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Summer, Charles

One Equal rights of all.

Speech



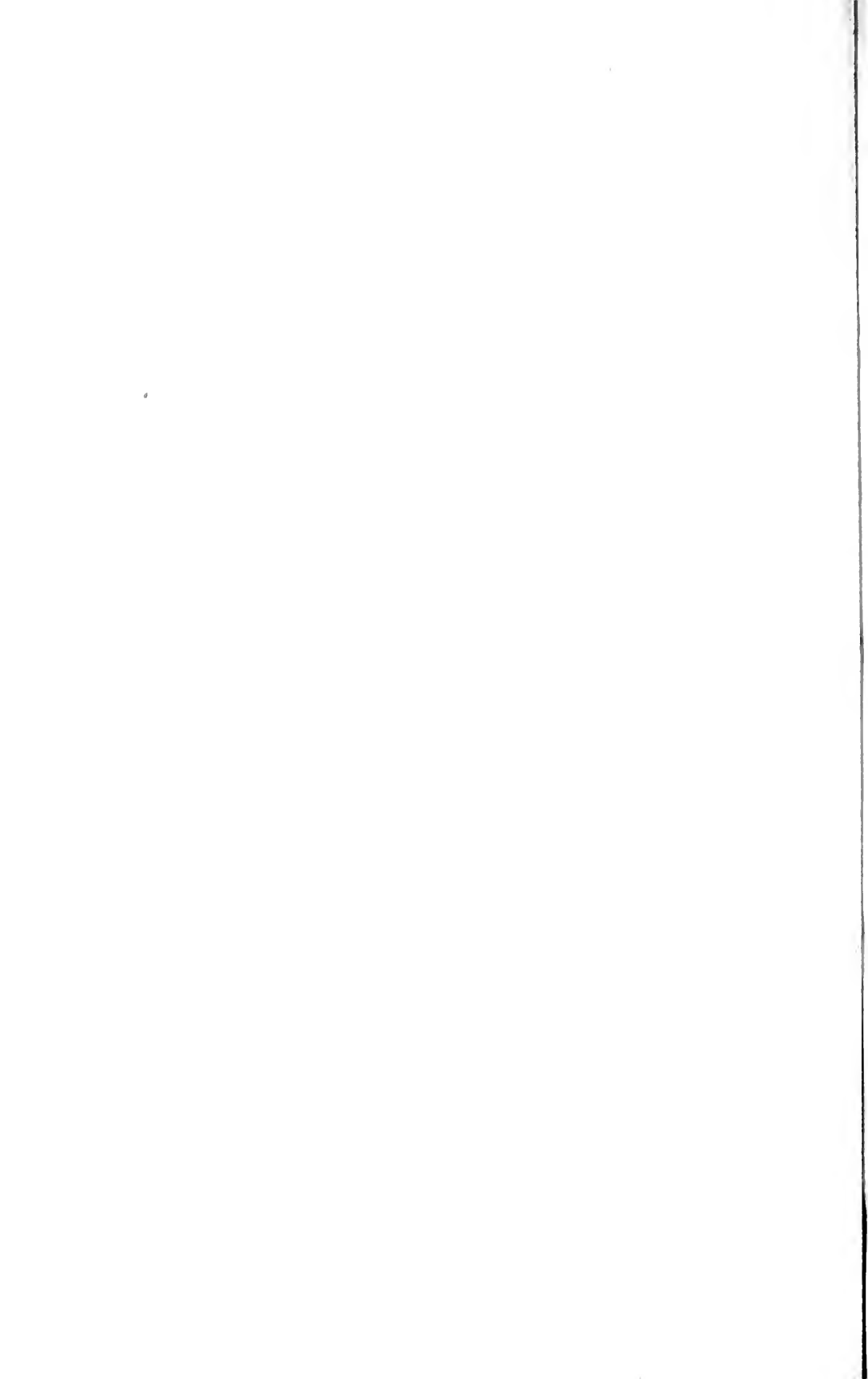
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# THE EQUAL RIGHTS OF ALL;

The Great Guarantee and Present Necessity,

For the Sake of Security, and to Maintain a Republican Government.

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## SPEECH

OF

# HON. CHARLES SUMNER,

## OF MASSACHUSETTS,

IN THE UNITED STATES SENATE, FEBRUARY 6 AND 7, 1866.

