederate States; but no bounties shall be granted from the treasury; nor shall any duties or taxes on importations from foreign nations be laid to promote or foster any branch of industry; and all duties, imposts, and excises shall be uniform throughout the Confederate States:

2. To borrow money on the credit of the Confederate States:

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes; but neither this, nor any other clause contained in the Constitution, shall ever be construed to delegate the power to Congress to appropriate money for any internal improvement intended to facilitate commerce; except for the purpose of furnishing lights, beacons, and buoys, and other aid to navigation upon the coasts, and the improvement of harbors and the removing of obstructions in river navigation, in all which cases, such duties shall be laid on the

navigation facilitated thereby, as may be necessary to pay the costs and expenses thereof:

4. To establish uniform laws of Naturalization, and uniform laws on the subject of Bankruptcies, throughout the Confederate States; but no law of Congress shall discharge any debt contracted before the passage of the same:

5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures:

6. To provide for the punishment of counterfeiting the securities and current coin of the Confederate States:

7. To establish post-offices and post routes; but the expenses of the Post-office Department, after the first day of March in the year of our Lord eighteen hundred and sixty-three, shall be paid out of its own revenues:

8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries:

9. To constitute Tribunals inferior to the Supreme Court:

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and on water:

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

13. To provide and maintain a navy:

14. To make rules for the government and regulation of the land and naval forces:

15. To provide for calling forth the Militia to execute the laws of the Confederate States, suppress Insurrections, and repel Invasions:

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the Confederate States; reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress:

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of one or more States and the acceptance of Congress, become the Seat of the Government of the Confederate States; and to exercise like authority over places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings: and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the Confederate States, or in any Department or Officer thereof.

SECTION 9.—1. The importation of negroes of the African race, from any foreign country other than the slave-holding States or Territories of the United States of America, is hereby forbidden; and Congress is required to pass such laws as shall effectually prevent the same.

2. Congress shall also have power to prohibit the introduction of slaves from any State not a member of, or Territory not belonging to, this Confederacy.

3. The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in case of Rebellion or Invasion the public safety may require it.

4. No Bill of Attainder, *ex post facto* law, or law denying or impairing the right of property in negro slaves shall be passed.

5. No Capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

6. No tax or duty shall be laid on articles exported from any State, except by a vote of two-thirds of both Houses.

7. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

8. No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

9. Congress shall appropriate no money from the treasury except by a vote of two-thirds of both Houses, taken by Yeas and Nays, unless it be asked and estimated for by some one of the Heads of Departments, and submitted to Congress by the President; or for the purpose of paying its own expenses and contingencies; or for the payment of claims against the Confederate States, the justice of which shall have been judicially declared by a tribunal for the investigation of claims against the Government, which it is hereby made the duty of Congress to establish.

10. All bills appropriating money shall specify in Federal currency the exact amount of each appropriation and the purposes for which it is made; and Congress shall grant no extra compensation to any public contractor, officer, agent or servant, after such contract shall have been made or such service rendered.

11. No title of nobility shall be granted by the Confederate States; and no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office or title of any kind whatever, from any King, Prince, or foreign State.

12. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble and petition the Government for a redress of grievances.

13. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

14. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

15. 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.

16. 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 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.

17. 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.

18. 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 so tried by a Jury shall be otherwise re-examined in any Court of the Confederacy, than according to the rules of the common law.

19. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

20. Every law, or resolution having the force of law, shall relate to but one subject, and that shall be expressed in the title.

SECTION 10.—1. No State shall enter into any treaty, alliance, or Confederation; grant letters of marque and reprisal; coin money; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, or *ex post facto* law, or law impairing the obligation of contracts; or grant any title of nobility.

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the Confederate States, and all such laws shall be subject to the revision and control of Congress.

3. No State shall, without the consent of Congress, lay any duty on tonnage, except on sea-going vessels. for the improvement of its rivers

and harbors navigated by the said vessels; but such duties shall not conflict with any treaties of the Confederate States with foreign nations; and any surplus revenue thus derived, shall, after making such improvement, be paid into the common treasury. Nor shall any State keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay. But when any river divides or flows through two or more States, they may enter into compacts with each other to improve the navigation thereof.

ARTICLE II.

SECTION 1.—1. The Executive power shall be vested in a President of the Confederate States of America. He and the Vice President shall hold their offices for the term of six years; but the President shall not be re-eligible. The President and Vice President shall be elected as follows:

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the Confederate States, shall be appointed an elector.

3. The Electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit, sealed, to the Seat of the Government of the Confederate States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States—the representation from each State having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following,

then the Vice President shall act as President, as in case of the death, or other Constitutional disability of the President.

4. The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice President. A quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

5. But no person Constitutionally ineligible to the office of President shall be eligible to that of Vice President of the Confederate States.

6. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the Confederate States.

7. No person except a natural born citizen of the Confederate States, or a citizen thereof at the time of the adoption of this Constitution, or a citizen thereof, born in the United States prior to the 20th of December, 1860, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained the age of thirty-five years, and been fourteen years a resident within the limits of the Confederate States, as they may exist at the time of his election.

8. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President; and the Congress may, by law, provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed or a President shall be elected.

9. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the Confederate States, or any of them.

10. Before he enters on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the Confederate States of America, and will, to the best of my ability, preserve, protect, and defend the Constitution thereof."

SECTION 2.—1. The President shall be Commander-in-Chief of the Army and Navy of the Confederate States, and of the Militia of the several States, when called into the actual service of the Confederate States; he may require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the

duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the Confederacy, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties; provided two-thirds of the Senators present concur: and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the Confederate States whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may, by law, vest the appointment of such inferior officers, as they think proper, in the President alone, in the Courts of law, or in the Heads of Departments.

3. The principal officer in each of the Executive Departments, and all persons connected with the diplomatic service, may be removed from office at the pleasure of the President. All other civil officers of the Executive Departments may be removed at any time by the President, or other appointing power, when their services are unnecessary, or for dishonesty, incapacity, inefficiency, misconduct or neglect of duty; and when so removed, the removal shall be reported to the Senate, together with the reasons therefor.

4. The President shall have power to fill all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session; but no person rejected by the Senate shall be re-appointed to the same office during their ensuing recess.

SECTION 3.—1. The President shall, from time to time, give to the Congress information of the state of the Confederacy, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the Confederate States.

SECTION 4.—1. The President, Vice President, and all Civil Officers of the Confederate States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.

SECTION 1.—1. The Judicial power of the Confederate States shall be vested in one Supreme Court, and in such Inferior Courts as the Congress may, from time to time, ordain and establish. The Judges, both of the Supreme and Inferior Courts, shall hold their offices during good

behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SECTION 2.—1. The Judicial power shall extend to all cases arising under this Constitution, the laws of the Confederate States, and treaties made, or which shall be made, under their authority ; to all cases affecting ambassadors, other public ministers and consuls ; to all cases of admiralty and maratime jurisdiction ; to controversies to which the Confederate States shall be a party ; to controversies between two or more States ; between a State and citizen of another State, where the State is plaintiff ; between citizens claiming lands under grants of different States ; and between a State or the citizens thereof, and foreign States, citizens or subjects ; but no State shall be sued by a citizen or subject of any foreign State.

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by Jury, and such trial shall be held in the State where the said crimes shall have been committed ; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

SECTION 3.—1. Treason against the Confederate States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason ; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

SECTION 1.—1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

SECTION 2.—1. The citizens of each State shall be entitled to all the privileges and immunities of citizens in the several States, and shall have the right of transit and sojourn in any State of this Confederacy, with their slaves and other property ; and the right of property in said slaves shall not be thereby impaired.

2. A person charged in any State with treason, felony, or other crime against the laws of such State, 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.

3. No slave or other person held to service or labor in any State or Territory of the Confederate States, under the laws thereof, escaping or lawfully carried 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 slave belongs, or to whom such service or labor may be due.

SECTION 3.—1. Other States may be admitted into this Confederacy by a vote of two-thirds of the whole House of Representatives and two-thirds of the Senate, the Senate voting by States; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations concerning the property of the Confederate States, including the lands thereof.

3. The Confederate States may acquire new territory; and Congress shall have power to legislate and provide Governments for the inhabitants of all territory belonging to the Confederate States, lying without the limits of the several States; and may permit them, at such times, and in such manner as it may by law provide, to form States to be admitted into the Confederacy. In all such territory, the Institution of Negro slavery, as it now exists in the Confederate States, shall be recognized and protected by Congress and by the Territorial Government: and the inhabitants of the several Confederate States and Territories shall have the right to take to such Territory any slaves lawfully held by them in any of the States or Territories of the Confederate States.

4. The Confederate States shall guaranty to every State that now is, or hereafter may become, a member of this Confederacy, a Republican form of Government; and shall protect each of them against invasion; and on application of the Legislature, (or of the Executive, when the Legislature is not in session,) against domestic violence.

ARTICLE V.

SECTION 1.—1. Upon the demand of any three States, legally assembled in their several Conventions, the Congress shall summon a Convention of all the States, to take into consideration such amendments to the Constitution as the said States shall concur in suggesting at the time when the said demand is made; and should any of the proposed amendments to the Constitution be agreed on by the said Convention—voting by

States—and the same be ratified by the Legislatures of two-thirds of the several States, or by Conventions in two-thirds thereof—as the one or the other mode of ratification may be proposed by the general Convention—they shall thenceforward form a part of this Constitution. But no State shall, without its consent, be deprived of its equal Representation in the Senate.

ARTICLE VI.

1. The Government established by this Constitution is the successor of the Provisional Government of the Confederate States of America, and all the laws passed by the latter shall continue in force until the same shall be repealed or modified; and all the officers appointed by the same shall remain in office until their successors are appointed and qualified, or the offices abolished.

2. All debts contracted and engagements entered into before the adoption of this Constitution shall be as valid against the Confederate States under this Constitution as under the Provisional Government.

3. This Constitution, and the laws of the Confederate States made in pursuance thereof, and all treaties made or which shall be made under the authority of the Confederate States, shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

4. The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all Executive and Judicial officers, both of the Confederate States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the Confederate States.

5. The enumeration, in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people of the several States.

6. The powers not delegated to the Confederate States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people thereof.

ARTICLE VII.

1. The Ratification of the Conventions of five States shall be sufficient for the Establishment of this Constitution between the States so ratifying the same.

2. When five States shall have ratified this Constitution, in the manner before specified, the Congress under the Provisional Constitution shall prescribe the time for holding the election of President and Vice President, and for the meeting of the Electoral College, and for counting the votes, and inaugurating the President. They shall also prescribe the time for holding the first election of members of Congress under this Constitution, and the time for assembling the same. Until

the assembling of such Congress, the Congress under the Provisional Constitution shall continue to exercise the Legislative powers granted them ; not extending beyond the time limited by the Constitution of the Provisional Government.

EXTRACT FROM THE JOURNAL OF THE CONGRESS.

CONGRESS, *March* 11, 1861.

On the question of the adoption of the Constitution of the Confederate States of America, the vote was taken by Yeas and Nays ; and the Constitution was unanimously adopted, as follows :

Those who voted in the affirmative being Messrs. Walker, Smith, Curry, Hale, McRae, Shorter, and Fearn, of Alabama, (Messrs. Chilton and Lewis being absent ;) Messrs. Morton, Anderson, and Owens, of Florida ; Messrs. Toombs, Howell Cobb, Bartow, Nisbet, Hill, Wright, Thomas R. R. Cobb, and Stephens, of Georgia, (Messrs. Crawford and Kenan being absent ;) Messrs. Perkins, de Clouét, Conrad, Kenner, Sparrow, and Marshall, of Louisiana ; Messrs. Harris, Brooke, Wilson, Clayton, Barry, and Harrison, of Mississippi, (Mr. Campbell being absent ;) Messrs. Rhett, Barnwell, Keitt, Chesnut, Memminger, Miles, Withers, and Boyce, of South Carolina; Messrs. Reagan, Hemphill, Waul, Gregg, Oldham, and Ochiltree, of Texas, (Mr. Wigfall being absent.)

A true copy : J. J. HOOPER,
Secretary of the Congress.

CONGRESS, *March* 11, 1861.

I do hereby certify that the foregoing are, respectively, true and correct copies of "The Constitution of the Confederate States of America," unanimously adopted this day, and of the Yeas and Nays on the question of the adoption thereof.

HOWELL COBB,
President of the Congress.

I.

CORRESPONDENCE BETWEEN THE CONFEDERATE COMMISSIONERS AND MR. SECRETARY SEWARD, WITH JUDGE CAMPBELL'S LETTERS UPON THE SUBJECT.

WASHINGTON CITY, *March* 12, 1861.

HON. WM. H. SEWARD, *Secretary of State of the United States :*

Sir:—The undersigned have been duly accredited by the Government of the Confederate States of America, as Commissioners to the Government of the United States, and in pursuance of their instructions have now the honor to acquaint you with that fact, and to make known,

through you, to the President of the United States, the objects of their presence in this Capital.

Seven States of the late Federal Union, having in the exercise of the inherent right of every free people to change or reform their Political Institutions, and through Conventions of their people, withdrawn from the United States and re-assumed the attributes of Sovereign Power delegated to it, have formed a Government of their own. The Confederate States constitute an Independent Nation, *de facto* and *de jure*, and possess a Government perfect in all its parts and endowed with all the means of self-support.

With a view to a speedy adjustment of all questions growing out of this political separation, upon such terms of amity and good-will as the respective interests, geographical contiguity, and future welfare of the two Nations may render necessary, the undersigned are instructed to make to the Government of the United States overtures for the opening of negotiations, assuring the Government of the United States that the President, Congress, and people of the Confederate States, earnestly desire a peaceful solution of these great questions; that it is neither their interest, nor their wish to make any demand which is not founded in strictest justice, nor do any act to injure their late Confederates.

The undersigned have now the honor in obedience to the instructions of their Government, to request you to appoint as early a day as possible, in order that they may present to the President of the United States, the Credentials which they bear and the objects of the mission with which they are charged.

We are, very respectfully, your obedient servants,

JOHN FORSYTH,
MARTIN J. CRAWFORD.

MEMORANDUM.

DEPARTMENT OF STATE,
WASHINGTON, *March*, 15, 1861.

Mr. John Forsyth, of the State of Alabama, and Mr. Martin J. Crawford, of the State of Georgia, on the 11th inst., through the kind offices of a distinguished Senator, submitted to the Secretary of State, their desire for an un-official interview. This request was, on the 12th inst., upon exclusively public considerations, respectfully declined.

On the 13th inst., while the Secretary was pre-occupied, Mr. A. D. Banks, of Virginia, called at this Department, and was received by the Assistant-Secretary, to whom he delivered a sealed communication, which he had been charged by Messrs. Forsyth and Crawford, to present to the Secretary in person.

In that communication Messrs. Forsyth and Crawford inform the Secretary of State that they have been duly accredited by the Government of the Confederate States of America as Commissioners to the

Government of the United States, and they set forth the objects of their attendance at Washington. They observe that seven States of the American Union, in the exercise of a right inherent in every free people, have withdrawn, through Conventions of their people, from the United States, re-assumed the attributes of Sovereign Power, and formed a Government of their own, and that those Confederate States now constitute an Independent Nation, *de facto* and *de jure*, and possess a Government perfect in all its parts, and fully endowed with all the means of self-support.

Messrs. Forsyth and Crawford, in their aforesaid communication, thereupon proceeded to inform the Secretary that, with a view to a speedy adjustment of all questions growing out of the political separation thus assumed, upon such terms of amity and good-will as the respective interests, geographical contiguity, and the future welfare of the supposed two Nations might render necessary, they are instructed to make to the Government of the United States overtures for the opening of negotiations, assuring this Government that the President, Congress and the people of the Confederate States earnestly desire a peaceful solution of these great questions, and that it is neither their interest nor their wish to make any demand which is not founded in the strictest justice, nor do any act to injure their late Confederates.

After making these statements, Messrs. Forsyth and Crawford close their communication, as they say, in obedience to the instructions of their Government, by requesting the Secretary of State to appoint as early a day as possible, in order that they may present to the President of the United States the credentials which they bear and the objects of the mission with which they are charged.

The Secretary of State frankly confesses that he understands the events which have recently occurred, and the condition of political affairs which actually exists in the part of the Union to which his attention has thus been directed, very differently from the aspect in which they are presented by Messrs. Forsyth and Crawford. He sees in them, not a rightful and accomplished revolution and an independent Nation, with an established Government, but rather a perversion of a temporary and partisan excitement to the inconsiderate purposes of an unjustifiable and unconstitutional aggression upon the rights and the authority vested in the Federal Government, and hitherto benignly exercised, as from their very nature they always must so be exercised, for the maintenance of the Union, the preservation of liberty, and the security, peace, welfare, happiness, and aggrandizement of the American people. The Secretary of State, therefore, avows to Messrs. Forsyth and Crawford that he looks patiently but confidently for the cure of evils which have resulted from proceedings so unnecessary, so unwise, so unusual, and so unnatural, not to irregular negotiations, having in view new and untried relations with agencies unknown to and acting in derogation of the Constitution and laws, but to regular and

considerate action of the people of those States, in co-operation with their brethren in the other States, through the Congress of the United States, and such extraordinary Conventions, if there shall be need thereof, as the Federal Constitution contemplates and authorizes to be assembled.

It is, however, the purpose of the Secretary of State, on this occasion, not to invite or engage in any discussion of these subjects, but simply to set forth his reasons for declining to comply with the request of Messrs. Forsyth and Crawford.

On the 4th of March inst., the then newly elected President of the United States, in view of all the facts bearing on the present question, assumed the Executive Administration of the Government, first delivering, in accordance with an early, honored custom, an Inaugural Address to the people of the United States. The Secretary of State respectfully submits a copy of this address to Messrs. Forsyth and Crawford.

A simple reference to it will be sufficient to satisfy these gentlemen that the Secretary of State, guided by the principles therein announced, is prevented altogether from admitting or assuming that the States referred to by them have, in law or in fact, withdrawn from the Federal Union, or that they could do so in the manner described by Messrs. Forsyth and Crawford, or in any other manner than with the consent and concert of the people of the United States, to be given through a National Convention, to be assembled in conformity with the provisions of the Constitution of the United States. Of course the Secretary of State cannot act upon the assumption, or in any way admit that the so-called Confederate States constitute a foreign Power, with whom diplomatic relations ought to be established.

Under these circumstances, the Secretary of State, whose official duties are confined, subject to the direction of the President, to the conducting of the foreign relations of the country, and do not at all embrace domestic questions, or questions arising between the several States and the Federal Government, is unable to comply with the request of Messrs. Forsyth and Crawford, to appoint a day on which they may present the evidences of their authority and the objects of their visit to the President of the United States. On the contrary, he is obliged to state to Messrs. Forsyth and Crawford, that he has no authority, nor is he at liberty, to recognize them as diplomatic agents, or hold correspondence or other communication with them.

Finally, the Secretary of State would observe that, although he has supposed that he might safely and with propriety have adopted these conclusions, without making any reference of the subject to the Executive, yet, so strong has been his desire to practise entire directness, and to act in a spirit of perfect respect and candor towards Messrs. Forsyth and Crawford, and that portion of the people of the Union, in whose name they present themselves before him, that he has cheerfully submitted this paper to the President, who coincides generally in the views

it expresses, and sanctions the Secretary's decision, declining official intercourse with Messrs. Forsyth and Crawford.

April 8, 1861.

The foregoing Memorandum was filed in this Department on the 15th of March last. A delivery of the same, however, to Messrs. Forsyth and Crawford was delayed, as was understood, with their consent. They have now, through their Secretary, communicated their desire for a definite disposition of the subject. The Secretary of State therefore directs that a duly verified copy of the paper be now delivered.

A true copy of the original, delivered to me by Mr. F. W. Seward, Assistant Secretary of State of the United States, on April 8, 1861, at 2.15 P.M., in blank envelope.

Attest, J. T. PICKETT,
Secretary to the Commissioners.

THE COMMISSIONERS IN REPLY TO MR. SEWARD, ACCUSING THE GOVERNMENT OF DECEPTION, AND ACCEPTING A SOLUTION BY THE SWORD.

WASHINGTON, *April* 9, 1861.

HON. WM. H. SEWARD, *Secretary of State of the United States, Washington:*

The "Memorandum" dated Department of State, Washington, March 15, 1861, with postscript under date of 8th instant, has been received through the hands of Mr. J. T. Pickett, Secretary to this Commission, who, by the instructions of the undersigned, called for it on yesterday, at the Department.

In that Memorandum you correctly state the purport of the official note addressed to you by the undersigned on the 12th ultimo. Without repeating the contents of that note in full, it is enough to say here that its object was to invite the Government of the United States to a friendly consideration of the relations between the United States and the seven States lately of the Federal Union, but now separated from it by the Sovereign Will of their People, growing out of the pregnant and undeniable fact that those people have rejected the authority of the United States, and established a Government of their own. Those relations had to be friendly or hostile. The people of the old and new Governments, occupying contiguous territories, had to stand to each other in the relation of good neighbors, each seeking their happiness and pursuing their National destinies in their own way, without interference with the other, or they had to be rival and hostile Nations. The Government of the Confederate States had no hesitation in electing its choice in this alternative. Frankly and unreservedly, seeking the good of the people who had entrusted them with power, in the spirit of humanity, of the Christian civilization of the age, and of that Americanism which regards the true welfare and happiness of the people, the Government of the Confed-

erate States, among its first acts, commissioned the undersigned to approach the Government of the United States with the Olive Branch of Peace, and to offer to adjust the great questions pending between them in the only way to be justified by the consciences and common-sense of good men who had nothing but the welfare of the people of the two Confederacies at heart.

Your Government has not chosen to meet the undersigned in the conciliatory and peaceful spirit in which they are commissioned. Persistently wedded to those fatal theories of construction of the Federal Constitution always rejected by the statesmen of the South, and adhered to by those of the Administration school, until they have produced their natural and often predicted result of the destruction of the Union, under which we might have continued to live happily and gloriously together, had the spirit of the ancestry who framed the common Constitution animated the hearts of all their sons, you now, with a persistence untaught and uncured by the ruin which has been wrought, refuse to recognize the great fact presented to you of a completed and successful Revolution; you close your eyes to the existence of the Government founded upon it, and ignore the high duties of moderation and humanity which attach to you in dealing with this great fact. Had you met these issues with the frankness and manliness with which the undersigned were instructed to present them to you and treat them, the undersigned had not now the melancholy duty to return home and tell their Government and their countrymen that their earnest and ceaseless efforts in behalf of peace had been futile, and that the Government of the United States meant to subjugate them by force of arms. Whatever may be the result, impartial history will record the innocence of the Government of the Confederate States, and place the responsibility of the blood and mourning that may ensue upon those who have denied the great fundamental doctrine of American Liberty, that "Governments derive their just powers from the consent of the governed," and who have set naval and land armaments in motion to subject the people of one portion of this land to the will of another portion. That that can never be done while a freeman survives in the Confederate States to wield a weapon, the undersigned appeal to past history to prove. These military demonstrations against the people of the Seceded States are certainly far from being in keeping and consistency with the theory of the Secretary of State, maintained in his Memorandum, that these States are still component parts of the late American Union, as the undersigned are not aware of any constitutional power in the President of the United States to levy war, without the consent of Congress, upon a foreign People, much less upon any portion of the People of the United States.

The undersigned, like the Secretary of State, have no purpose to "invite or engage in discussion" of the subject on which their two

Governments are so irreconcilably at variance. It is this variance that has broken up the old Union, the disintegration of which has only begun. It is proper, however, to advise you that it were well to dismiss the hopes you seem to entertain that, by any of the modes indicated, the people of the Confederate States will ever be brought to submit to the authority of the Government of the United States. You are dealing with delusions, too, when you seek to separate our people from our Government, and to characterize the deliberate, Sovereign act of that People as a "perversion of a temporary and partisan excitement." If you cherish these dreams you will be awakened from them and find them as unreal and unsubstantial as others in which you have recently indulged. The undersigned would omit the performance of an obvious duty were they to fail to make known to the Government of the United States that the people of the Confederate States have declared their Independence with a full knowledge of all the responsibilities of that act, and with as firm a determination to maintain it by all the means with which nature has endowed them as that which sustained their Fathers when they threw off the authority of the British Crown.

The undersigned clearly understand that you have declined to appoint a day to enable them to lay the objects of the mission with which they are charged before the President of the United States, because so to do would be to recognize the Independence and separate Nationality of the Confederate States. This is the vein of thought that pervades the Memorandum before us. The truth of history requires that it should distinctly appear upon the record that the undersigned did not ask the Government of the United States to recognize the Independence of the Confederate States. They only asked audience to adjust, in a spirit of amity and peace, the new relations springing from a manifest and accomplished revolution in the Government of the late Federal Union. Your refusal to entertain these overtures for a peaceful solution, the active naval and military preparations of this Government, and a formal notice to the Commanding General of the Confederate forces in the harbor of Charleston that the President intends to provision Fort Sumter by forcible means, if necessary, are viewed by the undersigned, and can only be received by the world, as a declaration of war against the Confederate States; for the President of the United States knows that Fort Sumter cannot be provisioned without the effusion of blood. The undersigned, in behalf of their Government and people, accept the gage of battle thus thrown down to them; and, appealing to God and the judgment of mankind for the righteousness of their cause, the people of the Confederate States will defend their liberties to the last against this flagrant and open attempt at their subjugation to sectional power.

This communication cannot be properly closed without adverting to the date of your Memorandum. The official note of the undersigned, of the 12th of March, was delivered to the Assistant Secretary of State

on the 13th of that month, the gentleman who delivered it informing him that the Secretary of this Commission would call at twelve o'clock, noon, on the next day, for an answer. At the appointed hour Mr. Pickett did call, and was informed by the Assistant Secretary of State that the engagements of the Secretary of State had prevented him from giving the note his attention. The Assistant Secretary of State then asked for the address of Messrs. Crawford and Forsyth, the members of the Commission then present in this City, took note of the address on a card, and engaged to send whatever reply might be made to their lodgings. Why this was not done it is proper should be here explained. The Memorandum is dated March 15th, and was not delivered until April 8th. Why was it withheld during the intervening twenty-three days? In the postscript to your Memorandum you say it "was delayed, as was understood, with their (Messrs. Forsyth and Crawford's) consent." This is true; but it is also true that on the 15th of March, Messrs. Forsyth and Crawford were assured by a person occupying a high official position in the Government, and who, as they believed, was speaking by authority, that Fort Sumter would be evacuated within a very few days, and that no measure changing the existing *status* prejudicially to the Confederate States, as respects Fort Pickens, was then contemplated, and these assurances were subsequently repeated, with the addition that any contemplated change as respects Pickens would be notified to us. On the 1st of April we were again informed that there might be an attempt to supply Fort Sumter with provisions, but that Governor Pickens should have previous notice of this attempt. There was no suggestion of any reinforcement. The undersigned did not hesitate to believe that these assurances expressed the intentions of the Administration at the time, or at all events of prominent members of that Administration. This delay was assented to for the express purpose of attaining the great end of the mission of the undersigned, to wit:—A pacific solution of existing complications. The inference deducible from the date of your Memorandum, that the undersigned had, of their own volition and without cause, consented to this long *hiatus* in the grave duties with which they were charged, is therefore not consistent with a just exposition of the facts of the case. The intervening twenty-three days were employed in active unofficial efforts, the object of which was to smooth the path to a pacific solution, the distinguished personage alluded to co-operating with the undersigned, and every step of that effort is recorded in writing, and now in possession of the undersigned and of their Government. It was only when all these anxious efforts for peace had been exhausted, and it became clear that Mr. Lincoln had determined to appeal to the Sword to reduce the people of the Confederate States to the will of the Section or Party whose President he is, that the undersigned resumed the official negotiation temporarily suspended, and sent their Secretary for a reply to their official note of March twelfth.

It is proper to add that, during these twenty-three days, two gentlemen of official distinction as high as that of the personage hitherto alluded to, aided the undersigned as intermediaries in these unofficial negotiations for peace.

The undersigned, Commissioners of the Confederate States of America, having thus made answer to all they deem material in the Memorandum filed in the Department on the 15th of March last, have the honor to be,

JOHN FORSYTH,
MARTIN J. CRAWFORD,
A. B. ROMAN.

A true copy of the original, delivered to Mr. F. W. Seward, Assistant Secretary of State of the United States, at eight o'clock in the evening of April 9th, 1861.

Attest, J. T. PICKET, *Secretary*, etc., etc.

MR. SEWARD, IN REPLY TO THE COMMISSIONERS, ACKNOWLEDGES THE RECEIPT OF THEIR LETTER, BUT DECLINES TO ANSWER IT.

DEPARTMENT OF STATE,
WASHINGTON, *April* 10th, 1861.

Messrs. Forsyth, Crawford and Roman having been apprised by a memorandum, which has been delivered to them, that the Secretary of State is not at liberty to hold official intercourse with them, will, it is presumed, expect no notice from him of the new communication which they have addressed to him under date of the 9th inst., beyond the simple acknowledgment of the receipt thereof, which he hereby very cheerfully gives.

A true copy of the original received by the Commissioners of the Confederate States, this 10th day of April, 1861.

Attest, J. T. PICKET, *Secretary*, etc., etc.

LETTERS OF JUDGE CAMPBELL TO MR. SEWARD.

WASHINGTON CITY, SATURDAY, *April* 13, 1861.

SIR:

On the 15th of March, ultimo, I left with Judge Crawford, one of the Commissioners of the Confederate States, a note in writing to the effect following:

"I feel entire confidence that Fort Sumter will be evacuated in the next ten days. And this measure is felt as imposing great responsibility on the Administration.

"I feel entire confidence that no measure changing the existing *status* prejudicially to the Southern Confederate States, is at present contemplated.

"I feel an entire confidence that an immediate demand for an answer to the communication of the Commissioners will be productive of evil and not of good. I do not believe that it ought, at this time, to be pressed."

The substance of this statement I communicated to you the same evening by letter. Five days elapsed and I called with a telegram from General Beauregard to the effect that Sumter was not evacuated, but that Major Anderson was at work making repairs.

The next day, after conversing with you, I communicated to Judge Crawford, in writing, that the failure to evacuate Sumter was not the result of bad faith, but was attributable to causes consistent with the intention to fulfil the engagement, and that, as regarded Pickens, I should have notice of any design to alter the existing *status* there. Mr. Justice Nelson was present at these conversations, three in number, and I submitted to him each of my written communications to Judge Crawford, and informed Judge Crawford that they had his (Judge Nelson's) sanction. I gave you, on the 22d of March, a substantial copy of the statement I had made on the 15th.

The 30th of March arrived, and at that time a telegram came from Governor Pickens inquiring concerning Colonel Lamon, whose visit to Charleston he supposed had a connection with the proposed evacuation of Fort Sumter. I left that with you, and was to have an answer the following Monday, (1st of April.) On the 1st of April I received from you the statement in writing: "I am satisfied the Government will not undertake to supply Fort Sumter without giving notice to Governor P." The words, "I am satisfied," were for me to use as expressive of confidence in the remainder of the declaration.

The proposition as originally prepared was, "The President *may desire* to supply Sumter, but will not do so," etc., and your verbal explanation was that you did not believe any such attempt would be made, and that there was no design to reinforce Sumter.

There was a departure here from the pledges of the previous month, but, with the verbal explanation, I did not consider it a matter then to complain of. I simply stated to you that I had that assurance previously.

On the 7th of April I addressed you a letter on the subject of the alarm that the preparations by the Government had created, and asked you if the assurances I had given were well or ill-founded. In respect to Sumter your reply was, "Faith as to Sumter fully kept—wait and see." In the morning's paper I read, "An authorized messenger from President Lincoln informed Governor Pickens and General Beauregard that provisions will be sent to Fort Sumter—peaceably, or *otherwise by force.*" This was the 8th of April, at Charleston, the day following your last assurance, and is the last evidence of the full faith I was invited to *wait for* and *see.* In the same paper I read that intercepted dispatches disclosed the fact that Mr. Fox, who had been allowed to visit Major Anderson, on the pledge that his purpose was pacific, employed his opportunity to devise a plan for supplying the Fort by force, and that this plan had been adopted by the Washington Government, and was in process of execution. My recollection of the date of

Mr. Fox's visit carries it to a day in March. I learn he is a near connection of a member of the Cabinet. My connection with the Commissioners and yourself was superinduced by a conversation with Justice Nelson. He informed me of your strong disposition in favor of peace, and that you were oppressed with a demand of the Commissioners of the Confederate States for a reply to their first letter, and that you desired to avoid it if possible at that time.

I told him I might, perhaps, be of some service in arranging the difficulty. I came to your office entirely at his request, and without the knowledge of either of the Commissioners. Your depression was obvious to both Judge Nelson and myself. I was gratified at the character of the counsels you were desirous of pursuing, and much impressed with your observation that a civil war might be prevented by the success of my mediation. You read a letter of Mr. Weed, to show how irksome and responsible the withdrawal of troops from Sumter was. A portion of my communication to Judge Crawford on the 15th March, was founded upon these remarks, and the pledge to evacuate Sumter is less forcible than the words you employed. Those words were: Before this letter reaches you, (a proposed letter by me to President Davis,) Sumter will have been evacuated.

The Commissioners who received those communications conclude they have been abused and over-reached. The Montgomery Government hold the same opinion. The Commissioners have supposed that my communications were with you, and upon the hypothesis were prepared to arraign you before the country in connection with the President. I placed a peremptory prohibition upon this as being contrary to the terms of my communications with them. I pledged myself to them to communicate information upon what I considered as the best authority, and they were to confide in the ability of myself, aided by Judge Nelson, to determine upon the credibility of my informant.

I think no candid man who will read over what I have written, and considers for a moment what is going on at Sumter, but will agree that the equivocating conduct of the Administration, as measured and interpreted in connection with these promises, is the proximate cause of the great calamity.

I have a profound conviction that the telegrams of the 8th of April of General Beauregard, and of the 10th of April of General Walker, the Secretary of War, can be referred to nothing else than their belief that there has been systematic duplicity praticed on them through me. It is under an impressive sense of the weight of this responsibility that I submit to you these things for your explanation.

Very respectfully,

JOHN A. CAMPBELL,

Associate Justice of the Supreme Court, United States.

HON. WM. H. SEWARD, *Secretary of State.*

WASHINGTON, *April* 20, 1861.

SIR:—I enclose you a letter, corresponding very nearly with one I addressed to you one week ago, (13th April,) to which I have not had any reply. The letter is simply one of inquiry in reference to facts concerning which, I think, I am entitled to an explanation. I have not adopted any opinion in reference to them which may not be modified by explanation; nor have I affirmed in that letter, nor do I in this, any conclusion of my own unfavorable to your integrity in the whole transaction. All that I have said and mean to say is, that an explanation is due from you to myself. I will not say what I shall do in case this request is not complied with, but I am justified in saying that I shall feel at liberty to place these letters before any person who is entitled to ask an explanation of myself.

Very respectfully,
JOHN A. CAMPBELL,
Associate Justice of the Supreme Court, United States.

HON. WM. H. SEWARD, *Secretary of State.*

No reply has been made to this letter. *April* 24, 1861.

J.

MY MARYLAND.

BY JAMES R. RANDALL.

The despot's heel is on thy shore,
Maryland!
His torch is at thy temple door,
Maryland!
Avenge the patriotic gore
That flecked the streets of Baltimore,
And be the battle-queen of yore,
Maryland! My Maryland!

Hark to an exiled son's appeal,
Maryland!
My Mother-State, to thee I kneel,
Maryland!
For life and death, for woe and weal,
Thy peerless chivalry reveal,
And gird thy beauteous limbs with steel,
Maryland! My Maryland!

Thou wilt not cower in the dust,
Maryland!
Thy beaming sword shall never rust,
Maryland!
Remember Carroll's sacred trust,
Remember Howard's warlike thrust
And all thy slumberers with the just,
Maryland! My Maryland!

Come, 'tis the red dawn of the day,
Maryland!
Come, with thy panoplied array,
Maryland!
With Ringgold's spirit for the fray,
With Watson's blood at Monterey,
With fearless Lowe and dashing May,
Maryland! My Maryland!

Come, for thy shield is bright and strong,
Maryland!
Come, for thy dalliance does the wrong,
Maryland!
Come, to thine own heroic throng,
Marching with Liberty along,
And ring thy dauntless slogan-song,
Maryland! My Maryland!

Dear Mother, burst the tyrant's chain,
Maryland!
Virginia should not call in vain,
Maryland!
She meets her sisters on the plain—
"*Sic semper*," 'tis the proud refrain
That baffles minions back amain,
Maryland!
Arise, in majesty again,
Maryland! My Maryland!

I see the blush upon thy cheek,
Maryland!
For thou wast ever bravely meek,
Maryland!
But lo! there surges forth a shriek
From hill to hill, from creek to creek—
Potomac calls to Chesapeake,
Maryland! My Maryland!

Thou wilt not yield the Vandal toll,
Maryland!
Thou wilt not crook to his control,
Maryland!
Better the fire upon thee roll,
Better the shot, the blade, the bowl,
Than crucifixion of the soul,
Maryland! My Maryland!

I hear the distant thunder hum,
Maryland!
The Old Line bugle, fife, and drum,
Maryland!
She is not dead, nor deaf, nor dumb—
Huzza! she spurns the Northern scum!
She breathes—she burns! she'll come! she'll come!
Maryland! My Maryland!

K.

THE MERRYMAN CASE.

DECISION OF CHIEF JUSTICE TANEY.

Ex parte JOHN MERRYMAN. { Before the Chief Justice of the Supreme Court of the United States, at Chambers.

The application in this case for a Writ of *Habeas Corpus* is made to me under the 14th section of the Judiciary Act of 1789, which renders effectual for the citizen the Constitutional Privilege of the Writ of *Habeas Corpus*. That Act gives to the Courts of the United States, as well as to each Justice of the Supreme Court, and to every District Judge, power to grant Writs of *Habeas Corpus* for the purpose of an inquiry into the cause of commitment. The petition was presented to me at Washington under the impression that I would order the prisoner to be brought before me there; but as he was confined in Fort McHenry, at the City of Baltimore, which is in my Circuit, I resolved to hear it in the latter city, as obedience to the Writ, under such circumstances, would not withdraw General Cadwalader, who had him in charge, from the limits of his military command.

The petition presents the following case: The petitioner resides in Maryland, in Baltimore County. While peaceably in his own house, with his family, it was at two o'clock on the morning of the 25th of May, 1861, entered by an armed force, professing to act under military orders. He was then compelled to rise from his bed, taken into custody,

and conveyed to Fort McHenry, where he is imprisoned by the commanding officer, without warrant from any lawful authority.

The Commander of the Fort, General George Cadwalader, by whom he is detained in confinement, in his return to the Writ, does not deny any of the facts alleged in the petition. He states that the prisoner was arrested by order of General Keim, of Pennsylvania, and conducted as aforesaid to Fort McHenry by his order, and placed in his (General Cadwalader's) custody, to be there detained by him as a prisoner.

A copy of the warrant or order, under which the prisoner was arrested, was demanded by his counsel, and refused. And it is not alleged in the return that any specific act, constituting any offence against the laws of the United States, has been charged against him upon oath; but he appears to have been arrested upon general charges of treason and rebellion, without proof, and without giving the names of the witnesses, or specifying the acts which, in the judgment of the military officer, constituted these crimes. And having the prisoner thus in custody upon these vague and unsupported accusations, he refuses to obey the Writ of *Habeas Corpus*, upon the ground that he is duly authorized by the President to suspend it.

The case, then, is simply this:—A military officer residing in Pennsylvania, issues an order to arrest a citizen of Maryland, upon vague and indefinite charges, without any proof, so far as appears. Under this order, his house is entered in the night; he is seized as a prisoner, and conveyed to Fort McHenry, and there kept in close confinement. And when a *Habeas Corpus* is served on the commanding officer requiring him to produce the prisoner before a Justice of the Supreme Court, in order that he may examine into the legality of the imprisonment, the answer of the officer is that he is authorized by the President to suspend the Writ of *Habeas Corpus* at his discretion, and, in the exercise of that discretion, suspends it in this case, and on that ground refuses obedience to the Writ.

As the case comes before me, therefore, I understand that the President not only claims the right to suspend the Writ of *Habeas Corpus* himself, at his discretion, but to delegate that discretionary power to a military officer, and to leave it to him to determine whether he will or will not obey Judicial process that may be served upon him.

No official notice has been given to the Courts of Justice, or to the public, by proclamation or otherwise, that the President claimed this power, and had exercised it in the manner stated in the return. And I certainly listened to it with some surprise, for I had supposed it to be one of those points of Constitutional law upon which there was no difference of opinion, and that it was admitted on all hands that the Privilege of the Writ could not be suspended, except by Act of Congress.

When the conspiracy of which Aaron Burr was the head became so

formidable, and was so extensively ramified as to justify, in Mr. Jefferson's opinion, the suspension of the Writ, he claimed, on his part, no power to suspend it, but communicated his opinion to Congress, with all the proofs in his possession, in order that Congress might exercise its discretion upon the subject, and determine whether the public safety required it. And in the debate which took place upon the subject, no one suggested that Mr. Jefferson might exercise the power himself, if, in his opinion, the public safety demanded it.

Having, therefore, regarded the question as too plain and too well settled to be open to dispute, if the commanding officer had stated that, upon his own responsibility and in the exercise of his own discretion, he refused obedience to the writ, I should have contented myself with referring to the clause in the Constitution and to the construction it received from every jurist and statesman of that day, when the case of Burr was before them. But being thus officially notified that the Privilege of the Writ has been suspended under the orders, and by the authority, of the President, and believing, as I do, that the President has exercised a power which he does not possess under the Constitution, a proper respect for the high office he fills requires me to state plainly and fully the grounds of my opinion, in order to show that I have not ventured to question the legality of his act without a careful and deliberate examination of the whole subject.

The clause of the Constitution which authorizes the suspension of the Privilege of the Writ of *Habeas Corpus* is in the 9th section of the first article.

This article is devoted to the Legislative Department of the United States, and has not the slightest reference to the Executive Department. It begins by providing "that all Legislative powers therein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." And after prescribing the manner in which these two branches of the Legislative Department shall be chosen, it proceeds to enumerate specifically the Legislative powers which it thereby grants; and, at the conclusion of this specification, a clause is inserted giving Congress "the power to make all laws which may be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any Department or Office thereof."