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Taxation without representation is Tyranny.—*The Revolutionary Fathers.*

— “The laws, the rights,  
The generous plan of power delivered down  
From age to age, by our renowned forefathers  
So dearly bought, the price of so much blood,  
Oh! let it never perish in our hands.”—*Addison's Cato.*

“But, if any among you think that Philip will maintain his power by having occupied forts and havens and the like, this is a mistake. Impossible is it—impossible, Athenians—to acquire a solid power by injustice and perjury and falsehood. Such things last for once, or for a short period; may be, they blossom fairly with hope; but in time they are discovered and drop away. As a house, a ship, or the like, ought to have the lower part firmest, so in human conduct, I ween, the principle and foundation should be just and true.”—*Demosthenes, 2d Olynthiac.*

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## EQUAL RIGHTS TO ALL.

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The Senate, as in Committee of the Whole, proceeded to consider the following joint resolution (H. R. No. 51) proposing to amend the Constitution of the United States:

*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 said Constitution, namely:*

ARTICLE — Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed: *Provided*, That whenever the elective franchise shall be denied or abridged in any State on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

Mr. SUMNER said:

Mr. PRESIDENT: I begin by expressing my acknowledgments to the Senator from Maine, who yields the floor to me to-day, and also my sincere regret that anything should interfere with the opening of this debate by him. It is his right, and I enter upon it now only by his indulgence.

I am not insensible to the responsibility which I assume in setting myself against a proposition already adopted in the other House, and having the recommendation of a committee to which the country looks with such just expectation, and to which, let me say, I look with so much trust. But after careful reflection, I do not feel that I can do otherwise. Knowing, as I do, the eminent character of the committee, its intelligence, its patriotism, and the moral instincts by which it is moved, I am at a loss to understand the origin of a proposition which seems to me nothing else than another Compromise of Human Rights, as if the country had not already paid enough in costly treasure and more costly blood for such compromises in the past. I had hoped that the

day of compromise with wrong had gone by forever. Ample experience shows that it is the least practical mode of settling questions involving moral principles. A moral principle cannot be compromised.

Here are the words of the amendment:

*Provided*, That whenever the elective franchise shall be denied or abridged on account of race or color, all persons therein of such race or color shall be excluded from the basis of representation.

I may be mistaken, sir, but I think it difficult to read this proposition without being painfully impressed by the discord and defilement which it will introduce into the Constitution, having among its specific objects the guarantee of a republican form of government. The discord is apparent on the face. The defilement is none the less apparent. Go back, if you please, to the adoption of the Constitution, and you will gratefully acknowledge that the finest saying of the times was when Madison, evidently inspired by the Declaration of Independence, and determined to keep the Constitution in harmony with it, insisted in well-known words, that "it was wrong to admit in the Constitution the idea of property in man." Of all that has come to us from that historic Convention, where Washington sat as President, and Franklin and Hamilton sat as members, there is nothing having so much of imperishable charm. It was wrong to admit in the Constitution the idea that man could hold property in man. Accordingly, in this spirit the Constitution was framed. This offensive idea was not admitted. The text at least was kept blameless. And now, after generations have passed, surrounded by the light of Christian truth and in the very blaze of Human Freedom, it is proposed to admit in the Constitution the twin idea of Inequality in Rights, and thus openly set at naught the first principles of the Declaration of Independence and the guarantee of a republican government itself, while you blot out a whole race politi-

cally. For some time we have been carefully expunging from the statute-book the word "white," and now it is proposed to insert in the Constitution itself a distinction of color. An amendment, according to the dictionaries, is "an improvement"—"a change for the better." Surely the present proposition is an amendment which like the crab goes backward.

Such is its appearance when you regard it merely in its form, without penetrating its substance: but here it is none the less offensive. The case is plain. There are among us four million citizens, now robbed of all share in the government of their country, while at the same time they are taxed according to their means, directly and indirectly, for the support of the Government. Nobody can question this statement. And this bare-faced tyranny of taxation without representation it is now proposed to recognize as not inconsistent with fundamental right and the guarantee of a republican government. Instead of blasting it you go forward to embrace it as an element of political power.