The power of legislation granted by this latter clause is, by its words, carefully confined to the specific objects before enumerated. But as this limitation was unavoidably somewhat indefinite, it was deemed necessary to guard more effectually certain great cardinal principles essential to the liberty of the citizen, and to the rights and equality of the States, by denying to Congress, in express terms, any power of legislation over them. It was apprehended, it seems, that such legisla-

tion might be attempted under the pretext that it was necessary and proper to carry into execution the powers granted; and it was determined that there should be no room to doubt, where rights of such vital importance were concerned, and accordingly this clause is immediately followed by an enumeration of certain subjects to which the powers of legislation shall not extend; and the great importance which the framers of the Constitution attached to the Privilege of the Writ of *Habeas Corpus* to protect the liberty of the citizen is proved by the fact that by its suspension, except in cases of invasion and rebellion, is first in the list of prohibited powers—and even in these cases the power is denied, and its exercise prohibited, unless the public safety shall require it.

It is true that in the cases mentioned, Congress is, of necessity, the judge of whether the public safety does or does not require it; and their judgment is conclusive. But the introduction of these words is a standing admonition to the Legislative body of the danger of suspending it, and of the extreme caution they should exercise before they give the Government of the United States such power over the liberty of a citizen.

It is the second article of the Constitution that provides for the organization of the Executive Department, and enumerates the powers conferred on it, and prescribes its duties. And if the high power over the liberty of the citizens now claimed was intended to be conferred on the President, it would undoubtedly be found in plain words in this article. But there is not a word in it that can furnish the slightest ground to justify the exercise of the power.

The article begins by declaring that the Executive power shall be vested in a President of the United States of America, to hold his office during the term of four years—and then proceeds to prescribe the mode of election, and to specify in precise and plain words the powers delegated to him and the duties imposed upon him. And the short term for which he is elected, and the narrow limits to which his power is confined show the jealousy and apprehensions of future danger which the framers of the Constitution felt in relation to that Department of the Government—and how carefully they withheld from it many of the powers belonging to the Executive branch of the English Government, which were considered as dangerous to the liberty of the subject, and conferred (and that in clear and specific terms) those powers only which were deemed essential to secure the successful operation of the Government.

He is elected, as I have already said, for the brief term of four years, and is made personally responsible, by impeachment, for malfeasance in office. He is from necessity and the nature of his duties the Commander-in-Chief of the Army and Navy, and of the Militia, when called into actual service. But no appropriation for the support of the army can be made by Congress for a longer term than two years, so that it is in

the power of the succeeding House of Representatives to withhold the appropriation for its support, and thus disband it, if, in their judgment, the President used, or designed to use, it for improper purposes. And although the militia, when in actual service, are under his command, yet the appointment of the officers is reserved to the States as a security against the use of the military power for purposes dangerous to the liberties of the people, or the rights of the States.

So, too, his powers in relation to the civil duties and authority necessarily conferred on him are carefully restricted, as well as those belonging to his military character. He cannot appoint the ordinary officers of Government, nor make a treaty with a foreign Nation or Indian tribe, without the advice and consent of the Senate, and cannot appoint even inferior officers, unless he is authorized by an act of Congress to do so. He is not empowered to arrest any one charged with an offence against the United States, and whom he may, from the evidence before him, believe to be guilty; nor can he authorize any officer, civil or military, to exercise this power, for the 5th Article of the Amendments to the Constitution expressly provides that no person "shall be deprived of life, liberty or property, without due process of law"—that is, Judicial process.

And even if the Privilege of the Writ of *Habeas Corpus* was suspended by Act of Congress, and a party not subject to the Rules and Articles of war was afterwards arrested and imprisoned by regular Judicial process, he could not be detained in prison or brought to trial before a military tribunal, for the article in the Amendments to the Constitution immediately following the one above referred to—that is the 6th Article—provides that "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."

And the only power, therefore, which the President possesses, where the "life, liberty or property" of a private citizen is concerned, is the power and duty prescribed in the 3d Section of the 2d Article, which requires "that he shall take care that the laws be faithfully executed." He is not authorized to execute them himself, or through agents or officers, civil or military, appointed by himself, but he is to take care that they be faithfully carried into execution, as they are expounded and adjudged by the Co-ordinate Branch of the Government to which that duty is assigned by the Constitution. It is thus made his duty to come in aid of the Judicial authority, if it shall be resisted by a force too strong to be overcome without the assistance of the Executive arm. But in exercising this power, he acts in subordination to Judicial authority, assisting it to execute its process and enforce its judgments.

With such provisions in the Constitution, expressed in language too clear to be misunderstood by any one, I can see no ground whatever for supposing that the President, in any emergency, or in any state of things, can authorize the suspension of the Privilege of the Writ of *Habeas Corpus*, or arrest a citizen except in aid of the Judicial power. He certainly does not faithfully execute the laws, if he takes upon himself legislative power by suspending the Writ of *Habeas Corpus*, and the Judicial power, also, by arresting and imprisoning a person without due process of law. Nor can any argument be drawn from the nature of Sovereignty, or the necessities of Government, for self-defence in times of tumult and danger. The Government of the United States is one of delegated and limited powers. It derives its existence and authority altogether from the Constitution, and neither of its Branches, Executive, Legislative or Judicial, can exercise any of the powers of Government beyond those specified and granted. For the 10th Article of the Amendments to the Constitution in express terms provides that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

Indeed, the security against imprisonment by Executive authority, provided for in the 5th Article of the Amendments to the Constitution, which I have before quoted, is nothing more than a copy of a like provision in the English Constitution, which had been firmly established before the Declaration of Independence.

Blackstone, in his Commentaries (first vol., 137), states it in the following words:

"To make imprisonment lawful, it must be either by process of law from the Courts of Judicature, or by warrant from some legal officer having authority to commit to prison." And the people of the United Colonies, who had themselves lived under its protection while they were British subjects, were well aware of the necessity of this safeguard for their personal liberty. And no one can believe that in framing a Government intended to guard still more efficiently the rights and the liberties of the citizens against Executive encroachments and oppression, they would have conferred on the President a power which the history of England had proved to be dangerous and oppressive in the hands of the Crown, and which the people of England had compelled it to surrender, after a long and obstinate struggle on the part of the English Executive to usurp and retain it.

The right of the subject to the benefit of the Writ of *Habeas Corpus*, it must be recollected, was one of the great points in controversy during the long struggle in England between arbitrary government and free institutions, and must, therefore, have strongly attracted the attention of the statesmen engaged in framing a new and, as they supposed, a freer Government than the one which they had thrown off by the Revolution.

For, from the earliest history of the Common Law, if a person were imprisoned—no matter by what authority—he had a right to the Writ of *Habeas Corpus*, to bring his case before the King's Bench; and if no specific offence was charged against him in the warrant of commitment, he was entitled to be forthwith discharged; and if an offence was charged which was bailable in its character, the Court was bound to set him at liberty on bail. And the most exciting contests between the Crown and the people of England from the time of Magna Charta were in relation to the Privilege of this Writ, and they continued until the passage of the statute of 31st Charles II, commonly known as the great *Habeas Corpus* Act.

This statute put an end to the struggle, and finally and firmly secured the liberty of the subject against the usurpation and oppression of the Executive branch of the Government. It nevertheless conferred no new right upon the subject, but only secured a right already existing. For, although the right could not be justly denied, there was often no effectual remedy against its violation. Until the statute of the 13th of William III, the Judges held their offices at the pleasure of the King, and the influence which he exercised over timid, time-serving and partisan judges often induced them, upon some pretext or another, to refuse to discharge the party, although entitled by law to his discharge, or delayed their decisions from time to time, so as to prolong the imprisonment of persons who were obnoxious to the King for their political opinions, or had incurred his resentment in any other way.

The great and inestimable value of the *Habeas Corpus* Act of the 31st Charles II, is that it contains provisions which compel Courts and Judges, and all parties concerned to perform their duties promptly, in the manner specified in the statute.

A passage in Blackstone's Commentaries, showing the ancient state of the law upon this subject, and the abuses which were practiced through the power and influence of the Crown, and a short extract from Hallam's Constitutional History, stating the circumstances which gave rise to the passage of this statute, explain briefly but fully, all that is material to this subject.

Blackstone, in his Commentaries on the Laws of England (3d vol. 133, 134), says:

"To assert an absolute exemption from imprisonment in all cases is inconsistent with every idea of law and political society, and in the end would destroy all civil liberty by rendering its protection impossible.

"But the glory of the English law consists in clearly defining the times, the causes, and the extent, when, wherefore, and to what degree the imprisonment of the subject may be lawful. This it is which induces the absolute necessity of expressing upon every commitment the reason for which it is made, that the Court upon a *Habeas Corpus*

may examine into its validity, and according to the circumstances of the case may discharge, admit to bail or remand the prisoner.

"And yet, early in the reign of Charles I, the Court of King's Bench, relying on some arbitrary precedents (and those perhaps misunderstood) determined that they would not, upon a *Habeas Corpus*, either bail or deliver a prisoner, though committed without any cause assigned, in case he was committed by the special command of the King, or by the Lords of the Privy Council. This drew on a Parliamentary inquiry and produced the *Petition of Right*—3 Charles I—which recites this illegal judgment, and enacts that no freeman hereafter shall be so imprisoned or detained. But when, in the following year, Mr. Selden and others were committed by the Lords of the Council in pursuance of his Majesty's special command, under a general charge of notable contempts, and stirring up sedition against the King and Government, the Judges delayed for two Terms (including also the long vacation) to deliver an opinion how far such a charge was bailable. And when at length they agreed that it was, they, however, annexed a condition of finding sureties for their good behavior which still protracted their imprisonment, the Chief Justice, Sir Nicholas Hyde, at the same time declaring that 'if they were again remanded for that cause perhaps the Court would not afterwards grant a *Habeas Corpus*, being already made acquainted with the cause of the imprisonment.' But this was heard with indignation and astonishment by every lawyer present, according to Mr. Selden's own account of the matter, whose resentment was not cooled at the distance of four and twenty years."

It is worthy of remark that the offences charged against the prisoner in this case, and relied on as a justification for his arrest and imprisonment, in their nature and character, and in the loose and vague manner in which they are stated, bear a striking resemblance to those assigned in the warrant for the arrest of Mr. Selden. And yet, even at that day, the warrant was regarded as such a flagrant violation of the rights of the subject, that the delay of the time-serving Judges to set him at liberty upon the *Habeas Corpus* issued in his behalf, excited the universal indignation of the Bar. The extract from Hallam's Constitutional History is equally impressive and equally in point. (It is in vol. 4, p. 9, and is also cited at length in the note to pp. 136, 137 of the 3d volume of Wendell's edition of Blackstone.)

"It is a very common mistake, and not only among foreigners, but many from whom some knowledge of our Constitutional laws might be expected, to suppose that this statute of Charles II. enlarged in a great degree our liberties, and forms a sort of epoch in their history. But though a very beneficial enactment, and eminently remedial in many cases of illegal imprisonment, it introduced no new principle, nor conferred any rights upon the subject. From the earliest records of the English law, no freeman could be detained in prison, except upon a

criminal charge or conviction, or for a civil debt. In the former case, it was always in his power to demand of the Court of King's Bench a Writ of *Habeas Corpus ad Subjiciendum* directed to the person detaining him in custody, by which he was enjoined to bring up the body of the prisoner with the warrant of commitment, that the Court might judge of its sufficiency and remand the party, admit him to bail, or discharge him, according to the nature of the charge. This Writ issued of right, and could not be refused by the Court. It was not to bestow an immunity from arbitrary imprisonment, which is abundantly provided for in Magna Charta (if, indeed, it is not more ancient) that the statute of Charles II was enacted, but to cut off the abuses by which the Government's lust of power and the servile sublety of Crown lawyers had impaired so fundamental a Privilege."

While the value set upon this Writ in England has been so great that the removal of the abuses which embarrassed its enjoyment has been looked upon as almost a new grant of liberty to the subject, it is not to be wondered at that the continuance of the Writ thus made effective should have been the object of the most jealous care. Accordingly, no power in England short of that of Parliament can suspend or authorize the suspension of the Writ of *Habeas Corpus*. I quote again from Blackstone, (1 Com. 136 :) "But the happiness of our Constitution is that it is not left to the Executive power to determine when the danger of the State is so great as to render this measure expedient. It is the Parliament only or Legislative power that, whenever it sees proper, can authorize the Crown, by suspending the *Habeas Corpus* for a short and limited time, to imprison suspected persons without giving any reason for so doing." And if the President of the United States may suspend the Writ, then the Constitution of the United States has conferred upon him more regal and absolute power over the liberty of the citizen than the people of England have thought it safe to entrust to the Crown—a power which the Queen of England cannot exercise at this day, and which could not have been lawfully exercised by the Sovereign even in the reign of Charles the First.

But, I am not left to form any judgment upon this great question from analogies between the English Government and our own, or the commentaries of English jurists, or the decisions of English Courts, although upon this subject they are entitled to the highest respect, and are justly regarded and received as authoritative by our Courts of Justice. To guide me to a right conclusion, I have the Commentaries on the Constitution of the United States of the late Mr. Justice Story, not only one of the most eminent jurists of the age, but for a long time one of the brightest ornaments of the Supreme Court of the United States, and also the clear and authoritative decision of that Court itself, given more than half a Century since and conclusively establishing the principles I have above stated.

Mr. Justice Story, speaking in his Commentaries of the *Habeas Corpus* clause in the Constitution, says:

"It is obvious that cases of a peculiar emergency may arise, which may justify, nay, even require, the temporary suspension of any right to the Writ. But, as it has frequently happened in foreign countries, and even in England, that the Writ has, upon various pretexts and occasions, been suspended, whereby persons apprehended upon suspicion have suffered a long imprisonment, sometimes from design, and sometimes because they were forgotten, the right to suspend it is expressly confined to cases of rebellion or invasion, where the public safety may require it. A very just and wholesome restraint, which cuts down at a blow a fruitful means of oppression, capable of being abused in bad times to the worst of purposes. Hitherto no suspension of the Writ has ever been authorized by Congress since the establishment of the Constitution. It would seem, as the power is given to Congress to suspend the Writ of *Habeas Corpus* in cases of rebellion or invasion, that the right to judge whether the exigency had arisen must exclusively belong to that body."—3 *Story's Com. on the Constitution*, *Section* 1336.

And Chief Justice Marshall, in delivering the opinion of the Supreme Court in the case of *ex parte* Bollman and Swartwout, uses this decisive language in 4 Cranch, 95: "It may be worthy of remark, that this act (speaking of the one under which I am proceeding) was passed by the first Congress of the United States sitting under a Constitution which had declared 'that the Privilege of the Writ of *Habeas Corpus* should not be suspended, unless when in cases of rebellion or invasion, the public safety might require it.' Acting under the immediate influence of this injunction, they must have felt with peculiar force the obligation of providing efficient means by which this great Constitutional Privilege should receive life and activity; for if the means be not in existence, the Privilege itself would be lost, although no law for its suspension should be enacted. Under the impression of this obligation they give to all the Courts the power of awarding Writs of *Habeas Corpus*."

And again, in page 101:

"If at any time, the public safety should require the suspension of the powers vested by this act in the Courts of the United States, it is for the Legislature to say so. That question depends on political considerations, on which the Legislature is to decide. Until the Legislative will be expressed, this Court can only see its duty, and must obey the law."

I can add nothing to these clear and emphatic words of my great predecessor.

But the documents before me show that the Military authority in this case has gone far beyond the mere suspension of the Privilege of the Writ of *Habeas Corpus*. It has by force of arms, thrust aside the Judicial authorities and officers to whom the Constitution has confided the power

and duty of interpreting and administering the laws, and substituted a Military Government in its place, to be administered and executed by military officers.

For at the time these proceedings were had against John Merryman, the District Judge of Maryland, the Commissioner appointed under the Act of Congress, the District Attorney and the Marshal all resided in the City of Baltimore, a few miles only from the home of the prisoner. Up to that time there had never been the slightest resistance or obstruction to the process of any Court or Judicial officer of the United States in Maryland, except by the Military authority. And if a military officer, or any other person had reason to believe that the prisoner had committed any offence against the laws of the United States, it was his duty to give information of the fact, and the evidence to support it to the District Attorney; and it would then have become the duty of that officer to bring the matter before the District Judge or Commissioner, and if there was sufficient legal evidence to justify his arrest, the Judge or Commissioner would have issued his warrant to the Marshal to arrest him, and upon the hearing of the case, would have held him to bail or committed him for trial, according to the character of the offence as it appeared in the testimony, or would have discharged him immmediately, if there was not sufficient evidence to support the accusation. There was no danger of any obstruction or resistance to the action of the Civil authorities, and, therefore, no reason whatever for the interposition of the military.

And yet, under these circumstances a military officer, stationed in Pennsylvania, without giving any information to the District Attorney, and without any application to the Judicial authorities, assumes to himself the Judicial power in the District of Maryland; undertakes to decide what constitutes the crime of treason or rebellion; what evidence (if, indeed, he required any) is sufficient to support the accusation and justify the commitment; and commits the party, without a hearing even before himself, to close custody in a strongly garrisoned Fort, to be there held, it would seem, during the pleasure of those who committed him.

The Constitution provides, as I have before said, that "no person shall be deprived of life, liberty or property, without due process of law." It declares that "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 warrant 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." It provides that the party accused shall be entitled to a speedy trial in a Court of Justice.

And these great and fundamental laws, which Congress itself could not suspend, have been disregarded, and suspended, like the Writ of *Habeas Corpus*, by a military order, supported by force of arms. Such

is the case now before me, and I can only say, that if the authority which the Constitution has confided to the Judiciary Department and Judicial officers may thus, upon any pretext or under any circumstances, be usurped by the military power at its discretion, the people of the United States are no longer living under a Government of Laws, but every citizen holds life, liberty and property at the will and pleasure of the Army officer in whose Military District he may happen to be found.

In such a case my duty was too plain to be mistaken. I have exercised all the power which the Constitution and Laws confer upon me, but that power has been resisted by a force too strong for me to overcome. It is possible that the officer who has incurred this grave responsibility may have misunderstood his instructions, and exceeded the authority intended to be given him. I shall, therefore, order all the proceedings in this case, with my opinion to be filed and recorded in the Circuit Court of the United States for the District of Maryland, and direct the Clerk to transmit a copy, under seal, to the President of the United States. It will then remain for that high officer, in fulfilment of his Constitutional obligation, to "take care that the laws be faithfully executed," to determine what measures he will take to cause the civil process of the United States to be respected and enforced.

R. B. TANEY,

Chief Justice of the Supreme Court, United States.

L.

ORGANIZATION OF THE CONFEDERATE STATES GOVERNMENT UNDER THE PERMANENT CONSTITUTION, ON THE 22D OF FEBRUARY, 1862.

JEFFERSON DAVIS, of Mississippi, President.

ALEXANDER H. STEPHENS, of Georgia, Vice President.

COL. JOSEPH DAVIS, of Mississippi, Aid to the President.

BURTON N. HARRISON, of Mississippi, Private Secretary of the President.

WILLIAM H. HIDELL, of Georgia, Private Secretary of the Vice President.

JUDAH P. BENJAMIN, of La., Secretary of State. William M. Browne, Assistant Secretary of State. P. P. Dandrige, Chief Clerk.

CHARLES G. MEMMINGER, of S. C., Secretary of the Treasury. Philip Clayton, of Ga., Assistant Secretary of the Treasury. H. D. Capers, Chief Clerk of the Department. Lewis Crugér, of S. C., Comptroller and Solicitor. Bolling Baker, of Ga., First Auditor. W. H. S.

Taylor, of La., Second Auditor. Robert Tyler, of Va., Register. E. C. Elmore, of Ala., Treasurer.

GEORGE W. RANDOLPH, of Va., Secretary of War. Albert Taylor Bledsoe, of Va., Assistant Secretary of War. Samuel Cooper, of Va., Adjutant and Inspector General of the Army. Lieutenant-Colonel B. Chilton and Captain J. Withers, of S. C., Assistant Adjutant and Inspector Generals. Colonel A. C. Myers, Acting Quartermaster General. Lieutenant-Colonel L. B. Northrop, of S. C., Commissary General. Colonel J. Gorgas, of Va., Chief of Ordnance. Colonel S. P. Moore, (M. D.,) of S. C., Surgeon-General. Captain C. H. Smith, (M. D.,) of Va., Assistant Surgeon-General. Captain Leg. G. Capers, (M. D.,) of S. C., Chief Clerk of the Medical Department. Major D. Hubbard, of Ala., Commissioner of Indian Affairs.

STEPHEN R. MALLORY, of Fla., Secretary of the Navy. Com. E. M. Tidball, of Va., Chief Clerk of the Department. Com. D. N. Ingraham, of S. C., Chief of Ordnance, Construction and Repair. Captain George Minor, of Va., Inspector of Ordnance. Com. L. Rosseau, of La., Chief of Equipment, Recruiting Orders, and Detail. Captain W. A. Spottswood, (M. D.,) of Va., Chief of Medicine and Surgery. Captain John Debree, Chief of Clothing and Provisions.

THOMAS H. WATTS, of Ala., Attorney-General. Wade Keyes, of Ala., Assistant Attorney-General. R. R. Rhodes, of Miss., Commissioner of Patents. G. E. W. Nelson, of Ga., Superintendent of Public Printing. R. M. Smith, of Va., Public Printer.

JOHN H. REAGAN, of Texas, Postmaster-General. H. St. George Offutt, of Va., Chief Contract Bureau. B. N. Clements, of Tenn., Chief Appointment Bureau. J. L. Harrell, of Ala., Chief Finance Bureau. W. D. Miller, of Texas, Chief Clerk of Department.

FIRST CONGRESS.

From February 22, 1862, *to February* 22, 1864.

SENATE.

ALEXANDER H. STEPHENS, of Ga., Vice President.

R. M. T. HUNTER, of Va., President *pro tem.*

*Alabama.**—Clement C. Clay, Jr., William L. Yancey.
Arkansas.—Robert W. Johnson, Charles B. Mitchell.
Florida.—James M. Baker, Augustus E. Maxwell.
Georgia.†—Benjamin H. Hill, John W. Lewis.
Kentucky.—Henry C. Burnett, William E. Simms.
Louisiana.—Thomas J. Semmes, Edward Sparrow.
Mississippi.—Albert G. Brown, James Phelan.
Missouri.—John B. Clark, R. L. Y. Peyton.

* Mr. Yancey died in 1863, and was succeeded by Robert Jemison, Jr.

† Herschel V. Johnson was elected by the Legislature in 1862 to succeed Mr. Lewis, who had been appointed by the Governor.

North Carolina.—William T. Dortch, George Davis.

South Carolina.—Robert W. Barnwell, James L. Orr.

Tennessee.—Gustavus A. Henry, Landon C. Haynes.

*Virginia.**—Robert M. T. Hunter, William Ballard Preston.

Texas.—Louis T. Wigfall, Williamson S. Oldham.

OFFICERS OF THE SENATE.—J. H. Nash, of S. C., Secretary; E. H. Stevens, of S. C., Assistant Secretary; C. T. Bruen, of Va., Journal Clerk; J. W. Anderson, Recording Clerk; Lafayette H. Fitzhugh, of Ky., Sergeant-at-Arms; James Page of N. C., Doorkeeper.

HOUSE OF REPRESENTATIVES.

THOMAS S. BOCOCK, of Va., Speaker.

Alabama.—Thomas J. Foster, William R. Smith, John P. Ralls, Jabez L. M. Curry, Francis S. Lyon, William P. Chilton, David Clopton, James L. Pugh, Edward S. Dargan.

Arkansas.—Felix I. Batson, Grandison D. Royston, Augustus H. Garland, Thomas B. Hanly.

Florida.—James B. Hawkins, Robert B. Hilton.

Georgia.—Julian Hartridge, Charles J. Munnerlyn, Hines Holt, Augustus H. Kenan, David W. Lewis, William W. Clark, Robert P. Trippe, Lucius J. Gartrell, Hardy Strickland, Augustus R. Wright.

Kentucky.—Willie B. Machen, John W. Crockett, Henry E. Reed, George W. Ewing, Jas. S. Chrisman, Theodore L. Burnett, H. W. Bruce, G. B. Hodge, Ely M. Bruce, Jas. W. Moore, Robt. J. Breckinridge, Jr., John M. Elliott.

Louisiana.—Charles J. Villeré, Charles M. Conrad, Duncan F. Kenner, Lucien J. Dupré, Henry Marshall, John Perkins, Jr.

Mississippi.—J. W. Clapp, Reuben Davis, Israel Welch, H. C. Chambers, O. R. Singleton, E. Barksdale, John J. McRae.

Missouri.—Wm. M. Cook, Thomas A. Harris, Caspar W. Bell, A. H. Conrow, George G. Vest, Thomas W. Freeman.

North Carolina.—W. H. N. Smith, Robert R. Bridges, Owen R. Kenan, F. D. McDowell, Archibald H. Arrington, J. R. McLean, Thomas S. Ashe, William Lander, B. S. Gaither, A. T. Davidson.

South Carolina.—John McQueen, W. Porcher Miles, L. M. Ayer, (*vice* M. L. Bonham,) M. L. Bonham, (elected Governor and resigned,) James Farrow, William W. Boyce, Wm. D. Simpson.

Tennessee.—Jos. B. Heiskell, Wm. G. Swan, Wm. H. Tibbs, E. L. Gardenhier, Henry S. Foote, Meredith P. Gentry, George W. Jones, Thomas Menees, J. D. C. Atkins, John V. Wright, David M. Currin.

Texas.—John A. Wilcox, C. C. Herbert, P. W. Gray, Frank B. Sexton, M. D. Graham, B. H. Epperson, William B. Wright.

Virginia.—M. R. H. Garnett, John R. Chambliss, John Tyler, Roger A. Pryor, Thomas S. Bocock, John Goode, Jr., James P. Holcombe, D.

* Mr. Preston died, and was succeeded by Allen T. Caperton.

C. De Jarnette, William Smith, Alexander R. Boteler, John B. Baldwin, Waller R. Staples, Walter Preston, Albert G. Jenkins, Robert Johnson, Charles W. Russell.

OFFICERS OF THE HOUSE.—Emmett Dixon, of Ga., Clerk; Albert R. Lamar, of Ga., Assistant Clerk; R. H. Wynne, of Ala., Doorkeeper.

SECOND CONGRESS.

From February 22, 1864, *to February* 22, 1866.

SENATE.

ALEXANDER H. STEPHENS, of Ga., Vice President.

R. M T. HUNTER, of Va., President *pro tem.*

Alabama.—Robert Jemison, Jr., Richard Wilde Walker.
Arkansas.—Robert W. Johnson, Augustus H. Garland.
Florida.—James M. Baker, Augustus E. Maxwell.
Georgia.—Benjamin H. Hill, Herschel V. Johnson.
Kentucky.—Henry C. Burnett, William E. Simms.
Louisiana.—Edward Sparrow, Thomas J. Semmes.
Mississippi.—J. W. C. Watson, Albert G. Brown.
Missouri.—Waldo P. Johnson, L. M. Louis.
North Carolina.—William T. Dortch, William A. Graham.
South Carolina.—Robert W. Barnwell, James L. Orr.
Tennessee.—Gustavus A. Henry, Landon C. Haynes.
Texas.—Louis T. Wigfall, Williamson S. Oldham.
Virginia.—Robert M. T. Hunter, Allen T. Caperton.
Officers of the Senate the same as before.

HOUSE OF REPRESENTATIVES.

THOMAS S. BOCOCK, of Va., Speaker.

Alabama.—Thomas J. Foster, William R. Smith, Williamson R. W. Cobb, M. H. Cruikshank, Francis S. Lyon, William P. Chilton, David Clopton, James L. Pugh, J. S. Dickinson.

Arkansas.—Felix I. Batson, Rufus K. Garland, (vacancy,) Thomas B. Hanly.

Florida.—St. George Rogers, Robert B. Hilton.

Georgia.—Julian Hartridge, William E. Smith, Mark H. Blanford, Clifford Anderson, J. T. Shewmake, Joseph H. Echols, James M. Smith, H. P. Bell, George N. Lester, Warren Akin.

Kentucky.—William B. Machen, George W. Triplett, Henry E. Reed, George W. Ewing, James S. Chrisman, Theodore L. Burnett, H. W. Bruce, Humphrey Marshall, Ely M. Bruce, James W. Moore, Benjamin F. Bradley, John M. Elliott.

Louisiana.—Charles J. Villeré, Charles M. Conrad, Duncan F. Kenner, Lucius J. Dupré, John Perkins, Jr.

Mississippi.—John A. Orr, W. D. Holder, Israel Welch, Henry C. Chambers, Otho R. Singleton, Ethel Barksdale, J. T. Lampkin.

Missouri.—Thomas L. Snead, N. L. Norton, John B. Clarke, A. H. Conrow, George G. Vest, Peter S. Wilkes, R. A. Hatcher.

North Carolina.—W. N. H. Smith, Robert R. Bridgers, J. T. Leach, Thomas C. Fuller, Josiah Turner, Jr., John A. Gilmer, James M. Leach, James G. Ramsey, B. S. Gaither, George W. Logan.

South Carolina.—James M. Witherspoon, William Porcher Miles, Lewis M. Ayer, William D. Simpson, James Farrow, William W. Boyce.

Tennessee.—Joseph B. Heiskell, William G. Swan, A. S. Colyar, John P. Murray, Henry S. Foote, F. A. Keeble, James McCallum, Thomas Menees, John D. C. Atkins, John V. Wright, Michael W. Cluskey.

Texas.—Stephen H. Darden, Claiborne C. Herbert, A. M. Branch, Frank B. Sexton, J. R. Baylor, S. H. Morgan.

Virginia.—Robert L. Montague, Robert H. Whitfield, William C. Wickham, Thomas S. Gholson, Thomas S. Bocock, John Goode, Jr., William C. Rives, Daniel C. De Jarnette, David Funsten, F. W. M. Holliday, John B. Baldwin, Waller R. Staples, Fayette McMullen, Samuel A. Miller, Robert Johnson, Charles W. Russell.

TERRITORIAL DELEGATES.

Arizona.—M. H. McWillie.

Cherokee Nation.—E. C. Boudinot.

Choctaw Nation.—R. M. Jones.

Creek and Seminole Nations.—S. B. Callahan.

OFFICERS OF THE HOUSE.—Albert R. Lamar, of Ga., Clerk; James McDonald, De Louis Dalton, Henry G. Lowring, Assistant Clerks; R. H. Wynne, of Ala., Doorkeeper.

LIST OF GENERAL OFFICERS IN THE CONFEDERATE STATES ARMY.

The following statistics of the Confederate Army organization at the inauguration of the Permanent Government, from want of access to the Confederate Archives, have been compiled in part from a list furnished the Charleston *Courier*, about the time, by its Richmond correspondent, and in part from a list in Appleton's Annual Cyclopædia for 1862. In the lists of Major-Generals and Brigadier-Generals, the regular order of appointment is not observed, but it is believed that these lists are otherwise correct.

GENERALS IN THE REGULAR ARMY.

1. *Samuel Cooper.....Virginia.
2. *Albert Sidney Johnston.....Texas.
3. *Robert Edward Lee.....Virginia.
4. *Joseph Eggleston Johnston.....Virginia,
5. *Gustave Toutant Beauregard.....Louisiana.

MAJOR-GENERALS IN THE PROVISIONAL ARMY.

David E. Twiggs.....Georgia.
* Leonidas Polk.....Louisiana.
* Braxton Bragg..North Carolina.
* Earl Van Dorn.....Mississippi.
* Gustavus W. Smith...Kentucky.
* Theoph. H. Holmes, N. Carolina.
* William J. Hardee.....Georgia.
* Benjamin Huger, South Carolina.
* James Longstreet.....Alabama.
* John B. Magruder.....Virginia.
* Thomas J. Jackson....Virginia.
* Mansfield Lovell.....Virginia.
* E. Kirby Smith.....Florida.
* Simon B. Buckner....Kentucky.
* George B. Crittenden..Kentucky.
William W. Loring..N. Carolina.
Sterling Price.....Missouri.
* John P. McCown.....Tennessee.
* Daniel H. Hill..North Carolina.
* Richard S. Ewell.....Virginia.
* John C. Pemberton....Virginia.
* Ambrose P. Hill.....Virginia.
John C. Breckinridge....Virginia.
Benj. F. Cheatham....Tennessee.
Thomas C. Hindman...Arkansas.
* Rich'd H. Anderson, S. Carolina.
* James E. B. Stuart....Virginia.
* Jubal A. Early.....Virginia.

BRIGADIER-GENERALS IN THE PROVISIONAL ARMY.

Maxcy Gregg.....South Carolina.
Milledge L. Bonham, S. Carolina.
John B. Floyd.....Virginia.
Henry A. Wise.....Virginia.
Ben McCulloch.....Texas.
Henry R. Jackson.....Georgia.
*Robert S. Garnett.....Virginia.
*Wm. H. T. Walker.....Georgia.
*Barnard E. Bee..South Carolina.
*Alexander R. Lawton...Georgia.
Gideon J. Pillow.....Tennessee.
Samuel R. Anderson...Tennessee.
*Daniel S. Donelson....Tennessee.
*David R. Jones..South Carolina.
*John H. Winder.....Maryland.
Thomas R. Flournoy...Arkansas.
Felix K. Zollicoffer.....Tennessee.
*Gabriel J. Rains....N. Carolina.
*Thomas F. Drayton..S. Carolina.
*Lloyd Tilghman.....Kentucky.
*Cadmus M. Wilcox...Tennessee.
R. E. Rodes.....Alabama.
Louis T. Wigfall.....Texas.
*Samuel G. French....Mississippi.
William H Carroll.....Tennessee.
Richard Griffith.....Mississippi.
Robert Toombs.....Georgia.
*Samuel Jones.....Virginia.
*Arnold Elzey.....Maryland.
*Henry H. Sibley.....Louisiana.
*Wm. H. C. Whiting....Georgia.
Albert Pike.....Arkansas.
Thos. T. Fauntleroy.....Virginia.
*Daniel Ruggles.....Virginia.
Charles Clark.....Mississippi.
*Roswell S. Ripley...S. Carolina.
*Isaac R. Trimble.....Maryland.
*John B. Grayson.....Kentucky.
*Paul O. Herbert.....Louisiana.
*Richard C. Gatlin...N. Carolina.
*Joseph R. Anderson....Virginia.
L. Pope Walker.....Alabama.
*Albert G. Blanchard..Louisiana.
*Lafayette McLaws.....Georgia.
Adley H. Gladden.....Louisiana.
*Nathan G. Evans....S. Carolina.
*Philip St. G. Cocke.....Virginia,
Richard Taylor.....Louisiana.
*James H. Trapier...S. Carolina.
*Hugh W. Mercer.....Georgia
*Humphrey Marshall...Kentucky.
*Alex. P. Stewart.....Tennessee.

*W. Montgomery Gardner....Ga.
William Mahone.....Virginia.
*George H. Stewart....Maryland.
John K. Jackson.....Georgia.
*Johnson K. Duncan...Louisiana.
*Edward Johnson.....Virginia.
Howell Cobb.....Georgia.
*B. R. Johnson.....Tennessee.
*John B. Villipigue.....Georgia.
*J. M. Withers..... Alabama.
*John B. Hood.....Texas.
*George B. Anderson, N. Carolina.
J. J. Pettigrew....South Carolina.
Hamilton P. Bee.....Texas.
*Henry Little.....Missouri.
Robert Ransom...North Carolina.
Thomas R. R. Cobb.....Georgia.
Francis C. Armstrong.....
M. Jenkins.....South Carolina.
Robert E. Garland.....Virginia.
A. W. Reynolds.....Virginia.
*M. L. Smith.....Mississippi.
*William B. Taliaferro..Virginia.
Ambrose P. Wright.....Georgia.
George Maury.....Tennessee.
*Lewis A. Armistead....Virginia.
*Dabney H. Maurey....Alabama.
*Fitzhugh Lee.....Virginia.
James E. Slaughter.....
*Abraham Buford.....Kentucky.
Robert Hatton.....Tennessee.
J. T. Hughes.....Missouri.
Pat Cleburne.....Arkansas.
Henry L. Benning.....Georgia.
*W. H. F. Lee.....Virginia.
J. Patton Anderson.....Florida.
Turner Ashby.....Virginia.

*Richard B. Garnett.....Virginia
L. O'B. Branch....North Carolina.
*Wm. W. Mackall, Dist. Columbia.
*Henry Heth.....Virginia.
Joseph L. Hogg.....Texas
Wm. S. Featherstone..Mississippi.
*John H. Forney.....Alabama.
William Preston.....Kentucky.
*Thomas K. Jackson.....
*John S. Bowen.....Missouri.
*Thomas Jordan.....Virginia.
*Thomas M. Jones.....Virginia.
Albert Rust..... ...Arkansas.
James J. Ramsey.....Georgia.
Henry McCulloch.....Texas.
Martin E. Greene.....Missouri.
William Barksdale....Mississippi.
Wm. D. Pender...North Carolina.
John S. Williams.....Kentucky.
N. B. Forrest.....Tennessee.
Eward W. Gannt.....Arkansas.
Solon Borland.....Arkansas.
*George E. Pickett.....Virginia
Ben Hardin Helm.....Kentucky.
Blanton Duncan.....Kentucky.
Paul Semmes.....Georgia.
James McIntosh.....Missouri.
John M. Jones.....Virginia.
Henry Hayes.....Louisiana.
John S. Marmaduke.....Missouri.
J. B. Kershaw....South Carolina.
*Charles S. Winder....Maryland.
Humphrey Bate.....Tennessee.
A. H. Colquitt.....Georgia.
James G. Martin.....N. Carolina.
—— Ledbetter.....Tennessee.
J. L. Kemper.....Virginia.

The following were born in the North: General Samuel Cooper, New York; Maj.-General John C. Pemberton, Pennsylvania; Brig.-Generals William H. C. Whiting, A. B. Blanchard, Massachusetts; Johnson K. Duncan, Pennsylvania; Roswell S. Ripley, Ohio; —— Ledbetter, Connecticut; S. G. French, New Jersey; D. M. Frost.

* Graduates of West Point Military Academy.

M.

EXTRACTS FROM A PAMPHLET ON THE DESTRUCTION OF COLUMBIA, SOUTH CAROLINA, PUBLISHED IN 1865.

[*It was written by the gifted and accomplished William Gilmore Simms, LL. D. The facts therein set forth by Dr. Simms are believed by the author to be entirely true, and fully sustain what is said in the text*, p. 510.]

The destruction of Atlanta, the pillaging and burning of other towns of Georgia, and the subsequent devastation along the march of the Federal Army through Georgia, gave sufficient earnest of the treatment to be anticipated by South Carolina, should the same commander be permitted to make a like progress in our State. The Northern press furnished him the *cri de guèrre* to be sounded when he should cross our borders. "*Væ victis!*"—woe to the conquered!—in the case of a people who had first raised the banner of Secession. "The howl of delight," (such was the the language of the Northern press,) sent up by Sherman's legions, when they looked across the Savannah to the shores of Carolina, was the sure fore-runner of the terrible fate which threatened our people should the soldiers be once let loose upon our lands. Our people felt all the danger.

* * * * * * *

The march of the Federals into our State was characterized by such scenes of license, plunder and general conflagration, as very soon showed that the threats of the Northern press, and of their soldiery, were not to be regarded as mere *brutum fulmen*. Day by day brought to the people of Columbia tidings of atrocities committed, and more extended progress. Daily did long trains of fugitives line the roads, with wives and children, and horses and stock and cattle, seeking refuge from the pursuers. Long lines of wagons covered the highways. Half-naked people cowered from the winter under bush-tents in the thickets, under the eaves of houses, under the railroad sheds, and in old cars left them along the route. All these repeated the same story of suffering, violence, poverty and nakedness. Habitation after habitation, village after village—one sending up its signal flames to the other, presaging for it the same fate—lighted the winter and midnight sky with crimson horrors.

No language can describe nor can any catalogue furnish an adequate detail of the wide-spread destruction of homes and property. Granaries were emptied, and where the grain was not carried off, it was strewn to waste under the feet of the cavalry, or consigned to the fire which consumed the dwelling. The negroes were robbed equally with the whites of food and clothing. The roads were covered with butchered cattle, hogs, mules, and the costliest furniture. Valuable cabinets,

rich pianos, were not only hewn to pieces, but bottles of ink, turpentine, oil, whatever could efface or destroy, was employed to defile and ruin. Horses were ridden into the houses. People were forced from their beds, to permit the search after hidden treasures.

The beautiful homesteads of the Parish country, with their wonderful tropical gardens, were ruined; ancient dwellings of black cypress, one hundred years old, which had been reared by the fathers of the Republic —men whose names were famous in Revolutionary history—were given to the flames as recklessly as were the rude hovels; choice pictures and works of art, from Europe, select and numerous libraries, objects of peace wholly, were all destroyed. The inhabitants, black no less than white, were left to starve, compelled to feed only upon the garbage to be found in the abandoned camps of the soldiers. The corn scraped up from the spots where the horses fed, has been the only means of life left to thousands but lately in affluence.

And thus plundering, and burning, the troops made their way through a portion of Beaufort into Barnwell District, where they pursued the same game. The villages of Buford's Bridge, of Barnwell, Blackville, Graham's, Bamberg, Midway, were more or less destroyed; the inhabitants everywhere left homeleless and without food. The horses and mules, all cattle and hogs, whenever fit for service or for food, were carried off, and the rest shot. Every implement of the workman or the farmer, tools, plows, hoes, gins, looms, wagons, vehicles, was made to feed the flames.

From Barnwell to Orangeburg and Lexington was the next progress, marked everywhere by the same sweeping destruction. Both of these Court towns were partially burned.

* * * * * * * * *

Hardly had the troops reached the head of Main Street, when the work of pillage was begun. Stores were broken open within the first hour after their arrival, and gold, silver, jewels and liquors, eagerly sought. The authorities, officers, soldiers, all, seemed to consider it a matter of course. And woe to him who carried a watch with gold chain pendant; or who wore a choice hat, or overcoat, or boots or shoes. He was stripped in the twinkling of an eye. It is computed that, from first to last, twelve hundred watches were transferred from the pockets of their owners to those of the soldiers. Purses shared the same fate; nor was the Confederate currency repudiated. But of all these things hereafter, in more detail.