If, by this, you expect to induce the recent slave-master to confer the right of suffrage without distinction of color, you will find the proposition a delusion and a snare. He will do no such thing. Even the bribe you offer will not tempt him. If, on the other hand, you expect to accomplish a reduction of his political power, it is more than doubtful if you will succeed, while the means you employ are unworthy of our country. There are tricks and evasions possible, and the cunning slave-master will drive his coach and six through your amendment stuffed with all his representatives. Should he cheat you in this matter, it will only be a proper return for the endeavor on your part to circumvent him at the expense of fellow-citizens to whom you are bound by every obligation of public faith.

I know not if others will see this uncertainty as I see it; but there are two practical consequences having a direct influence on the times, which all must see as following at once from the adoption of the so-called amendment. In the first place, it will be a present renunciation of all power under the Constitution to apply the remedy for a grievous wrong, when the remedy, even according to your own recent example, is actually in your hands. You have already in this Chamber, only last Friday, decried civil rights without distinction of color. Who can doubt, that by the same title you may decrie political rights also, without distinction of color? But, having the power, it is your duty to exercise it. You cannot evade this duty without becoming partakers in the wrong. And this brings me to the second practical consequence which must ensue from the adoption of this proposition. You will hand over wards and allies, through whom the Republic has been saved, and therefore our saviors, to the control

of vindictive enemies, to be taxed and governed without their consent; and this you will do for a consideration "nominated in the bond," by virtue of which men may do a great wrong, provided they will submit as a *quid pro quo* to a proportionate abridgment of political power. Who does not admire the English patriot who once said that he would give his life to *save* his country, but he would not do a mean thing to *save* it. I hope we may act in this spirit. Above all do not copy the example of Pontius Pilate, who surrendered the Saviour of the World, in whom he found no fault at all, to be scourged and crucified, while he set at large Barabbas, of whom the gospel says in simple words, "Now Barabbas was a robber."

I speak with a sincere deference for those valued friends from whom I differ: but I submit that the time has come at last when we should deal directly and not indirectly with the great question before us, and when all compromise of Human Rights should cease, and especially there should be no thought of a three-headed compromise, which, after degrading the Constitution, renounces a beneficent power essential to the safety of the Republic, and, lastly, borrowing an example from Pontius Pilate, turns over a whole race to sacrifice. These objections I now present briefly on the threshold, without argument, and I advance to the main question which must dominate this whole debate. By way of introduction I send to the Chair a counter-proposition, which I desire to have read.

The Secretary read the following joint resolution:

A joint resolution carrying out the guarantee of a republican form of government in the Constitution of the United States, and enforcing the constitutional amendment for the prohibition of slavery.

Whereas it is provided in the Constitution that the United States shall guaranty to every State in the Union a republican form of government; and whereas by reason of the failure of certain States to maintain governments which Congress might recognize, it has become the duty of the United States, standing in the place of guarantor, where the principal has made a lapse, to secure to such States according to the requirement of the guarantee, governments republican in form; and whereas further, it is provided in a recent constitutional amendment that Congress may "enforce" the prohibition of slavery by "appropriate legislation," and it is important to this end, that all relics of slavery should be removed, including all distinction of rights on account of color: Now, therefore, to carry out the guarantee of a republican form of government and to enforce the prohibition of slavery,  
*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be no Oligarchy, Aristocracy, Castes, or Monopoly invested with peculiar privileges and powers, and there shall be no denial of rights, civil or political, on account of color or race anywhere within the limits of the United States or the jurisdiction thereof; but all persons therein shall be equal before the law, whether in the court-room or at the ballot-box. And this statute, made in pursuance of the Constitution, shall be the supreme law of the land, anything in the Constitution or laws of any State to the contrary notwithstanding.

Mr. SUMNER. Mr. President, in opening

this great question, I begin by expressing a heart-felt aspiration that the day may soon come, when the States lately in rebellion may be received again into the copartnership of political power and the full fellowship of the Union. But I see too well that it is vain to expect this day, which is so much longed for, until we have obtained that security for the future, which is found only in the Equal Rights of All, whether in the court-room or at the ballot-box. This is the Great Guarantee, without which all other guarantees will fail. This is the sole solution of our present troubles and anxieties. This is the only sufficient assurance of peace and reconciliation. To the establishment of this Great Guarantee, as a measure of safety and of justice, I now ask your best attention.