At about 12 o'clock, the jail was discovered to be on fire from within. This building was immediately in rear of the Market, or City Hall, and in a densely built portion of the city. The supposition is that it was fired by some of the prisoners—all of whom were released and subsequently followed the army. The fire of the jail had been preceded by that of some cotton piled in the streets. Both fires were soon subdued by the firemen.

At about half-past one P. M., that of the jail was rekindled, and was again extinguished. Some of the prisoners, who had been confined at the Asylum, had made their escape, in some instances, a few days before, and were secreted and protected by citizens.

No one felt safe in his own dwelling; and, in the faith that General Sherman would respect the Convent, and have it properly guarded, numbers of young ladies were confided to the care of the Mother Superior, and even trunks of clothes and treasure were sent thither, in full confidence that they would find safety. Vain illusions! The Irish Catholic troops, it appears, were not brought into the city at all; were kept on the other side of the river. But a few Catholics were collected among the corps which occupied the city, and of the conduct of these, a favorable account is given. One of them rescued a silver goblet of the church, used as a drinking cup by a soldier, and restored it to the Rev. Dr. O'Connell. This priest, by the way, was severely handled by the soldiers. Such, also, was the fortune of the Rev. Mr. Shand, of Trinity (the Episcopal) Church, who sought in vain to save a trunk containing the sacred vessels of his church. It was violently wrested from his keeping, and his struggle to save it only provoked the rougher usage. We are since told that, on reaching Camden, General Sherman restored what he believed were these vessels to Bishop Davis. It has since been discovered that the plate belonged to St. Peter's Church, in Charleston.

And here it may be well to mention, as suggestive of many clues, an incident which presented a sad commentary on that confidence in the security of the Convent, which was entertained by the great portion of the people. This establishment, under the charge of the sister of the Right Rev. Bishop Lynch, was at once a Convent and an Academy of the highest class. Hither were sent for education the daughters of Protestants, of the most wealthy classes throughout the State; and these, with the nuns and those young ladies sent thither on the emergency, probably exceeded one hundred. The Lady Superior herself entertained the fullest confidence in the immunities of the establishment. But her confidence was clouded, after she had enjoyed a conference with a certain Major of the Yankee army, who described himself as an editor, from Detroit. He visited her at an early hour in the day, and announced his friendly sympathies with the Lady Superior and the sisterhood; professed his anxiety for their safety; his purpose to do all that he could to insure it—declared that he would instantly go to Sherman and secure a chosen guard; and, altogether, made such professions of love and service, as to disarm those suspicions, which his bad looks and bad manners, inflated speech and pompous carriage, might otherwise have provoked. The Lady Superior, with such a charge in her hands, was naturally glad to welcome all shows and prospects of support, and expressed her gratitude. He disappeared, and soon after re-appeared, bringing with him no less than eight or ten men—none of them, as he admitted, being Catholics.

He had some specious argument to show that, perhaps, her guard had better be one of Protestants. This suggestion staggered the lady a little, but he seemed to convey a more potent reason, when he added, in a whisper: "*For I must* tell you, my sister, *that Columbia is a doomed city!*" Terrible doom! This officer, leaving his men behind him, disappeared, to show himself no more. The guards so left behind were finally among the most busy as plunderers. The moment that the inmates, driven out by the fire, were forced to abandon their house, they began to revel in its contents.

"*Quis custodiet ipsas custodes?*"—who shall guard the guards?—asks the proverb. In a number of cases, the guards provided for the citizens were among the most active plunderers; were quick to betray their trusts, abandon their posts, and bring their comrades in to join in the general pillage. The most dexterous and adroit of these, it is the opinion of most persons, were chiefly Eastern men, or men of immediate Eastern origin. The Western men, including the Indiana, a portion of the Illinois and Iowa troops, were neither so dexterous nor unscrupulous—were frequently faithful and respectful; and, perhaps, it would be safe to assert that many of the houses which escaped the sack and fire, owed their safety to the presence or the contiguity of some of these men. But we must retrace our steps.

* * * * * * * * *

But the reign of terror did not fairly begin till night. In some instances, where parties complained of the misrule and robbery, their guards said to them, with a chuckle: "This is nothing. Wait till to-night, and you'll see h-ll."

Among the first fires at evening was one about dark, which broke out in a filthy purlieu of low houses, of wood, on Gervais street, occupied mostly as brothels. Almost at the same time, a body of the soldiers scattered over the eastern out-skirts of the City, fired severally the dwellings of Mr. Secretary Trenholm, General Wade Hampton, Dr. John Wallace, J. U. Adams, Mrs. Starke, Mr. Latta, Mrs. English, and many others. There were then some twenty fires in full blast, in as many different quarters, and while the alarm sounded from these quarters, a similar alarm was sent up almost simultaneously from Cotton Town, the Northermost limit of the City, and from Main street in its very centre, at the several stores or houses of O. Z. Bates, C. D. Eberhardt, and some others, in the heart of the most densely settled portion of the town; thus enveloping in flames almost every section of the devoted city. At this period, thus early in the evening, there were few shows of that drunkenness which prevailed at a late hour in the night, and only after all the grocery shops on Main street had been rifled. The men engaged in this were well prepared with all the appliances essential to their work. They did not need the torch. They carried with them, from house to house, pots and vessels containing combustible liquids, composed prob-

ably of phosphorus and other similar agents, turpentine, etc., and, with balls of cotton saturated in this liquid, with which they also overspread floors and walls, they conveyed the flames with wonderful rapidity from dwelling to dwelling. Each had his ready box of Lucifer matches, and, with a scrape upon the walls, the flames began to rage. Where houses were closely contiguous, a brand from one was the means of conveying destruction to the other.

The winds favored. They had been high throughout the day, and steadily prevailed from Southwest by West, and bore the flames Eastward. To this fact we owe the preservation of the portions of the City lying West of Assembly street.

The work, begun thus vigorously, went on without impediment, and with hourly increase throughout the night. Engines and hose were brought out by the firemen, but these were soon driven from their labors —which were indeed idle against such a storm of fire—by the pertinacious hostility of the soldiers; the hose was hewn to pieces, and the firemen, dreading worse usage to themselves, left the field in despair. Meanwhile, the flames spread from side to side, from front to rear, from street to street, and where their natural and inevitable progress was too slow for those who had kindled them, they helped them on by the application of fresh combustibles and more rapid agencies of conflagration. By midnight, Main street, from its Northern to its Southern extremity, was a solid wall of fire. By 12 o'clock, the great blocks, which included the banking houses and the Treasury buildings, were consumed; Janney's (Congaree) and Nickerson's Hotels; the magnificent manufactories of Evans & Cogswell—indeed, every large block in the business portion of the City; the old Capitol and all the adjacent buildings were in ruins. The range called the "Granite" was beginning to flame at 12, and might have been saved by ten vigorous men, resolutely working.

At 1 o'clock, the hour was struck by the clock of the Market Hall, which was even then illuminated from within. It was its own last hour which it sounded, and its tongue was silenced forevermore. In less than five minutes after, its spire went down with a crash, and, by this time, almost all the buildings within the precinct were a mass of ruins.

Very grand, and terrible, beyond description, was the awful spectacle. It was a scene for the painter of the terrible. It was the blending of a range of burning mountains stretched in a continuous series for more than a mile. Here was Aetna, sending up its spouts of flaming lava; Vesuvius, emulous of like display, shooting up with loftier torrents, and Stromboli, struggling, with awful throes, to shame both by its superior volumes of fluid flame. The winds were tributary to these convulsive efforts, and tossed the volcanic torrents hundred of feet in air. Great spouts of flame spread aloft in canopies of sulphurous cloud—wreaths of sable, edged with sheeted lightnings, wrapped the skies, and, at short intervals, the falling tower and the tottering wall, Avalanche-like, went

down with thunderous sound, sending up at every crash great billowing showers of glowing fiery embers.

Throughout the whole of this terrible scene, the soldiers continued their search after spoil. The houses were severally and soon gutted of their contents. Hundreds of iron safes, warranted "impenetrable to fire and the burglar," it was soon satisfactorily demonstrated, were not "Yankee proof." They were split open and robbed, yielding, in some cases, very largely of Confederate money and bonds, if not of gold and silver. Jewelry and plate in abundance was found. Men could be seen staggering off with huge waiters, vases, candelabra, to say nothing of cups, goblets and smaller vessels, all of solid silver. Clothes and shoes, when new, were appropriated—the rest left to burn. Liquors were drank with such avidity as to astonish the veteran Bacchanals of Columbia ; nor did the parties thus distinguishing themselves hesitate about the vintage. There was no idle discrimination in the matter of taste, from that vulgar liquor, which Judge Burke used to say always provoked within him "an inordinate propensity to sthale," to the choicest red wines of the ancient cellars. In one vault on Main street, seventeen casks of wine were stored away, which, an eye-witness tells us, barely sufficed, once broken into, for the draughts of a single hour—such were the appetites at work and the numbers in possession of them. Rye, corn, claret and Madeira, all found their way into the same channels, and we are not to wonder, when told that no less than one hundred and fifty of the drunken creatures perished miserably among the flames kindled by their own comrades, and from which they were unable to escape. The estimate will not be thought extravagant by those who saw the condition of hundreds after 1 o'clock A.M. By others, however, the estimate is reduced to thirty ; but the number will never be known. Sherman's officers themselves are reported to have said, that they lost more men in the sack and burning of the City (including certain explosions) than in all their fights while approaching it. It is also suggested that the orders which Sherman issued at daylight, on Saturday morning, for the arrest of the fire, were issued in consequence of the loss of men which he had thus sustained.

One or more of his men were shot, by parties unknown, in some dark passages or alleys—it is supposed in consequence of some attempted outrages which humanity could not endure ; the assassin taking advantage of the obscurity of the situation, and adroitly mingling with the crowd without. And while these scenes were at their worst—while the flames were at their highest and most extensively raging—groups might be seen at the several corners of the streets, drinking, roaring, revelling—while the fiddle and accordeon were playing their popular airs among them. There was no cessation of the work till 5 A. M. on Saturday.

* * * * *

Ladies were hustled from their chambers—their ornaments plucked

from their persons, their bundles from their hands. It was in vain that the mother appealed for the garments of her children. They were torn from her grasp and hurled into the flames. The young girl striving to save a single frock, had it rent to fibres in her grasp. Men and women bearing off their trunks were seized, despoiled, in a moment the trunk burst asunder with the stroke of axe or gun butt, the contents laid bare, rifled of all the objects of desire, and the residue sacrificed to the fire. You might see the ruined owner, standing woe-begone, aghast, gazing at his tumbling dwelling, his scattered property, with a dumb agony in his face that was inexpressibly touching.

* * * * *

"Your watch!" "Your money!" was the demand. Frequently, no demand was made. Rarely, indeed, was a word spoken, where the watch or chain, or ring or bracelet, presented itself conspicuously to the eye. It was incontinently plucked away from the neck, breast or bosom. Hundreds of women, still greater numbers of old men, were thus despoiled. The slightest show of resistance provoked violence to the person.

The venerable Mr. Alfred Huger was thus robbed in the chamber and presence of his family, and in the eye of an almost dying wife. He offered resistance, and was collared and dispossessed by violence.

We are told that the venerable Ex-Senator Colonel Arthur P. Hayne was treated even more roughly.

* * * * *

Within the dwellings, the scenes were of more harsh and tragical character, rarely softened by any ludicrous aspects, as they were screened by the privacy of the apartment, with but few eyes to witness. The pistol to the bosom or head of woman, the patient mother, the trembling daughter, was the ordinary introduction to the demand: "Your gold, silver, watch, jewels!" They gave no time, allowed no pause or hesitation. It was in vain that the woman offered her keys, or proceeded to open drawer or wardrobe, or cabinet, or trunk. It was dashed to pieces by axe or gun butt, with the cry, "We have a shorter way than that!" It was in vain that she pleaded to spare her furniture, and she would give up all its contents.

All the precious things of a family, such as the heart loves to pore on in quiet hours when alone with memory—the dear miniature, the photograph, the portrait—these were dashed to pieces, crushed under foot, and the more the trembler pleaded for the object so precious, the more violent the rage which destroyed it. Nothing was sacred in their eyes, save the gold and silver which they bore away. Nor were these acts those of common soldiers. Commissioned officers, of rank so high as that of Colonel, were frequently among the most active in spoliation, and not always the most tender or considerate in the manner and acting of their crimes. And, after glutting themselves with spoil, would often

utter the foulest speeches, coupled with oaths as condiment, dealing in what they assumed, besides, to be bitter sarcasms upon the cause and country.

"And what do you think of the Yankees now?" was a frequent question. "Do you not fear us, now?" "What do you think of Secession?" etc., etc. "We mean to wipe you out! We'll burn the very stones of South Carolina." Even General Howard, who is said to have been once a *pious* parson, is reported to have made this reply to a citizen who had expostulated with him on the monstrous crime of which his army had been guilty: "It is only what the country deserves. It is her fit punishment; and if this does not quiet Rebellion, and we have to return, we will do this work thoroughly. We will not leave woman or child."

* * * * *

There are some horrors which the historian dare not pursue—which the painter dare not delineate. They both drop the curtain over crimes which humanity bleeds to contemplate.

Some incidents of gross brutality, which show how well prepared were these men for every crime, however monstrous, may be given.

A lady, undergoing the pains of labor, had to be borne out on a mattress into the open air, to escape the fire. It was in vain that her situation was described as the soldiers applied the torch within and without the house, after they had penetrated every chamber and robbed them of all that was either valuable or portable. They beheld the situation of the sufferer, and laughed to scorn the prayer for her safety.

Another lady, Mrs. J——, was but recently confined. Her condition was very helpless. Her life hung upon a hair. The men were apprised of all the facts in the case. They burst into the chamber—took the rings from the lady's fingers—plucked the watch from beneath her pillow, and so overwhelmed her with terror, that she sunk under the treatment—surviving their departure but a day or two.

In several instances, parlors, articles of crockery, and even beds, were used by the soldiers as if they were water-closets. In one case, a party used vessels in this way, then put them on the bed, fired at and smashed them to pieces, emptying the filthy contents over the bedding.

In several cases, newly made graves were opened, the coffins taken out, broken open, in search of buried treasure, and the corpses left exposed. Every spot in graveyard or garden, which seemed to have been recently disturbed, was sounded with sword, or bayonet, or ramrod, in their desperate search after spoil.

N.

A PRAYER FOR PEACE.

[*Poem written by S. Teackle Wallis, of Baltimore, a Member of the Maryland Legislature, while imprisoned during "the Reign of Terror," in* 1861.]

PEACE! Peace! God of our fathers, grant us Peace!
Unto our cry of anguish and despair
Give ear and pity! From the lonely homes,
Where widowed beggary and orphaned woe
Fill their poor urns with tears; from trampled plains,
Where the bright harvest Thou hast sent us, rots,—
The blood of them who should have garnered it
Calling to Thee—from fields of carnage, where
The foul-beaked vultures, sated, flap their wings
O'er crowded corpses, that but yesterday
Bore hearts of brothers, beating high with love
And common hopes and pride, all blasted now;—
Father of Mercies! not alone from these
Our prayer and wail are lifted. Not alone
Upon the battle's scared and desolate track,
Nor with the sword and flame, is it, O God,
That Thou hast smitten us. Around our hearths,
And in the crowded streets and busy marts,
Where echo whispers not the far-off strife
That slays our loved ones;—in the solemn halls
Of safe and quiet counsel—nay, beneath
The temple-roofs that we have reared to Thee,
And mid their rising incense,—God of Peace!
The curse of war is on us. Greed and hate
Hungering for gold and blood: Ambition, bred
Of passionate vanity and sordid lusts,
Mad with the base desire of tyrannous sway
Over men's souls and thoughts; have set their price
On human hecatombs, and sell and buy
Their sons and brothers for the shambles. Priests,
With white, anointed, supplicating hands,
From Sabbath unto Sabbath clasped to Thee,
Burn, in their tingling pulses, to fling down
Thy censers and thy cross, to clutch the throats
Of kinsmen by whose cradles they were born,
Or grasp the brand of Herod, and go forth
Till Rachel hath no children left to slay.

The very name of Jesus, writ upon
Thy shrines, beneath the spotless, outstretched wings
Of Thine Almighty Dove, is wrapt and hid
With bloody battle-flags, and from the spires
That rise above them, angry banners flout
The skies to which they point, amid the clang
Of rolling war-songs tuned to mock Thy praise.

All things once prized and honored are forgot.
The Freedom that we worshipped, next to Thee;
The manhood that was Freedom's spear and shield;
The proud, true heart; the brave, outspoken word,
Which might be stifled, but could never wear
The guise, whate'er the profit, of a lie;—
All these are gone, and in their stead, have come
The vices of the miser and the slave,—
Scorning no shame that bringeth gold or power,
Knowing no love, or faith, or reverence,
Or sympathy, or tie, or aim, or hope,
Save as begun in self, and ending there.
With vipers like to these, O blessed God!
Scourge us no longer! Send us down, once more,
Some shining seraph in Thy glory clad,
To wake the midnight of our sorrowing
With tidings of Good Will and Peace to men;
And if the star that through the darkness led
Earth's wisdom then, guide not our folly now,
Oh, be the lightning Thine Evangelist,
With all its fiery, forked tongues, to speak
The unanswerable message of Thy will.

Peace! Peace! God of our fathers, grant us Peace!
Peace in our hearts and at Thine altars; Peace
On the red waters and their blighted shores;
Peace for the leaguered cities, and the hosts
That watch and bleed, around them and within;
Peace for the homeless and the fatherless;
Peace for the captive on his weary way,
And the mad crowds who jeer his helplessness.
For them that suffer, them that do the wrong;
Sinning and sinned against—O God! for all—
For a distracted, torn, and bleeding land—
Speed the glad tidings! Give us, give us Peace!

O.

I.

ABRAHAM LINCOLN'S EMANCIPATION PROCLAMATION, OF 1ST JANUARY, 1863, REFERRED TO ON PAGE 551.

Whereas, on the twenty-second day of September, in the year of our Lord one thousand eight hundred and sixty-two, a Proclamation was issued by the President of the United States, containing, among other things, the following, to wit:

"That on the first day of January, in the year of our Lord one thousand eight hundred and sixty-three, all persons held as slaves within any State or designated part of a State, the people whereof shall then be in rebellion against the United States, shall be then, thenceforward, and forever, free; and the Executive Government of the United States, including the Military and Naval authority thereof, will recognize and maintain the freedom of such persons, and will do no act or acts to repress such persons, or any of them, in any efforts they may make for their actual freedom.

"That the Executive will, on the first day of January aforesaid, by Proclamation, designate the States and parts of States, if any, in which the people thereof, respectively, shall then be in rebellion against the United States; and the fact that any State, or the people thereof, shall on that day be in good faith represented in the Congress of the United States, by members chosen thereto at elections wherein a majority of the qualified voters of such States shall have participated, shall, in the absence of strong countervailing testimony, be deemed conclusive evidence that such State, and the people thereof, are not then in rebellion against the United States."

Now, therefore, I, Abraham Lincoln, President of the United States, by virtue of the power in me vested as Commander-in-Chief of the Army and Navy of the United States, in time of actual armed rebellion against the authority and Government of the United States, and as a fit and necessary war measure for suppressing said rebellion, do, on this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and in accordance with my purpose so to do, publicly proclaimed for the full period of one hundred days from the day first above mentioned, order and designate as the States and parts of States wherein the people thereof, respectively, are this day in rebellion against the United States, the following, to wit:

Arkansas, Texas, Louisiana, (except the Parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terre Bonne, Lafourche, St. Mary, St. Martin, and Orleans, including the City of New Orleans,) Mississippi, Alabama,

Florida, Georgia, South Carolina, North Carolina, and Virginia, (except the forty-eight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northampton, Elizabeth City, York, Princess Ann, and Norfolk, including the cities of Norfolk and Portsmouth,) and which excepted parts are for the present left precisely as if this Proclamation were not issued.

And by virtue of the power and for the purpose aforesaid, I do order and declare that all persons held as slaves within said designated States and parts of States, are, and henceforward shall be, free; and that the Executive Government of the United States, including the Military and Naval authorities thereof, will recognize and maintain the freedom of said persons.

And I hereby enjoin upon the people so declared to be free to abstain from all violence, unless in necessary self-defence; and I recommend to them that, in all cases when allowed, they labor faithfully for reasonable wages.

And I further declare and make known that such persons, of suitable condition, will be received into the armed service of the United States to garrison forts, positions, stations, and other places, and to man vessels of all sorts in said service.

And upon this act, sincerely believed to be an act of justice, warranted by the Constitution upon military necessity, I invoke the considerate judgment of mankind and the gracious favor of Almighty God.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed. Done at the City of Washington, this first day of January, in the year of our Lord one thousand eight hundred and sixty-three, and of the Independence of the United States the eighty seventh.

ABRAHAM LINCOLN.

BY THE PRESIDENT:

WILLIAM H. SEWARD, *Secretary of State.*

II.

PROCLAMATION OF MARTIAL LAW, OF THE 24th OF SEPTEMBER, 1862, WITH THE ORDERS REFERRED TO ON PAGES 551 AND 554.