The powers of Congress over this subject are as ample as they are beneficent. From four specific fountains they flow—each one sufficient for the purpose—all four swelling into an irresistible current, and tending to one conclusion: first, *the necessity of the case*, by which, according to the analogies of the "Territories," disloyal States, having no local government, lapse under the authority of Congress; secondly, the *Rights of War*, which do not expire or lose their grasp, except with the establishment of all needful guarantees; thirdly, the constitutional injunction to guaranty a Republican Form of Government; and, fourthly, the constitutional amendment by which Congress, in words of peculiar energy, is empowered "to enforce" the abolition of slavery "by appropriate legislation." According to the proverb of Catholic Europe, all roads lead to Rome, and so do all these powers lead to the jurisdiction of Congress over this whole subject. No matter which road you take, you arrive at the same point. Two of these powers have already been discussed exhaustively. The latter have been less considered, and it is on these that I shall speak especially to-day. I propose, with the permission of the Senate, to show the necessity and duty of exercising the jurisdiction of Congress so as to secure that essential condition of a Republican Government, the Equal Rights of All. And I put aside, at the outset, the metaphysical question, worthy of the schoolmen in the dark ages, whether certain States are *in* the Union or *out* of the Union. This is a question of form and not of substance, of words only and not of facts: for the substance is clear and the facts are unanswerable. All are agreed, according to the authority of President Lincoln, in his latest utterance before his lamented death, that these States have ceased to be "in practical relations with the Union;" and this is enough to sustain the jurisdiction of Congress, even without the plain words of the Constitution in two separate texts.

Necessity and duty conjoin'd. If what is necessary is not always according to law, surely

duty is always a necessity. On the present occasion they unite in one voice for the Great Guarantee. It is at once a necessity and a duty. Glancing at the promises of the fathers, I shall exhibit: *first*, the overruling necessity of the times; and *secondly*, the positive mandate of the Constitution, compelling us to guaranty "a republican form of government," and thus to determine what is meant by this requirement; all of which has been fortified by the constitutional amendment authorizing Congress to enforce the abolition of slavery.

#### PROMISES OF THE FATHERS.

In the life of a nation, as in that of an individual, there are special moments when outstanding promises must be performed under peril of ruin and dishonor. Such is the present moment in the life of our Republic. There are sacred promises beginning with our history yet unperformed, and now the hour has sounded when continued failure on our part will open the door to a long train of woes. And there are yet other promises recently made for the national defense against a wicked rebellion, which, like those of an earlier date, are unperformed also. But the latter are all included in the former, so that our whole duty now centers in the performance of those sacred promises which are coeval with the national life.

Our fathers solemnly announced the Equal Rights of all men, and that Government had no just foundation except in the consent of the governed; and to the support of the Declaration, heralding these self-evident truths, they pledged their lives, their fortunes, and their sacred honor. Looking at this Declaration now, it is chiefly memorable for the promises it then made. Mighty words! Fit utterance for the giant infant then born. Fit device for the great Republic taking its place in the family of Kings. Fit lesson for mankind. And now the moment has come when these vows must be fulfilled to the letter. In securing the Equal Rights of the freedman, and his participation in the Government, which he is taxed to support, we shall perform those early promises of the Fathers, and at the same time the supplementary promises only recently made to the freedman as the condition of alliance and aid against the Rebellion. A failure to perform these promises is moral and political bankruptcy. It is repudiation of moral and political duties, ending in the repudiation of the financial obligations of the country. So are your duties to the national freedman linked with your obligations to the national creditor, that you cannot repudiate the former without impairing the value of the latter. Whoever disowns any of the promises of the Republic leads the way in repudiation.

But you cannot be thus guilty. Even, if indifferent to the vows of the Fathers, necessity, in harmony with the plain injunction of the Constitution, will constrain you. On this

there can be no doubt. You must perform these promises, and this brings me to the overruling necessity of the times.

#### OVERRULING NECESSITY OF THE TIMES.

I. Necessity is a peremptory instructor. It gives the law which no man can disregard. It will not hearken to apology or postponement. With a voice of command it insists that its behests shall be obeyed. And now this very necessity speaks to us with familiar tones.

Twice already, since rebel Slavery rose against the Republic, it has spoken to us, insisting; first, that the slaves should be declared free; and secondly, that muskets should be put into their hands for the common defense. Yielding to necessity, these two things were done. Reason, humanity, justice were powerless in this behalf; but necessity was irresistible. And the result testifies how wisely the Republic acted. Without emancipation, followed by the arming of the slaves, rebel Slavery would not have been overcome. With these the victory was easy.

At last the same necessity, which insisted first upon emancipation and then upon the arming of the slaves, insists with the same unanswerable force upon the admission of the freedman to complete Equality before the law, so that there shall be no ban of color in court-room, or at the ballot-box, and government shall be fixed on its only rightful foundation—the consent of the governed. Reason, humanity, and justice, all of which are clear for this admission of the freedman, may fail to move you; but you must yield to necessity, which now requires that these promises shall be performed.

The demand which I now make stands on necessity. You must grant it, or you will peril the peace of this Republic, and postpone indefinitely the great day of security and reconciliation. Therefore, in the name of that national safety, which is the supreme law, I begin my appeal. Whatever is required for the national safety is constitutional. Not only it *may* be done, but it *must* be done. Not to do it is to fail in duty. This Republic must be saved.

When I speak of necessity, I mean that overruling compulsion which cannot be disobeyed. In the present case it is compounded of moral duty and the instinct of self-preservation. The moral duty to perform these promises is as plain as the decalogue. The instinct of self-preservation, impelling us to save the Republic, is in harmony with the requirements of moral duty. In denying justice now, you will not only be guilty of grievous wrong, but you will expose your country to incalculable calamity. The case is too clear for debate.

The irresistible argument for Emancipation was always twofold: first, its intrinsic justice, and secondly, its necessity for the safety of the Republic; all of which was expressed by Pres-

ident Lincoln in the closing words of his great Proclamation, when he said:

"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."

But the argument for Enfranchisement, which is nothing but the complement of Emancipation, is the same. Enfranchisement is not only intrinsically just, but it is necessary to the safety of the Republic. There is no reason, point, or suggestion once urged for Emancipation which may not be urged now for Enfranchisement. I shall not err if I say that Emancipation itself will fail without Enfranchisement.

By Enfranchisement I mean the establishment of the Equal Rights of All, so that there shall be no exclusion of any kind, civil or political, founded on color, and the promises of the Fathers shall be fulfilled. Such an act will be, in the words of President Lincoln, "an act of justice warranted by the Constitution upon military necessity."

As an act of justice, Enfranchisement has a necessity of its own. No individual and no people can afford to be unjust. Such an offense will carry with it a curse, which, sooner or later, must drag its perpetrator to the earth. But here the necessity from considerations of justice is completed and intensified by the positive requirements of the national safety, plainly involved in the performance of these promises.

Look at the unhappy freedman blasted by the ban of exclusion. He has always been loyal, and now it is he and not the rebel master who pays the penalty. From the nature of the case, he must be discontented, restless, anxious, smarting with a sense of wrong and a consciousness of rights denied. He will not work as if taken by the hand and made to feel the grasp of friendship. He will be idle, thriftless, unproductive. Industry will suffer. Cotton will not grow. Commerce will not thrive. Credit will fail; nay, it will die before it is born. On the other hand, his rebel master, with hands still red with the blood of his fellow-countrymen, will be encouraged in that assumption of superiority which is a part of the Barbarism of Slavery; he will predominate as in times past; he will be exacting as of old; he will be harsh, cruel, and vindictive: he will make the unprotected and trembling freedman suffer for the losses and disappointments of the Rebellion; he will continue to insult and prostitute the wife and children who, in ceasing to be chattels, have not ceased to be dependents; he will follow the freedman to by-ways and to obscure places, where he will once again play the master and assert his ancient title as lord of the lash. Scenes of savage brutality and blood must ensue. All this, which reason foretells, the short experience of a few months already confirms. And all this you sanction, when you leave the freedman despoiled of his rights.