"*Whereas*, it has become necessary to call into service not only volunteers, but also portions of the militia of the States by draft, in order to suppress the Insurrection existing in the United States, and disloyal persons are not adequately restrained by the ordinary processes of law from hindering this measure, and from giving aid and comfort in various ways to the Insurrection:

NOW, therefore, be it ordered,—

First. That during the existing Insurrection, and as a necessary measure for suppressing the same, all rebels and insurgents, their aiders and abettors, within the United States, and all persons discouraging volunteer enlistments, resisting militia drafts, or guilty of any disloyal practice, affording aid and comfort to the rebels against the authority of the United States, shall be subject to martial law, and liable to trial and punishment by Courts-Martial or Military Commission.

Second. That the Writ of Habeas Corpus is suspended in respect to all persons arrested, or who are now, or hereafter during the Rebellion shall be, imprisoned in any Fort, camp, arsenal, military prison, or other place of confinement by any military authority, or by the sentence of any Court-Martial or Military Commission.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed. Done at the City of Washington, this twenty-fourth day of September, in the year of our Lord one thousand eight hundred and sixty-two, and of the Independence of the United States the eighty-seventh.

BY THE PRESIDENT: ABRAHAM LINCOLN.

WILLIAM H. SEWARD, *Secretary of State.*

ORDERS OF THE SECRETARY OF WAR PROMULGATED SEPTEMBER 26th, 1862.

First. There shall be a Provost Marshal General of the War Department, whose Headquarters will be at Washington, and who will have the immediate supervision, control, and management of the corps.

Second. There will be appointed in each State one or more special Provost Marshals, as necessity may require, who will report and receive instructions and orders from the Provost Marshal General of the War Department.

Third. It will be the duty of the special Provost Marshal to arrest all deserters, whether regulars, volunteers, or militia, and send them to the nearest military commander or military post, where they can be cared for and sent to their respective regiments; to arrest, upon the warrant of the Judge Advocate, all disloyal persons subject to arrest under the orders of the War Department; to inquire into and report treasonable practices, seize stolen or embezzled property of the Government, detect spies of the enemy, and perform such other duties as may be enjoined upon them by the War Department, and report all their proceedings promptly to the Provost Marshal General.

Fourth. To enable special Provost Marshals to discharge their duties efficiently, they are authorized to call on any available military force within their respective districts, or else to employ the assistance of citizens, constables, sheriffs, or police-officers, so far as may be necessary under such regulations as may be prescribed by the Provost

Marshal General of the War Department, with the approval of the Secretary of War.

Fifth. Necessary expenses incurred in this service will be paid on duplicate bills certified by the special Provost Marshals, stating time and nature of service, after examination and approval by the Provost Marshal General.

Sixth. The compensation of special Provost Marshals will be—— dollars per month, and actual travelling expenses, and postage will be refunded on bills certified under oath and approved by the Provost Marshal General.

Seventh. All appointments in this service will be subject to be revoked at the pleasure of the Secretary of War.

Eighth. All orders heretofore issued by the War Department, conferring authority upon other officers to act as Provost Marshals, except those who received special commissions from the War Department, are hereby revoked.

By order of the Secretary of War,
L. THOMAS, *Adjutant-General.*

P.

COMMISSION OF ALEXANDER H. STEPHENS TO ESTABLISH CARTEL FOR EXCHANGE OF PRISONERS, REFERRED TO ON PAGE 566 OF THE TEXT.

RICHMOND, 2d *July*, 1863.

HON. ALEXANDER H. STEPHENS, Richmond, Va.:

SIR:—Having accepted your patriotic offer to proceed as a Military Commissioner, under flag of truce, to Washington, you will herewith receive your letter of authority to the Commander-in-Chief of the Army and Navy of the United States.

This letter is signed by me as Commander-in-Chief of the Confederate Land and Naval forces.

You will perceive, from the terms of the letter, that it is so worded as to avoid any political difficulties in its reception. Intended exclusively as one of those communications between Belligerents which public law recognizes as necessary and proper between hostile forces, care has been taken to give no pretext for refusing to receive it on the ground that it would involve a tacit recognition of the independence of the Confederacy.

Your mission is simply one of humanity, and has no political aspect.

If objection is made to receive your letter on the ground that it is not addressed to Abraham Lincoln as President instead of Commander-in-Chief, etc., then you will present the duplicate letter, which is addressed

to him as President, and signed by me as President. To this letter objection may be made on the ground that I am not recognized to be President of the Confederacy. In this event, you will decline any further attempt to confer on the subject of your mission, as such conference is admissible only on a footing of perfect equality.

My recent interviews with you have put you so fully in possession of my views, that it is scarcely necessary to give you any detailed instructions, even were I at this moment well enough to attempt it.

My whole purpose is, in one word, to place this war on the footing of such as are waged by civilized people in modern times, and to divest it of the savage character which has been impressed on it by our enemies, in spite of all our efforts and protests. War is full enough of unavoidable horrors, under all its aspects, to justify, and even to demand, of any Christian ruler, who may be unhappily engaged in carrying it on, to seek to restrict its calamities, and to divest it of all unnecessary severities. You will endeavor to establish the Cartel for the Exchange of Prisoners on such a basis as to avoid the constant difficulties and complaints which arise, and to prevent for the future what we deem the unfair conduct of our enemies, in evading the delivery of prisoners who fall into their hands, in retarding it by sending them on circuitous routes, and by detaining them sometimes for months in camps and prisons, and in persisting in taking captive non-combatants.

Your attention is also called to the unheard-of conduct of Federal officers, in driving from their homes entire communities of women and children, as well as of men, whom they find in districts occupied by their troops, for no other reason than because these unfortunates are faithful to the allegiance due to their States, and refuse to take an oath of fidelity to their enemies.

The putting to death of unarmed prisoners, has been a ground of just complaint in more than one instance, and the recent execution of officers of our army in Kentucky, for the sole cause that they were engaged in recruiting service in a State which is claimed as still one of the United States, but is also claimed by us as one of the Confederate States, must be repressed by retaliation if not unconditionally abandoned, because it would justify the like execution in every other State of the Confederacy, and the practice is barbarous, uselessly cruel, and can only lead to the slaughter of prisoners on both sides, a result too horrible to contemplate without making every effort to avoid it.

On these and all kindred subjects you will consider your authority full and ample to make such arrangements as will temper the present cruel character of the contest, and full confidence is placed in your judgment, patriotism, and discretion that, while carrying out the objects of your mission, you will take care that the equal rights of the Confederacy be always preserved. Very respectfully,

JEFFERSON DAVIS.

Q.

I.

SPEECH OF THE AUTHOR (REFERRED TO ON PAGE 574) ON THE USE OF COTTON AND OTHER RESOURCES FOR CARRYING ON THE WAR, ETC., DELIVERED IN CRAWFORDVILLE, GA., 1st NOVEMBER, 1862. REPORTED BY J. HENLY SMITH.

On the present condition and prospect of our affairs, Mr. Stephens said he had nothing new to say, and nothing that was not known to all. From the past we had nothing to be discouraged for the future. We had met with some reverses, but of eighteen months' fighting, we had lost no great battle. We had gained many brilliant victories. The aggregate of advantage of the fight on land thus far had been decidedly on our side. This was no small consideration for hope and encouragement, looking at the odds against us. At the beginning, the enemy had all the army, all the navy, all the revenue, all the credit, as well as the prestige of the name of the old Government, on their side. We were few in number compared with them; without a regiment or a ship, without a dollar, and without credit, except such as the righteousness of our Cause, inspired in the breasts of our own people, secured. Thus we entered the contest, and thus we have maintained it. At first 75,000 men were thought sufficient to conquer us. This failing, 600,000 were called to the field. These, too, failing, 600,000 more have been added, with a view to crush us out with numbers. Judging from indications, the enemy seem determined to put forth all their power. This is the present prospect. We should be prepared to meet it to the best of our ability. No one should despair or even despond from this array of new forces to be brought against us. We may not be able to match them in numbers. We are not able to do it, and should not attempt it. It is not necessary to do it, to secure ultimate success, if we avail ourselves of our advantages, properly and wisely. Numbers is one advantage the enemy has, and had from the beginning. We have advantages on our side which we should avail ourselves of. Frederick of Prussia fought all the great neighboring Powers of Europe for seven years, and was successful in the end. The greatest number he could bring into the field was 200,000 against 600,000. With this disparity of three to one, they thought they could crush him, but they did not. It is true, his country was overrun, and his Capital, (Berlin,) was twice taken and sacked during the war. He, however, did not give it up. Richmond has not yet been taken, though three powerful onward movements have been made against it. If Richmond should yet fall, and twice fall, we should be no worse off than Prussia was in a like calamity; nor should we be less disposed than the great Frederick to give it up for a like cause.

The war of our first Independence lasted seven years. During that struggle, several of the States were overrun, occupied and held for long periods by the enemy. The men of that "day that tried men's souls" felt no inclination, on that account, to "give it up." Philadelphia, their Capital, was taken, but they did not "give it up," or think of giving up the Cause. They fought on, as we can, for the same principles and rights, until final success. Nor have our suffering or sacrifices, as great as they are, been anything like as severe as theirs were. If they suffered and bore with patience and fortitude all they did to acquire and establish principles so dear to them and to us, well may we, with equal patience and fortitude, bear all now upon us, and all that may hereafter await us, to maintain them.

The ability of a people to support and wage war, depends partly upon their resources, and partly upon the skill and economy with which they are wielded. We have resources—elements of power to wage war successfully, unknown to Frederick or the men of '76. All necessaries of life, food and clothing, with the materials and munitions of war, can, with skill and forecast, be made and supplied within ourselves. This goodly land of ours is unequalled, or at least unsurpassed by any other part of the habitable globe, in the character and variety of its natural products, suited to man's needs and wants in every emergency. Its mineral resources are also inexhaustible. It is a land, besides its Institutions, well worth fighting for. Our means are sufficient; and they have only to be properly and skilfully developed and applied.

But besides the products necessary to sustain ourselves, to support our armies, and carry on war, we have another element of tremendous power, if properly used and applied—a resource and power unknown in European wars, and unknown to our ancestors in the war of their Revolution. Mr. Stephens here said he alluded to our great staple, cotton; and he should not have said more upon it at this time, than barely to ask those present to call to their minds what he had said to most of them last year upon that subject, when he addressed them upon the Cotton Loan, but for some misconceptions that had got in the public mind from a paragraphic report of some remarks he made at a meeting lately in Sparta. Some, from that report, said Mr. Stephens, have taken the idea that I urged upon the planters there, to plant largely of cotton next year. Allow me in this connection to say, that nothing could be further from the fact. I urged upon the planters there, first, and above all, to grow grain and stock for home consumption, and to supply the army. What I said at Sparta upon the subject of cotton, many of you have often heard me say in private conversation, and most of you, in the public speech last year, to which I alluded. Cotton, I have maintained, and do maintain, is one of the greatest elements of power, if not the greatest at our command, if it were but properly and efficiently used, as it might have been, and still might be. Samson's strength was in

his locks. Our strength is in our locks---not of hair or wool, but in our locks of cotton. I believed from the beginning that the enemy would inflict upon us more serious injury by the blockade than by all other means combined. It was, in the judgment of all, a matter of the utmost, if not vital importance, to have it raised, removed or broken up. How was it to be done? That was, and is the question! It was thought by many that such was the demand for cotton in England, that she would disregard the blockade, as it was, and has been all along, not within the terms of the Paris agreement—that is, has not been at any time, entirely effectual, though close enough to do us great injury. I did not concur in this opinion, as most of you well know. I thought it would have to be done by ourselves, and could be done through the agency of cotton—not as a political, but as a commercial and financial power. I was in favor, as you know, of the Government's taking all the cotton that would be subscribed for eight per cent. bonds at a rate or price as high as ten cents a pound. Two millions of the last year's crop might have been counted upon as certain on this plan. This, at ten cents, with bags of the average commercial weight, would have cost the Government one hundred millions of bonds. With this amount of cotton in hand and pledged, any number, short of fifty, of the best iron-clad steamers could have been contracted for and built in Europe—steamers at the cost of two millions each, could be procured, every way equal to the Monitor. Thirty millions would have got fifteen of these, which might have been enough for our purpose. Five might have been ready by the first of January last to open some one of the ports blockaded on our coast. Three of these could have been left to keep the port open, and two could have convoyed the cotton across the water, if necessary. Thus, the debt could have been promptly paid with cotton at a much higher price than it cost, and a channel of trade kept open till others, and as many more as necessary, might have been built and paid for in the same way. At a cost of less than one month's present expenditure on our army, our coast might have been cleared. Besides this, at least two more millions of bales of the old crop on hand might have been counted on—this with the other making a debt in round numbers to the planters of $200,000,000. But this cotton, held in Europe until its price shall be fifty cents a pound, would constitute a fund of at least $1,000,000,000, which would not only have kept our finances in sound condition, but the clear profit of $800,000,000 would have met the entire expenses of the war for years to come.

In this way cotton, as a great element of power at our command—such an element as no other people ever had—might have been used, not only in breaking up the blockade by our own means, without looking to foreign intervention, but in supplying the treasury with specie to pay interest on their bonds, thus giving a credit that no Government ever had before. The public credit is as essential as subsistence in war.

Such, at least, was, and is my opinion. The Government, however, took a different view of the subject. Many thought it unconstitutional. Some looked upon it as a project to relieve the planters. Others thought it nothing short of a South-Sea speculation. I considered it, then and now, just as Constitutional as to give bonds for gunpowder, or to buy other munitions of war. It was not with a view to relieve the planters, though its incidental accommodation to them would not have been objectionable, but with the view of wielding effectually the element of the greatest power we could command, that I wished this course adopted. This resource, then,—this element of power, we still have—though not to the same extent. There is enough, however, to effect wonderful results, if properly used, as it can be. We may have lost a year or two, but we are far short of seven years' war yet. With our ports open many of the present evils and hardships of the war would be relieved. We would no longer have to give fifty dollars for a bushel of Liverpool salt, or ten dollars for the roughest sort of shoes. With ports open and this in hand, we should be much better able to make it a Peloponnesian struggle, if our enemy choose so to make it. This view, and one other idea, I presented to the people at Sparta, upon the subject of cotton, which I will repeat here.

Many to be met with suppose that by abandoning the growth of cotton and burning what we have, we can force our recognition abroad. This, I told the people there, and tell you, is, in my judgment, a radical and fundamental error. England will never be controlled by such a policy. Our cotton should be treasured up, not sold—more precious is it than gold—for it is more powerful, as a sinew of war, than gold is. Like gold, and everything else of value, it should be destroyed, if need be, to prevent its falling into the hands of the enemy, but with no view to a foreign policy; nor should the production of cotton be abandoned, with such a view. You could not please Lord Palmerston better than to let him know that there would not be grown a pound of cotton in the Southern Confederacy for twenty years. The power of cotton is well known to and felt by British statesmen. They know it is King in its proper sphere, and hence they want the scepter of this King for their own use.

The great error of those who suppose that King cotton would compel the English ministry to recognize our Government and raise the blockade, and who will look for the same result from the total abandonment of its culture, consists in mistaking the nature of the kingdom of this potentate. His power is commercial and financial—not political. It has been one of the leading objects of Lord Palmerston, ever since he has been in office, to stimulate the production of cotton in his own dominions—or those of his Sovereign—so as not to be dependent upon us for a supply. This he cannot do to any extent, while his inexperienced producers have to compete with us. Cotton can be raised in their East

India possessions, and those on the western coast of Africa, at eighteen or twenty cents a pound; but it cannot be raised there profitably, to any extent, in competition with us at eight or ten cents. If assured, however, of no competition from this quarter, they could, or it is believed would, after a while, get to producing it as cheaply as we can.

Improvements in agriculture are slower in their progress than in any other department of life. No one can safely or wisely say how cheaply cotton may or may not be grown in those countries, with a few years' absolute control of the market, nor that the quality of the article may not be as good. No one can tell what may be effected by improvements in agriculture and the introduction of new varieties suitable to climate and soil. More money can be made here by growing cotton now at eight cents a pound, than could be made at eighteen cents forty years ago. The quality is also greatly superior to the old black seed. More persons can now pick three hundred pounds a day than could pick one hundred when I can first recollect; and one hand and horse or mule can cultivate twice as much land. It is a great mistake, I think, to suppose cotton cannot be grown as cheaply, and with as good a staple—fine a fibre—in other countries, as it can in this—not in all places where it is now grown, but in some.

There is nothing within the bounds of human knowledge on which reliance can be placed with such certainty as to results, as upon the laws of nature. It is on these laws governing the races of men that our Institutions are based. And there is nothing better ascertained in the floral kingdom, than that on the same geological formation, within the same lines of temperature and climatic conditions, (either from altitude or latitude,) the same species and varieties of plants will grow, each producing its like under similar culture to as great perfection in one hemisphere as the other, and upon one continent as another. We have one advantage in the production of cotton which they have not in the British Provinces. This has no reference to climate, soil or varieties. It is our system of labor. On our advantage in this particular, and to this extent, (which is no inconsiderable item,) we may rely in looking at the prospect of competition in the future, with these countries, should they, by a continuation of our blockade, or our necessary abandonment of the culture for a time, have the market of the world to themselves.

We should not, therefore, think of abandoning the production of cotton, with any idea of thereby advancing our interests—politically—abroad. This would be but playing into the hands of those Powers who are trying to break it down. We have had to curtail it, and shall have to curtail it while the war lasts—especially while the blockade continues. Duty and patriotism, as well as necessity, require this. The first great object of all now, should be to sustain our Cause; to feed, as well as clothe men in the field. To do this besides raising sufficient provisions for home consumption, will necessarily require larger grain crops. To

have an abundance for home consumption, and for the army, should be the object of every one. This is dictated by the highest considerations of home policy, and not from any view of advancing our interests abroad. On the contrary, after sufficient provisions are made for home consumption and to supply the army, the more cotton that can be grown the better.

II.

LETTER OF THE AUTHOR ON MARTIAL LAW, AND RESOLUTIONS ON THE SUSPENSION OF THE WRIT OF HABEAS CORPUS INTRODUCED BY HON. LINTON STEPHENS IN THE GEORGIA LEGISLATURE AND PASSED BY THAT BODY, IN MARCH, 1864, WHICH WERE APPROVED IN A PUBLIC SPEECH, BY THE AUTHOR; AND WHICH WITH THE LETTER PRESENT HIS VIEWS UPON THOSE MATTERS REFERRED TO IN THE TEXT, PAGE 574.

RICHMOND, VIRGINIA, *September 8th*, 1862.

HON. JAMES M. CALHOUN, Atlanta, Ga.:

DEAR SIR:—Your letter of the 28th ult., to Hon. B. H. Hill, was submitted to me by him a few days ago, for my views as to the proper answer to be made to your several inquiries touching your powers and duties in the office of Civil Governor of Atlanta, to which you have been appointed by General Bragg. I took the letter with the promise to write to you fully upon the whole subject. This, therefore, is the object of my now writing to you. I regret the delay that has occurred in the fulfilment of my promise. It has been occasioned by the press of other engagements, and I now find my time too short to write as fully as I could wish. The subject is one of great importance, and this, as well as matters of a kindred sort, have given me deep concern for some time past.

I am not at all surprised at your being at a loss to know what your powers and duties are in your new position, and your inability to find anything in any written code of laws to enlighten you upon them. The truth is your office is unknown to the law. General Bragg had no more authority for appointing you Civil Governor of Atlanta, than I had; and I had, or have, no more authority than any street-walker in your city. Under his appointment, therefore, you can rightfully exercise no more power than if the appointment had been made by a street-walker.

We live under a Constitution. That Constitution was made for War as well as Peace. Under that Constitution we have civil laws and military laws; laws for the civil authorities and laws for the military. The first are to be found in the Statutes at Large, and the latter in the Rules and Articles of War. But in this country there is no such thing as

Martial Law, and cannot be until the Constitution is set aside—if such an evil day shall ever come upon us. All the law-making power in the Confederate States Government is vested in Congress. But Congress cannot declare Martial Law, which in its proper sense is nothing but an abrogation of all laws. If Congress cannot do it, much less can any officer of the Government, either civil on military, do it rightfully, from the highest to the lowest. Congress may, in certain cases specified, suspend the Writ of *Habeas Corpus*, but this by no means interferes with the administration of justice, so far as to deprive any party arrested of his right to a speedy and public trial by a jury, after indictment, etc. It does not lessen or weaken the right of such party to redress for an illegal arrest. It does not authorize arrests except upon oath or affirmation upon probable cause. It only secures the party beyond misadventure to appear in person to answer the charge, and prevents a release in consequence of insufficiency of proof, or other like grounds, in any preliminary inquiry as to the formality or legality of his arrest. It does not infringe or impair his other Constitutional rights. These Congress cannot impair by law. The Constitutional guarantees are above and beyond the reach or power of Congress, and much more, if it could be, above and beyond the power of any officer of the Government. Your appointment, therefore, in my opinion, is simply a nullity. You, by virtue of it, possess no rightful authority; and can exercise none. The order creating you Civil Governor of Atlanta, was a most palpable usurpation. I speak of the act only in a legal and Constitutional sense—not of the motives that prompted it. But a wise people, jealous of their rights, would do well to remember, as Delolme so well expressed it, that "such acts, so laudable when we only consider the motive of them, make a breach at which tyranny will one day enter," if quietly submitted to too long. Now, then, my opinion is, if any one be brought before you for punishment for selling liquor to a soldier, or any other allegation, where there is no law against it, no law passed by the proper law-making power, either State or Confederate, and where, as a matter of course, you have no legal or rightful authority to punish, either by fine, or corporeally, etc., you should simply make this response to the one who brings him or her, as the case may be, that you have no jurisdiction of the matter complained of.