But the freedman, though forbearing and slow to anger, will not submit to outrage always. He will resist. Resistance will be organized. And here will begin the terrible war of races foreseen by Jefferson, where God, in all His attributes, has none which can take part with the oppressor. The tragedy of St. Domingo will be renewed on a wider theater, with bloodier incidents. Be warned, I entreat you, by this historic example. It was the denial of rights to colored people, after successive promises, which caused that fearful insurrection. After various vicissitudes, during which the rights of citizenship were conferred on free people of color and then resumed, the slaves at last rose, and here the soul sickens at the recital. Then came Toussaint L'Ouverture, a black of unmixed blood, who placed himself at the head of his race, showing the genius of war, and the genius of statesmanship also. Under his magnanimous rule the beautiful island began to smile once more; agriculture revived; commerce took a new start; the whites were protected in person and property; and a constitution was adopted acknowledging the authority of France, but making no distinction on account of color or race. In an evil hour this policy was reversed by a decree of Napoleon Bonaparte. War revived, and the French army was compelled to succumb. The connection of St. Domingo with France was broken, and this island became a black republic. All this dreary catalogue of murder, battle, sorrow, and woe began in the denial of justice to the colored race. And only recently we have listened to a similar tragedy from Jamaica, thus swelling the terrible testimony. Like causes produce like effects; therefore, all this will be ours if we madly persist in the same denial of justice. The freedmen among us are not unlike the freedmen of St. Domingo or Jamaica; they have the same "organs, dimensions, senses, affections, passions," and above all, the same sense of wrong, and the same revenge.

To avoid insurrection and servile war, big with measureless calamity, and even to obtain that security which is essential to industry, agriculture, commerce, and the national credit, you must perform the promises of the Republic, originally made by our fathers, and recently renewed by ourselves. But duty done will not only save you from calamity, and give you security; it will also prepare the way for all the triumphs of the future, when through assured peace there shall be tranquillity, prosperity, and reconciliation, all of which it is vain to expect without justice.

The freedman must be protected. To this you are specially pledged by the Proclamation of President Lincoln, which, after declaring him "free," promises to *maintain* this freedom, not for any limited period, but for all time. But this cannot be done so long as you deny him the shield of *impartial laws*. Let him

be heard in court and let him vote. Let these rights be guarded sacredly. Beyond even the shield of *impartial laws*, he will then have that protection which comes from the consciousness of manhood. Clad in the full panoply of citizenship he will feel at last that he is a man. At present he is only a recent chattel, awaiting your justice to be transmuted into manhood. If you would have him respected in his rights, you must begin by respecting him in your laws. If you would maintain him in his freedom, you must begin by maintaining him in the equal rights of citizenship.

And now the national safety is staked on this act of justice. You cannot sacrifice the freedman without endangering the peace of the country, and the stability of our institutions. Everything will be kept in jeopardy. The national credit will suffer. Business of all kinds will feel the insecurity. The whole land will gape with volcanic fire, ready to burst forth in a fatal flood. The irrepressible conflict will be prolonged. The house will continue divided against itself. From all these things, Good Lord, deliver us! But, under God, there is but one deliverance, and this is thorough justice.

I have said that the national credit will suffer; but this does not disclose the whole financial calamity. It is idle to suppose that recent rebels, restored to the privileges of citizenship, will give their votes cordially for that national debt which has been incurred in the suppression of their rebellion, or that they will willingly tax themselves for the interest on those enormous outlays by which their darling Slavery has been overthrown. The evidence shows that they are already set against any such contribution. As time advances, and their power is assured, in conjunction with northern sympathizers, they will openly oppose it; or if they consent to recognize it, they will impose the condition that the rebel debt shall be recognized also. All this is inevitable, if you give them the power; it is madness to tempt them. But they will not have the power if the promises to the freedmen are performed. Here again justice to the freedman becomes a necessity.

It is sometimes said that we must not require justice to the freedman in the rebel States, because justice is still denied to the colored citizen in Connecticut and New York. Idle words of inconceivable utterance; as if the two cases bore any imaginable resemblance. There are rivers in the North and rivers in the South, but who says that on this account the two regions are alike? The denial of justice to the colored citizens in Connecticut and New York, is wrong and mean; but it is on so small a scale that it is not perilous to the Republic, nor is it vital to the protection of the colored citizen, and the protection of the national creditor. You are moved to Enfranchisement in Connecticut and New York, simply in order to do justice to a few individuals; but you are moved to it in the rebel

States, in order to do justice to multitudes, also to save the Republic, which is imperiled by injustice on such a gigantic scale, and to supply needful protection to the national freedman and the national creditor. From failure on our part there is in one case little more than shame, while in the other case there is positive danger to the Republic, involving the fate of the national freedman and the national creditor, to whom we are bound by the most solemn ties. To a good man injustice, even on a small scale, cannot be tolerable. He will feel the necessity of resisting it; but where the victims are counted by millions, this necessity becomes a transcendent duty, quickened and invigorated by all the instincts of self-preservation. Therefore, I again say, for the national safety, do not fail to keep these promises.