A British Queen (Anne) was once urged by the Emperor of Russia to punish one of her officers for what His Majesty considered an act of indignity to his ambassador to her Court, though the officer had violated no positive law. The Queen's memorable reply was that "she could inflict no punishment upon any, the meanest of her subjects, *unless warranted by the law of the land.*"

This is an example you might well imitate. For, I take it for granted that no one will pretend that any General in command of our armies, could confer upon you or anybody greater power that the ruling Sov-

ereign of England possessed in like cases under similar circumstances. The case referred to in England gave rise to a change of the law. After that an act was passed exempting foreign ministers from arrest. So with us. If the proper discipline and good order of the army require that the sale of liquor to a soldier by a person not connected with the army should be prohibited, (which I do not mean to question in the slightest degree,) let the prohibition be declared by law, passed by Congress, with pains and penalties for a violation of it, with the mode and manner of trying the offence plainly set forth. Until this is done, no one has any authority to punish in such cases; and any one who undertakes to do it is a trespasser and a violator of the law. Soldiers in the service, as well as the officers, are subject to the Rules and Articles of War, and if they commit any offence known to the Military Code therein prescribed, they are liable to be tried and punished according to the law made for their government. If these Rules and Articles of War, or in other words, if the Military Code for the government of the army is defective in any respect, it ought to be amended by Congress. There alone the power is vested. Neither Generals nor the Provost-Marshals have any power to make, alter or modify laws, either military or civil; nor can they declare what shall be crimes, either military or civil, or establish any tribunal to punish what they may so declare. All these matters belong to Congress; and I assure you, in my opinion, nothing is more essential to the maintenance and preservation of Constitutional Liberty than that the Military be ever kept subordinate to the Civil Authorities. You thus have my views hastily, but pointedly given.

Yours most respectfully,

ALEXANDER H. STEPHENS.

RESOLUTIONS ON WRIT OF HABEAS CORPUS.

The General Assembly of the State of Georgia do resolve:

1st. That under the Constitution of the Confederate States, there is no power to suspend the Privilege of the Writ of *Habeas Corpus*, but in a manner and to an extent, regulated and limited by the express, emphatic, and unqualified Constitutional prohibitions, that "No person shall be deprived of life, liberty, or property, without due process of law," and that "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 places to be searched, and the persons or things to be seized." And this conclusion results from the two following reasons: First, because the power to suspend the Writ, is derived not from express delegation, but only from implication, which must always yield to express, conflicting, and restricting words. Second, because this power being found nowhere in the Constitution, but in words which are copied from the original Constitution of the United

States, as adopted in 1787, must yield in all points of conflict to the subsequent Amendments of 1789, which are also copied into our present Constitution, and which contain the prohibitions above quoted, and were adopted with the declared purpose of adding further declaratory and restrictive clauses.

2d. That "due process of law" for seizing the persons of the people, as defined by the Constitution itself, is a warrant issued upon probable cause, supported by oath or affirmation, and particularly describing the persons to be seized; and the issuing of such warrants, being the exertion of a judicial power, is, if done by any Branch of the Government except the Judiciary, a plain violation of that provision of the Constitution, which vests the Judicial power in the Courts alone; and, therefore, all seizures of the persons of the people, by any officer of the Confederate Government, without warrant, and all warrants for that purpose, from any but a Judicial source, are, in the judgment of this General Assembly unreasonable and unconstitutional.

3d. That the recent Act of Congress to suspend the Privilege of the Writ of *Habeas Corpus* in cases of arrests ordered by the President, Secretary of War, or General Officer commanding the Trans-Mississippi Military Department, is an attempt to sustain the military authority in the exercise of the Constitutional Judicial function of issuing warrants, and to give validity to unconstitutional seizures of the persons of the people; and as the said Act, by its express terms, confines its operation to the upholding of this class of unconstitutional seizures, the whole suspension attempted to be authorized by it, and the whole Act itself, in the judgment of this General Assembly, are unconstitutional.

4th. That in the judgment of this General Assembly, the said Act is a dangerous assault upon the Constitutional power of the Courts, and upon the liberty of the people, and beyond the power of any possible necessity to justify it; and while our Senators and Representatives in Congress are earnestly urged to take the first possible opportunity to have it repealed, we refer the question of its validity to the Courts, with the hope that the people and the Military authorities will abide by the decision.

5th. That as Constitutional Liberty is the sole object which our people and our noble army have, in our present terrible struggle with the Government of Mr. Lincoln, so also is a faithful adherence to it, on the part of our own Government, through good fortune in arms, and through bad, one of the great elements of our strength and final success; because the constant contrast of Constitutional Government on our part with the usurpations and tyrannies, which characterize the Government of our enemy, under the ever-recurring and ever-false plea of the necessities of war, will have the double effect of animating our people with an unconquerable zeal, and of inspiring the people of the North more and more, with a desire and determination to put an end to a contest which is

waged by their Government openly against *our* liberty, and as truly, but more covertly, against *their* own.

III.

A SYNOPSIS OF THE DECISION OF THE SUPREME COURT OF THE STATE OF PENNSYLVANIA, ON THE CONSTITUTIONALITY OF THE FEDERAL CONSCRIPTION ACT OF MARCH 3d, 1863, AS PUBLISHED IN McPHERSON'S "HISTORY OF THE REBELLION," PAGE 273, AND WHICH EMBODIES THE AUTHOR'S VIEWS OF THE CONFEDERATE ACT OF CONSCRIPTION, PASSED APRIL 16th, 1862, WHICH IS REFERRED TO IN THE TEXT ON PAGE, 574.

1. The Constitution of the United States recognizes only two sorts of military land forces, viz.: the "Militia," and the "Regular or standing Army."

2. The Conscription Act of March 3, 1863, is not founded on that Clause of the Constitution which provides for calling forth the Militia, because the persons drafted under the act are not to be armed, organized, and disciplined under the militia law, nor are they called forth under State officers, as required by the Constitution.

3. There is no power given to recruit the Regular Army by forced levies. This can only be done by voluntary enlistments.

4. The mode of "raising armies" by forced recruiting for the suppression of Rebellion or Insurrection, is not authorized by the Constitution, because such cases are expressly provided for by the power therein given for calling out the dormant forces, or militia.

5. The Constitution authorizes levies of the "militia of the States," in its organized form in cases of Rebellion and Invasion, but in no other case or mode than is therein provided.

6. The mode of Coercion provided for this purpose, by the Act of March 3, 1863, is unconstitutional, because

(1.) It is incompatible with the provisions of the Constitution relative to the militia.

(2.) It exhausts the Militia force of the several States, which existed as an institution before the formation of the Federal Government, and was not only not granted away, but expressly reserved at the formation of the Constitution; annuls the remedy for Insurrection expressly provided by the Constitution, and substitutes a new one not therein provided for; and converts into National forces as part of the Regular Army of the General Government the whole militia force of the States, not on the contingency therein provided for, nor in the form therein prescribed, but entirely irrespective thereof.

(3.) It incorporates into this new national force every civil officer of

the State except the Governor, and every officer of its social institutions and military organization within the prescribed age, thus subjecting the civil, social, and military organizations of the States to the Federal power to "raise armies."

(4.) It provides for a thorough fusion of the Army and the Militia, two forces which are kept distinct by the Constitution, by investing the President with power to assign the soldiers obtained by the draft to any corps, regiment, or branch of service at his pleasure.

(5.) It subjects the citizen to the Rules and Articles of War before he is in "actual service," and proposes to effect this purpose by merely drawing his name from a wheel, and serving notice of that fact upon him.

The Key-note of Judge Woodward's opinion is this paragraph:

The great vice of the Conscript law is, that it is founded on an assumption that Congress may take away, not the State rights of the citizen, but the security and foundation of his State rights. And how long is civil liberty expected to last, after the securities of civil liberty are destroyed? The Constitution of the United States committed the liberties of the citizen in part to the Federal Government, but expressly reserved to the States, and the people of the States, all it did not delegate. It gave the General Government a standing Army, but left to the States their Militia. Its purposes in all this balancing of powers were wise and good, but this legislation disregards these distinctions and upturns the whole system of Government, when it converts the State militia into "National forces," and claims to use and govern them as such.

R.

I.

MESSAGE OF PRESIDENT DAVIS ON THE HAMPTON ROADS CONFERENCE.

EXECUTIVE OFFICE, RICHMOND, *February* 6, 1865.

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE CONFEDERATE STATES OF AMERICA:

HAVING recently received a written notification, which satisfied me that the President of the United States was disposed to confer informally with unofficial agents which might be sent by me, with a view to the restoration of peace, I requested the Hon. Alexander H. Stephens, the Hon. R. M. T. Hunter, and the Hon. John A. Campbell, to proceed through our lines, and to hold conference with Mr. Lincoln, or any one he might depute to represent him.

I herewith transmit, for the information of Congress, the report of the eminent citizens above named, showing that the enemy refused to enter into negotiations with the Confederate States, or any one of them separately, or to give to our people any other terms or guaranties than those which the conqueror may grant, or to permit us to have peace on any other basis than our unconditional submission to their rule, coupled with the acceptance of their recent legislation on the subject of the relations between the White and Black populations of each State. Such is, as I understand it, the effect of the Amendment to the Constitution which has been adopted by the Congress of the United States.

JEFFERSON DAVIS.

Richmond, Va., *February* 5, 1865.

TO THE PRESIDENT OF THE CONFEDERATE STATES:

SIR: Under your letter of appointment of the 28th ult., we proceeded to seek an "informal conference" with Abraham Lincoln, President of the United States, upon the subject mentioned in the letter. The conference was granted, and took place on the 30th inst., on board of a steamer in Hampton Roads, where we met President Lincoln and the Hon. Mr. Seward, Secretary of State of the United States. It continued for several hours, and was both full and explicit.

We learned from them that the Message of President Lincoln to the Congress of the United States, in December last, explains clearly and distinctly his sentiments as to the terms, conditions, and method of proceeding, by which peace can be secured to the people, and we were not informed that they would be modified or altered to obtain that end. We understand from him that no terms or proposals of any treaty, or agreement, looking to an ultimate settlement, would be entertained or made by him with the Confederate States, because that would be a recognition of their existence as a separate Power, which, under no circumstances, would be done; and for like reasons that no such terms would be entertained by him from the States separately; that no extended truce or armistice (as at present advised) would be granted, without a satisfactory assurance in advance of a complete restoration of the authority of the United States over all places within the States of the Confederacy.

That whatever consequence may follow from the reëstablishment of that authority must be accepted; but that individuals, subject to pains and penalties under the laws of the United States, might rely upon a very liberal use of the power confided to him to remit those pains and penalties if peace be restored.

During the conference the proposed Amendment to the Constitution of the United States, adopted by Congress on the 31st ult., was brought to our notice. This Amendment declares that neither Slavery nor in-

voluntary servitude, except for crimes, should exist within the United States, or any place within their jurisdiction, and that Congress should have power to enforce this Amendment by appropriate legislation. Of all the correspondence that preceded the conference herein mentioned, and leading to the same, you have heretofore been informed.

Very respectfully, your obedient servants,

ALEX. H. STEPHENS,
ROBERT M. T. HUNTER,
JOHN A. CAMPBELL.

II.

MESSAGE OF PRESIDENT LINCOLN ON THE HAMPTON ROADS CONFERENCE.

TO THE HONORABLE HOUSE OF REPRESENTATIVES:

In response to your resolution of the 8th inst., requesting information in relation to a conference held in Hampton Roads, I have the honor to state that on the date I gave Francis P. Blair, Senior, a card written as follows, to wit:

December 28, 1864.

"Allow the bearer, F. P. Blair, Sr., to pass our lines, go South and return.

(Signed) "A. LINCOLN."

That at the time I was informed that Mr. Blair sought the card as a means of getting to Richmond, Va., but he was given no authority to speak or act for the Government. Nor was I informed of anything he would say or do on his own account or otherwise.

Mr. Blair told me that he had been to Richmond and had seen Mr. Jefferson Davis, and he (Mr. Blair) at the same time left with me a manuscript letter as follows, to wit:

"Richmond, Va., *January* 12, 1865.

"F. P. BLAIR, ESQ.:

"SIR: I have deemed it proper and probably desirable to you to give you in this form the substance of the remarks made by me to be repeated by you to President Lincoln, etc. I have no disposition to find obstacles in forms, and am willing now, as heretofore, to enter into negotiations for the restoration of peace. I am ready to send a Commission whenever I have reason to suppose it will be received, or to receive a Commission if the United States Government shall choose to send one. Notwithstanding the rejection of our former offers, I would, if you could promise that a Commission, Minister, or other agent would be received, appoint one immediately, and renew the effort to enter into a conference with a view to secure peace to the two countries.

"Yours, etc., JEFFERSON DAVIS."

Afterward, with a view that it should be shown to Mr. Davis, I wrote and delivered to Mr. Blair a letter, as follows, to wit:

Washington, *January* 18, 1865.

"F. P. BLAIR, ESQ.:

"SIR: You having shown me Mr. Davis's letter to you of the 12th inst., you may say to him that I have constantly been, am now, and shall continue ready to receive any agent whom he, or any other influential person now resisting the National authority, may informally send me, with a view of securing peace to the people of our common country.

"Yours, etc., A. LINCOLN."

Afterwards Mr. Blair dictated for and authorized me to make an entry on the back of my retained copy of the letter just above recited which is as follows:

"*January* 28, 1865.

"To-day Mr. Blair tells me that on the 21st inst., he delivered to Mr. Davis the original, of which the within is a copy, and left it with him; that at the time of delivering Mr. Davis read it over twice in Mr. Blair's presence, at the close of which he (Mr. B.) remarked that the part about our common country, related to the part of Mr. Davis's letter about the two countries, to which Mr. D. replied that he understood it.

"A. LINCOLN."

Afterwards the Secretary of War placed in my hands the following telegram, indorsed by him, as appears:

"Office U. S. Military Telegraph,
" *War Department.*

"(Cipher.) The following telegram was received at Washington, January 29, 1865:

"'From Head-quarters Army of the James,
"' 6.30 P. M., *January* 29, 1865.

"'To HON. E. M. STANTON, *Secretary of War:*

"'The following despatch is just received from Major-General Parke, who refers it to me for my action. I refer it to you in lieu of General Grant—absent.

(Signed) "'E. O. C. ORD, *Major-General Comd'g.*'"

"'Head-quarters Army of the James.

"'The following despatch is forwarded to you for your action, since I have no knowledge of General Grant's having had any understanding of this kind, I refer this matter to you as the ranking officer present in the two armies.

(Signed) 'JOHN G. PARKE, *Major-General Comd'g.*'"

"'From Headquarters Ninth Army Corps,
"'*January* 29, 1865.

"'MAJOR-GENERAL JOHN G. PARKE, *Headquarters Army of the Potomac:*

"'Alexander H. Stephens, R. M. T. Hunter, and J. A. Campbell desire to cross my lines, in accordance with an understanding claimed to exist with Lieutenant-General Grant, on their way to Washington as Peace Commissioners. Shall they be admitted? They desire an early answer, so as to come through immediately. They would like to reach City Point to-night if they can. If they cannot do this, they would like to come through to-morrow morning.

"'O. B. WILSON, *Major Commanding Ninth Corps.*'"

Respectfully referred to the President for such instructions as he may be pleased to give.

"EDWIN M. STANTON, *Secretary of War.*

"*January* 29, 1865, 8.30 P. M."

It appears that about the time of placing the foregoing telegram in my hands, the Secretary of War despatched to General Ord as follows, to wit:

"War Department, Washington City,
"*Jan.* 29, 1865—10 P. M.

"MAJOR GENERAL ORD:

"This Department has no knowledge of any understanding by Gen. Grant to allow any person to come within his lines as Commissioners of any sort. You will therefore allow no one to come into your lines under such character or profession until you receive the President's instructions, to whom your telegrams will be submitted for his directions.

"EDWIN M. STANTON, *Secretary of War.*

"(Sent in cipher at 2 A. M.)"

Afterward, by my directions, the Secretary of War telegraphed Gen. Ord as follows, to wit:

"War Department, Washington, D. C.,
"*Jan.* 30, 1865—10 A. M.

"MAJOR GENERAL E. O. C. ORD, *Headquarters Army of the James:*

"By the direction of the President you are instructed to inform the three gentlemen, Messrs. Stephens, Hunter, and Campbell, that a message will be despatched to them at or near where they now are without unnecessary delay.

"EDWIN M. STANTON, *Secretary of War.*"

Afterward I prepared and put into the hands of Major Thomas T. Eckert the following instructions:

"Executive Mansion, Washington, *Jan.* 30, 1865.

"MAJOR T. T. ECKERT:

"SIR: You will proceed with the documents placed in your hands, and on reaching General Ord will deliver him the letter addressed him by the Secretary of War. Then, by General Ord's assistance, procure an interview with Messrs. Stephens, Hunter, and Campbell, or any of them, deliver to him or them the paper on which your own letter is written. Note on the copy which you retain the time of delivery and to whom delivered. Receive their answer in writing, waiting a reasonable time for it, and which, if it contain their decision to come through without further conditions, will be your warrant to ask General Ord to pass them through as directed in the letter of the Secretary of War. If by their answer they decline to come, or propose other terms, do not have them pass through. And this being your whole duty return and report to me.

"Yours truly, A. LINCOLN."

"City Point, *Feb.* 1, 1865.

"MESSRS. ALEXANDER H. STEPHENS, J. A. CAMPBELL, and R. M. T. HUNTER:

"GENTLEMEN: I am instructed by the President of the United States to place this paper in your hands, with the information that if you pass through the United States military lines, it will be understood that you do so for the purpose of an informal conference on the basis of that letter, a copy of which is on the reverse side of this sheet; and that you choose to pass on such understanding, and so notify me in writing. I will procure the Commanding General to pass you through the lines and to Fortress Monroe under such military precautions as he may deem prudent, and at which place you will be met in due time by some person or persons for the purpose of such informal conference; and further, that you shall have protection, safe conduct, and safe return in all events.

'THOMAS T. ECKERT, *Major and Aid-de-Camp.*"

Afterward, but before Major Eckert had departed, the following despatch was received from General Grant:

"Office U. S. Military Telegraph,
"War Department.

"(Cipher)

"The following telegram was received at Washington, Jan. 31, 1865, from City Point, Va., 10.30 A. M., *Jan.* 31, 1865:

"'HIS EXCELLENCY ABRAHAM LINCOLN, *President of the United States:*

"'The following communication was received here last evening:

"'Petersburg, Va., *Jan.* 30, 1865.

"'LIEUT.-GEN. U. S. GRANT, *Commanding Armies of the United States:*

"'SIR: We desire to pass your lines under safe conduct, and to proceed to Washington to hold a conference with President Lincoln upon the subject of the existing war, and with a view of ascertaining upon what terms it may be terminated, in pursuance of the course indicated by him in his letter to Mr. Blair of Jan. 18, 1865, of which we presume you have a copy, and if not, we wish to see you in person, if convenient, and to confer with you on the subject.

"'Very respectfully yours,

ALEXANDER H. STEPHENS,
J. A. CAMPBELL,
R. M. T. HUNTER.'"

"'I have sent directions to receive these gentlemen, and expect to have them at my quarters this evening awaiting your instructions.

"'U. S. GRANT, *Lieut.-General,*
"'*Commanding Armies of the United States.*'"

This, it will be perceived, transferred General Ord's agency in the matter to General Grant. I resolved, however, to send Major Eckert forward with his message, and accordingly telegraphed General Grant as follows, to wit:

"Executive Mansion, Washington,
"*Jan.* 31, 1865.

"LIEUT.-GEN. GRANT, *City Point, Va.:*

"A messenger is coming to you on the business contained in your despatch. Detain the gentlemen in comfortable quarters until he arrives, and then act upon the message he brings as far as applicable, it having been made up to pass through Gen. Ord's hands, and when the gentlemen were supposed to be beyond our lines.

"(Sent in cipher at 1.30 P. M.) A. LINCOLN."

When Major Eckert departed, he bore with him a letter of the Secretary of War to General Grant as follows, to wit:

"War Department, Washington, D. C.,
"*Jan.* 30, 1865.

"LIEUT.-GENERAL GRANT, *Commanding, etc.:*

"GENERAL: The President desires that you procure for the bearer, Major Thomas T. Eckert, an interview with Messrs. Stephens, Hunter, and Campbell, and if, on his return to you, he requests it, pass them through our lines to Fortress Monroe by such route and under such military precautions as you may deem prudent, giving them protection and comfortable quarters while there, and that you let none of this have any effect upon any of your movements or plans.

"By order of the President,

"EDWIN M. STANTON, *Secretary of War.*"

Supposing the proper point to be then reached, I despatched the Secretary of State with the following instructions, Major Eckert, however, going ahead of him:

"Executive Mansion, *Jan.* 31, 1865.

"HON. WM. H. SEWARD, *Secretary of State:*

"You will proceed to Fortress Monroe, Va., there to meet and informally confer with Messrs. Stephens, Hunter, and Campbell, on the basis of my letter to F. P. Blair, Esq., of Jan. 18, 1865, a copy of which you have. You will make known to them that three things are indispensable, to wit: 1st, the restoration of the National authority throughout all the States; 2d, no receding by the Executive of the United States on the Slavery question from the position assumed thereon in the late Annual Message to Congress, and in the preceding documents; 3d, no cessation of hostilities short of an end of the war and the disbanding of all the forces hostile to the Government. You will inform them that all propositions of theirs not inconsistent with the above will be considered and passed upon in a spirit of sincere liberality. You will hear all they may choose to say and report it to me. You will not assume to definitely consummate anything.