It is sometimes said that the Constitution of the United States expressly reserves to the States, the power of determining who shall vote, because it declares, that "the electors in each State shall have the *qualified* persons requisite for electors of the most numerous branch of the State Legislature." But this assumption proceeds on the fatal error, that, at any time under the Constitution, which makes no distinction of color, there can be any such oligarchical distinction as a "qualification," founded on color. But even assuming that this might be done in a period of peace, yet, beyond all doubt, at the present moment, from the necessity of the case—from the Rights of War—from the Constitutional clause of guarantee—and from the Constitutional Amendment, Congress, by its quadruple powers, is completely authorized to do all that it thinks best for the national security and the national faith in the rebel States. As well question Farragut in the maintop of his steamer—Sherman in his march across Georgia—or Grant in the field before Richmond, as question the authority of Congress on this occasion. But if the authority exists it must be exercised.

#### GUARANTEE OF A REPUBLICAN FORM OF GOVERNMENT.

H. And this brings me to the next form of this necessity and duty, as they appear in the guarantee clause of the Constitution. It is expressly declared that "the United States shall guaranty to every State in this Union a Republican form of government." These words, when properly understood, leave no alternative. They speak to us with no uncertain voice.

The magnitude of the question now before us may be seen in the postulate with which I begin. Assuming that there had been a lapse of government in any State, so as to impose upon the United States the duty of executing this guarantee, then do I insist that it is the bounden duty of the United States to see that each State has a "Republican government," and, in the discharge of this bounden duty, they must declare

that a State, which in the foundation of its government, sets aside "the consent of the governed"—which imposes taxation without representation—which discards the principle of Equal Rights, and which lodges power exclusively with an Oligarchy, Aristocracy, Caste, or Monopoly, cannot be recognized as a "Republican government," according to the requirement of American Institutions. Even if it may satisfy some definition handed down from antiquity or invented in monarchical Europe, it cannot satisfy the solemn injunction of our Constitution. For this question I now ask a hearing. Nothing in the present debate can equal it in importance. Its correct determination will be an epoch for our country and for mankind.

Believe me, sir, this is no question of theory or abstraction. It is a practical question which you are summoned to decide. Here is the positive text of the Constitution, and you must now alix its meaning. You cannot evade it; you cannot forget it, without an abandonment of duty. Others in vision or aspiration have dwelt on the idea of a Republic, and they have been lifted in soul. You must consider it, not merely in vision or aspiration, but practically as legislators, in order to settle its precise definition, to the end that the constitutional "guarantee" may be performed. Your powers and duties are involved in this definition. The character of the Government founded by our fathers is also involved in it. There is another consideration, which must not be forgotten. In affixing the proper meaning to the text, and determining what is a "Republican government," you act as a court in the last resort from which there is no appeal. You are sole and exclusive judges. You may decide as you please. Rarely in history has such an opportunity been offered to the statesman. You may raise the name of Republic to majestic heights of justice and truth, or you may let it drag low down in the depths of wrong and falsehood. You may make it fulfill the idea of John Milton, when he said that "a commonwealth ought to be but as one huge Christian personage, one mighty growth or stature of an honest man, as big and compact in virtue as in body;" or you may let it shrink into the ignoble form of a presander, with the name of Republic, but without its soul.

#### ORIGIN OF THE GUARANTEE.

Before considering this vital question, it will be proper to look at the origin of this "guarantee," and see how it obtained a place in the Constitution. Perhaps there is no clause which was more cordially welcomed; nor does it appear that it was subjected to any serious criticism in the National Convention, or in any State Convention. It is not found in the Articles of Confederation. But we learn from the Federalist (No. 24) "that the want of this provision was felt as a capital defect in the plan of the Confederation." Mr. Madison, in a private

record made in advance of the National Convention, and which has only recently seen the light, enumerates among the defects of the Confederation what he calls "want of guaranty to the States of their Constitutions and laws against internal violence," and he then proceeds to anticipate danger from slavery, which could be counteracted only by such a "guarantee." In showing why this was needed he says that, "according to republican theory, right and power being both vested in the majority, are held to be synonymous: according to fact and experience, a minority may, in an appeal to force, be an overmatch for the majority," and he then adds, in words which furnish a key to the "guarantee" afterwards adopted, "where slavery exists the republican theory becomes still more fallacious;" (Madison's *Writings*, vol. 1, p. 322)—thus showing that, at its very origin, it was regarded as a check upon slavery.