'Yours, etc., ABRAHAM LINCOLN."

On the day of its date the following telegram was sent to General Grant:

"War Department, Washington,
"*Feb.* 1, 1865.

"LIEUT.-GEN. GRANT, *City Point, Va.:*

"Let nothing which is transpiring change, hinder, or delay your military movements or plans.

"(Sent in cipher at 9.30 A. M.) A. LINCOLN."

Afterward the following despatch was received from Gen. Grant:

"Office U. S. Telegraph, *War Department.*

"(In cipher.)

"The following telegram was received at Washington at 2.30 P. M., Feb. 1, 1865, from City Point, Va., Feb. 1, 12.30 P. M., 1865:

"'HIS EXCELLENCY ABRAHAM LINCOLN, *President of the United States:*

"'Your despatch is received. There will be no armistice in consequence of the presence of Mr. Stephens and others within our lines. The troops are kept in readiness to move at the shortest notice if occasion should justify it.

"'U. S. GRANT, *Lieut.-Gen.*'"

To notify Major Eckert that the Secretary of State would be at Fortress Monroe and to put them in communication, the following despatch was sent:

"War Department, Washington,
"*Feb.* 1, 1865.

"T. T. ECKERT, *care Gen. Grant, City Point, Va.:*

"Call at Fortress Monroe and put yourself under the direction of Mr. S., whom you will find there.

"A. LINCOLN."

On the morning of the 2d inst., the following telegrams were received by me from the Secretary of State and Major Eckert:

"Fortress Monroe, Va.—11.30 P. M.,
"*Feb.* 1, 1865.

"THE PRESIDENT OF THE UNITED STATES:

"Arrived here this evening. Richmond party not here. I remain here.

"WM. H. SEWARD."

"City Point, Va., 10 P. M.,
"*Feb.* 1, 1865.

"HIS EXCELLENCY A. LINCOLN, *President of the United States:*

"I have the honor to report the delivery of your communication and my letter at 4.15 this afternoon, to which I received a reply at 6 P. M., but not satisfactory. At 8 P. M. the following note, addressed to Gen. Grant, was received:

"'City Point, *Feb.* 1, 1865.

"'TO LIEUT.-GEN. GRANT:

"'SIR: We desire to go to Washington City to confer informally with the President personally, in reference to the matters mentioned in his letter to Mr. Blair of the 18th of January, ult., without any personal compromise on any question in the letter. We have the permission to do so from the Authorities in Richmond.

"'Very respectfully yours,
ALEXANDER H. STEPHENS,
R. M. T. HUNTER,
J. A. CAMPBELL.'"

"At 9.30 P. M., I notified them that they could not proceed further unless they complied with the terms expressed in my letter. The point of meeting designated in the above would not, in my opinion, be insisted upon. I think Fortress Monroe would be acceptable. Having complied with my instructions, will return to Washington to-morrow, unless otherwise ordered.

"THOMAS T. ECKERT, *Major, etc.*"

On reading this despatch of Major Eckert's, I was about to recall him and the Secretary of State, when the following telegram of General Grant to the Secretary of War was shown me:

"Office U. S. Military, *War Department.*

"(In cipher.)

"The following telegram, received at Washington at 4.35 A. M., Feb. 2, 1865, from City Point, Va., Feb. 1, 1865:

"'To HON. E. M. STANTON, *Secretary of War:*

"'Now that the interview between Major Eckert, under his written instructions, and Mr. Stephens and party, has ended, I will state confidentially, but not officially, to become a matter of record, that I am convinced, upon conversation with Messrs. Stephens and Hunter, that their intentions are good and their desire sincere to restore peace and Union. I have not felt myself at liberty to express even views of my own, or to account for my reticence. This has placed me in an awkward position, which I could have avoided by not seeing them in the first instance. I fear now their going back without any expression to any one in authority will have a bad influence. At the same time I recognize the difficulties in the way of receiving these informal Commissioners at this time, and I do not know what to recommend. I am sorry, however, that Mr. Lincoln cannot have an interview with the two named in this despatch, if not all three now within our lines. Their letter to me was all that the President's instructions contemplated to secure their safe conduct, if they had used the same language to Capt. Eckert.

"'U. S. GRANT, *Lieut.-General.*'"

This despatch of General Grant changed my purpose, and accordingly I telegraphed him and the Secretary of War as follows:

"War Department, Washington,
"*Feb.* 2, 1865.

"TO LIEUT.-GENERAL GRANT, *City Point, Va.:*

"Say to the gentlemen that I will meet them personally at Fortress Monroe as soon as I can get there.

"(Sent in cipher at 9 A. M.) A. LINCOLN."

"War Department, Washington, D. C.,
"*Feb.* 2, 1865.

"TO HON. WM. H. SEWARD, *Fortress Monroe, Va.:*

"Induced by a despatch from General Grant, I join you at Fortress Monroe as soon as I can come.

"(Sent in cipher at 9 A. M.) A. LINCOLN."

Before starting the following despatch was shown me. I proceeded, nevertheless:

"Office U. S. Military Telegraph,
"*War Department.*

"(In cipher.)

"The following telegram was received at Washington, Feb. 2, 1865, from City Point, Va., 9 A. M., Feb. 2, 1865:

"'To Hon. W. H. Seward, *Sec'y of State, Fortress Monroe:*

"[Copy to Hon. E. M. Stanton, Secretary of War.]

"'The gentlemen here have accepted the proposed terms and will leave for Fortress Monroe at 9.30 A. M.

"'U. S. Grant, *Lieut.-Gen.*'"

On the night of the 2d, I reached Hampton Roads, and found the Secretary of State and Major Eckert in a steamer anchored off the shore, and learned of them that the Richmond gentlemen were in another steamer, also anchored off shore in the Roads, and that the Secretary of State had not yet seen or communicated with them. I ascertained that Major Eckert had literally complied with his instructions, and I saw for the first time the answer of the Richmond gentlemen to him, which, in his despatch to me of the 1st, characterized as not satisfactory. That answer is as follows, to wit:

"City Point, Va., *Feb.* 1, 1865.

"To Thos. T. Eckert, *Major and Aid-de-Camp:*

"Major: Your note delivered by yourself this day has been considered. In reply, we have to say that we were furnished with a copy of the letter of President Lincoln to F. P. Blair, of the 18th of January, ult. Another copy of which is appended to your note. Our intentions are contained in the letter, of which the following is a copy:

"'Richmond, *Jan.* 28, 1865.

"'In conformity with the letter of Mr. Lincoln, of which the foregoing is a copy, you are to proceed to Washington City for an informal conference with him upon the issues involved in the existing war, and for the purpose of securing peace to the two countries.

"'With great respect, your obedient servant,

"'Jefferson Davis.'

"The substantial object to be attained by the informal Conference is to ascertain upon what terms the existing war can be terminated honorably. Our instructions contemplate a personal interview between President Lincoln and ourselves at Washington; but, with this explanation, we are ready to meet any person or persons that President Lincoln may appoint, at such place as he may designate. Our earnest desire is that a just and honorable peace may be agreed upon, and we are prepared to receive or to submit propositions which may possibly lead to the attainment of that end.

"Very respectfully yours,

"Alex. H. Stephens,
Robert M. T. Hunter,
John A. Campbell."

A note of these gentlemen, subsequently addressed to General Grant, has already been given in Major Eckert's despatch of the 1st inst. I

also saw here for the first time the following note addressed by the Richmond gentlemen to Major Eckert:

"City Point, Va., *Feb.* 2, 1865.

"THOMAS T. ECKERT, *Major and A. D. C.:*

"MAJOR: In reply to your verbal statement that your instructions did not allow you to alter the conditions upon which a passport would be given to us, we say that we are willing to proceed to Fortress Monroe, and there to have an informal conference with any person or persons that President Lincoln may appoint, on the basis of his letter to Francis P. Blair of the 18th of January, ultimo, or upon any other terms or conditions that he may hereafter propose not inconsistent with the essential principles of Self-government and Popular Rights, upon which our institutions are founded. It is our earnest wish to ascertain, after a free interchange of ideas and information, upon what principles and terms, if any, a just and honorable peace can be established without the further effusion of blood, and to contribute our utmost efforts to accomplish such a result. We think it better to add, that in accepting your passport, we are not to be understood as committing ourselves to anything, but to carry on this informal conference with the views and feelings above expressed.

"Very respectfully yours, etc.,

"ALEX. H. STEPHENS,
R. M. T. HUNTER,
J. A. CAMPBELL."

"[*Note.* The above communication was delivered to me at Fortress Monroe at 4.40 P. M., Feb. 2, by Lieut.-Col. Babcock, of Gen. Grant's Staff.

"THOS. T. ECKERT, *Major and A. D. C.*]

"Executive Mansion, *Feb.* 10, 1865."

On the morning of the 3d, the gentlemen, Messrs. Stephens, Hunter, and Campbell, came aboard of our steamer and had an interview with the Secretary of State and myself of several hours' duration. No question of preliminaries to the meeting was then and there made or mentioned. No other person was present. No papers were exchanged or produced, and it was in advance agreed that the conversation was to be informal and verbal merely. On my part the whole substance of the instructions to the Secretary of State, hereinbefore recited, was stated and insisted upon, and nothing was said inconsistent therewith, while, by the other party, it was not said that in any event or on any condition they ever would consent to reunion; and yet they equally omitted to declare that they would never so consent. They seemed to desire a postponement of that question and the adoption of some other course first, which, as some of them seemed to argue, might or might not lead

to reunion, but which course we thought would amount to an indefinite postponement.

The conference ended without result.

The foregoing, containing, as is believed, all the information sought, is respectfully submitted.

ABRAHAM LINCOLN.

S.

I.

CORRESPONDENCE BETWEEN GENERALS GRANT AND LEE PRECEDING THE SURRENDER OF GEN. LEE, WITH HIS LAST GENERAL ORDER TO HIS ARMY.

April 7.

GENERAL R. E. LEE, *Commanding Confederate States Armies:*

GENERAL:—The result of the last week must convince you of the hopelessness of further resistance on the part of the Army of Northern Virginia in this struggle. I feel that it is so; and regard it as my duty to shift from myself the responsibility of any further effusion of blood, by asking of you the surrender of that portion of the Confederate States Army known as the Army of Northern Virginia.

Very respectfully, your obedient servant,

U. S. GRANT,

Lieut.-Gen. Commanding Armies of the United States.

To this note Gen. Lee replied as follows:

April 7.

LIEUT.-GEN. U. S. GRANT, *Commanding Armies of the United States:*

GENERAL:—I have received your note of this date. Though not entirely of the opinion you express of the hopelessness of further resistance on the part of the Army of Northern Virginia, I reciprocate your desire to avoid useless effusion of blood, and therefore, before considering your proposition, ask the terms you will offer, on condition of its surrender.

R. E. LEE, *General.*

The following correspondence then ensued:

April 8.

GEN. R. E. LEE, *Commanding Confederate States Army:*

GENERAL:—Your note of last evening, in reply to mine of same date, asking the conditions on which I will accept the surrender of the Army of Northern Virginia, is just received. In reply, I would say, that peace being my great desire, there is but one condition I would insist upon, namely: that the men and officers surrendered shall be disqualified

for taking up arms again against the Government of the United States until properly exchanged. I will meet you, or will designate officers to meet any officers you may name for the same purpose, at any point agreeable to you, for the purpose of arranging definitely the terms upon which the surrender of the Army of Northern Virginia will be received.

Very respectfully, your obedient servant,

U. S. GRANT,

Lieut.-Gen. Commanding Armies of the United States.

April 8.

LIEUT.-GEN. GRANT, *Commanding Armies of the United States:*

GENERAL:—I received at a late hour your note of to-day, in answer to mine of yesterday. I did not intend to propose the surrender of the Army of Northern Virginia, but to ask the terms of your proposition. To be frank, I do not think the emergency has arisen to call for the surrender. But, as the restoration of peace should be the sole object of all, I desire to know whether your proposals would tend to that end.

I cannot, therefore, meet you with a view to surrender the Army of Northern Virginia, but, so far as your proposition may affect the Confederate States forces under my command, and lead to the restoration of peace, I should be pleased to meet you at 10 A. M., to-morrow, on the old stage-road to Richmond, between the picket lines of the two armies.

Very respectfully, your obedient servant,

R. E. LEE, *General Confederate States Armies.*

Gen. Grant to Gen. Lee:

April 9.

GEN. R. E. LEE, *Commanding Confederate States Armies:*

GENERAL:—Your note of yesterday is received. As I have no authority to treat on the subject of peace, the meeting proposed for 10 A. M. to-day, could lead to no good. I will state, however, General, that I am equally anxious for peace with yourself; and the whole North entertain the same feeling. The terms upon which peace can be had are well understood. By the South laying down their arms, they will hasten that most desirable event, save thousands of human lives, and hundreds of millions of property not yet destroyed.

Sincerely hoping that all our difficulties may be settled without the loss of another life, I subscribe myself,

Very respectfully, your obedient servant,

U. S. GRANT, *Lieut.-Gen. U. S. A.*

Gen. Lee to Gen. Grant:

April 9, 1865.

GENERAL:—I received your note of this morning on the picket line, whither I had come to meet you and ascertain definitely what terms were embraced in your proposition of yesterday with reference to the surrender of this army.

I now request an interview in accordance with the offer contained in your letter of yesterday for that purpose.

Very respectfully, your obedient servant,

R. E. LEE, *General.*

TO LIEUT.-GEN. GRANT, *Commanding U. S. Armies.*

Gen. Grant to Gen. Lee:

April 9.

GEN. R. E. LEE, *Commanding Confederate States Armies:*

Your note of this date is but this moment (11.50 A. M.) received. In consequence of my having passed from the Richmond and Lynchburg road to the Farmville and Lynchburg road, I am at this writing about four miles west of Walter's Church, and will push forward to the front for the purpose of meeting you.

Notice sent to me on this road where you wish the interview to take place will meet me.

Very respectfully, your obedient servant,

U. S. GRANT, *Lieut.-Gen.*

TERMS OF SURRENDER.

Appomattox Court House, Va.,
April 9, 1865.

GENERAL:—In accordance with the substance of my letter to you of the 8th instant, I propose to receive the surrender of the Army of Northern Virginia on the following terms, to wit: Rolls of all the officers and men to be made in duplicate; one copy to be given to an officer to be designated by me, the other to be retained by such officer or officers as you may designate. The officers to give their individual paroles not to take up arms against the Government of the United States until properly exchanged; and each company or regimental commander sign a like parole for the men of their commands. The arms, artillery, and public property, to be parked and stacked, and turned over to the officers appointed by me to receive them. This will not embrace the side-arms of the officers, nor their private horses or baggage. This done, each officer and man will be allowed to return to his home, not to be disturbed by United States authority so long as they observe their paroles and the laws in force where they may reside.

U. S. GRANT, *Lt.-General.*

GENERAL R. E. LEE.

THE SURRENDER.*

Headquarters Army of Northern Va.,
April 9, 1865.

LIEUT.-GEN. U. S. GRANT, *Commanding U. S. Armies:*

GENERAL:—I received your letter of this date, containing the terms of the surrender of the Army of Northern Virginia as proposed

* Less than 8,000 muskets were turned over in pursuance of the terms agreed upon.

by you. As they are substantially the same as those expressed in your letter of the 8th instant, they are accepted. I will proceed to designate the proper officers to carry the stipulations into effect.

R. E. LEE, *General.*

GENERAL ORDER NO. 9.

Headquarters Army of Northern Va.,
April 10, 1865.

After four years of arduous service, marked by unsurpassed courage and fortitude, the Army of Northern Virginia has been compelled to yield to overwhelming numbers and resources. I need not tell the survivors of so many hard-fought battles, who have remained steadfast to the last, that I have consented to this result from no distrust of them, but holding that valor and devotion could accomplish nothing that could compensate for the loss that would attend the continuation of the contest, I have determined to avoid the useless sacrifice of those whose past vigor has endeared them to their countrymen.

By the terms of agreement, officers and men can return to their homes and remain there until exchanged. You will take with you the satisfaction that proceeds from the consciousness of duty faithfully performed, and I earnestly pray that a merciful God will extend you His blessing and protection. With an increasing admiration of your constancy and devotion to your country, and a grateful remembrance of your kind and generous consideration of myself, I bid you an affectionate farewell.

(Signed.) R. E. LEE, *General.*

II.

MEMORANDUM, OR, BASIS OF AGREEMENT, MADE THIS 18TH DAY OF APRIL, A. D. 1865, NEAR DURHAM'S STATION, AND IN THE STATE OF NORTH CAROLINA, BY AND BETWEEN GEN. JOSEPH E. JOHNSTON, COMMANDING THE CONFEDERATE ARMY, AND MAJOR-GEN. W. T. SHERMAN, COMMANDING THE ARMY OF THE UNITED STATES IN NORTH CAROLINA, BOTH PRESENT.

I.—The contending Armies now in the field to maintain their *status quo* until notice is given by the Commanding General of either one to its opponent, and reasonable time, say forty-eight hours, allowed.

II.—The Confederate Armies now in existence to be disbanded and conducted to the several State Capitals, there to deposit their arms and public property in the State Arsenal; and each officer and man to execute and file an agreement to cease from acts of war and abide the action of both State and Federal Authorities. The number of arms and mu-

nitions of war to be reported to the Chief of Ordnance at Washington City, subject to the future action of the Congress of the United States, and in the meantime to be used solely to maintain peace and order within the borders of the States respectively.

III.—The recognition, by the Executive of the United States, of the several State Governments on their officers and Legislatures taking the oath prescribed by the Constitution of the United States; and, where conflicting State Governments have resulted from the war, the legitimacy of all shall be submitted to the Supreme Court of the United States.

IV.—The reëstablishment of all Federal Courts in the several States, with powers as defined by the Constitution and the laws of Congress.

V.—The people and inhabitants of all States to be guaranteed, so far as the Executive can, their political rights and franchises, as well as their rights of person and property, as defined by the Constitution of the United States and of the States respectively.

VI.—The Executive Authority of the Government of the United States not to disturb any of the people, by reason of the late war, so long as they live in peace and quiet, abstain from acts of armed hostility, and obey laws in existence at the place of their residence.

VII.—In general terms, it is announced that the war is to cease; a general amnesty, so far as the Executive power of the United States can command, on condition of the disbandment of the Confederate Armies, the distribution of arms and resumption of peaceful pursuits by officers and men hitherto composing the said armies. Not being fully empowered by our respective principals to fulfil these terms, we individually and officially pledge ourselves to promptly obtain necessary authority and to carry out the above programme.

W. T. SHERMAN, *Major-General,*
Commanding the Army of the United States in North Carolina.
J. E. JOHNSTON, *General,*
Commanding Confederate States Army in North Carolina.

III.

TERMS OF A MILITARY CONVENTION HELD THIS TWENTY-SIXTH (26th) DAY OF APRIL, 1865, AT BENNETT'S HOUSE, NEAR DURHAM'S STATION, N. C., BETWEEN GEN. JOSEPH E. JOHNSTON, COMMANDING THE CONFEDERATE ARMY, AND MAJOR-GENERAL W. T. SHERMAN, COMMANDING THE UNITED STATES ARMY IN NORTH CAROLINA.

All acts of War on the part of the troops under Gen. Johnston's command to cease from this date.

All arms and public property to be deposited at Greensboro, to be delivered to an Ordnance officer of the United States Army.

Rolls of all the officers and men to be made in duplicate—one copy to be retained by the Commander of the troops, and the other to be given to an officer to be designated by Gen. Sherman.

Each officer and man to give his individual obligation in writing, not to take up arms against the Government of the United States until properly released from this obligation.

The side-arms of officers and their private horses and baggage to be retained by them.

This being done, all the officers and men will be permitted to return to their homes, not to be disturbed by the United States authority so long as they observe their obligation and the laws in force where they may reside.

W. T. SHERMAN, *Major-General,*
Commanding U. S. Forces in North Carolina.
J. E. JOHNSTON, *General,*
Commanding C. S. Forces in North Carolina.

Approved:
U. S. GRANT, *Lt.-Gen.*,
Raleigh, N. C., *April* 26, 1865.

GENERAL ORDER NO. 18.

Head-quarters, Army of Tennessee, near Greensboro, N. C., *April* 27, 1865.

By the terms of a Military Convention, made on the 26th inst., by Major-General W. T. Sherman, U. S. Army, and General J. E. Johnston, C. S. Army, the officers and men of this army are to bind themselves not to take up arms against the United States until properly relieved from this obligation, and shall receive guaranties from the United States officers against molestation by the United States authorities so long as they observe that obligation, and the laws in force where they reside.

For these objects, duplicate muster-rolls will be made immediately, and after the distribution of the necessary papers, the troops will march under their officers to their respective States, and there be disbanded, all retaining personal property.

The object of this Convention is Pacification, to the extent of the Commanders who made it.

Events in Virginia, which broke every hope of success by war, imposed on its Generals the duty of sparing the blood of this gallant army, and saving our country from further devastation, and our people from ruin.

J. E. JOHNSTON, *General.*

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