Hamilton was not less positive than Madison. In his sketch of a Constitution, submitted to the National Convention at an early stage of its proceedings, this "guarantee" will be found, and in the elaborate brief of his argument on the Constitution. (Hamilton's *Works*, vol. ii, p. 469.) it is specified as one of its "miscellaneous advantages." The last words of this remarkable paper are "guarantee of Republican Governments." Randolph, of Virginia, in his sketch of a Constitution proposed the "guarantee," and, in a speech setting forth the evils of the old system, he said that "the remedy must be in the republican principle." (Elliot's *Debates*, vol. v, pp. 127, 128.) Colonel Mason, of Virginia, taking up the same strain, said that, though the people might be unsettled on some points, they were settled as to others, among which he put foremost "an attachment to republican governments." (*Ibid.*, 217.)

The proposition in its earliest form was "that a republican government, and the territory of each State, ought to be guaranteed by the United States to each State." (*Ibid.*, 128.) This was afterward altered so as to read, "that a republican Constitution and its existing laws ought to be guaranteed to each State by the United States." Gouverneur Morris made haste to say that the proposition in this form was "very objectionable," and he added that he should be very unwilling that such laws as exist in Rhode Island should be guaranteed. (*Ibid.*, 332.) After discussion, it was amended, on the motion of Mr. Wilson, the learned and philosophical delegate from Pennsylvania, afterward of the Supreme Court of the United States, so as to read, "that a republican form of government shall be guaranteed to each State, and that each State shall be protected against foreign and domestic violence." (*Ibid.*, 333;) and, in this form, it was unanimously adopted. (*Journal of Convention*, 113-189.) Afterward it underwent modifications in the Committee of Detail and the Committee on Style. (*Ibid.*, 381.)

until it received the final form which it now has in the Constitution, as follows:

"The United States shall guarantee 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."

Thus stands the "guarantee." If any further reason be required for its introduction into the Constitution it will be found in the prophetic language of the Federalist:

"It may possibly be asked, what need there could be of such a precaution and whether it may not become a pretext for alterations in the State governments without the concurrence of the States themselves. These questions admit of ready answers. If the interposition of the General Government should not be needed, the provision for such an event will be a harmless superfluity only in the Constitution. But who can see what experiment may be produced by the caprice of particular States, by the ambition of enterprising leaders, or by the intrigue and influence of foreign Powers?"—*The Federalist*, No. xxi; see also Story's *Commentaries on the Constitution*, vol. ii, sec. 1811.

The very crisis herein anticipated has arrived. "The caprice of particular States," and "the ambition of enterprising leaders" have done their worst. And now the "guarantee" must be performed, not only for the sake of individual States, but for the sake of the Union to which they all belong, and to advance the declared objects of the Constitution, specified in its preamble.

The text of this great undertaking is worthy of study. No stronger or more comprehensive words could be employed, whether we regard the object, the party guarantying, or the party guaranteed. The express object is a "republican form of government." This is plain enough. The party guarantying is not merely the Executive or some specified branch of the National Government, but "the United States," or in other words, the Nation. The Republic, which is the impersonation of all, guarantees a "republican form of government," and every branch of the National Government must sustain the "guarantee," including especially Congress, where is the collected will of the people. The obligation is not less broad when we consider the party guaranteed. Here there can be no evasion. The "guarantee" is not merely for the advantage of individual States, but for the common defense and the general welfare. It is a "guarantee" to each in the interest of all; and, therefore a "guarantee" to all. And such is the solidarity of States in the Union, that the good of all is involved in the good of each. For each and all, then, this "guarantee" must be performed when the *casus federis* arrives. As a guarantor, the Republic, according to a familiar principle, is called to act on the default of the party guaranteed; but when the default has occurred, then the duty is fixed in all its amplitude.

WHAT IS A REPUBLICAN GOVERNMENT?

The question then returns, what is "a Re-

publican form of government," according to the requirement of the Constitution of the United States? Mark, if you please, that it is not the meaning of this term, according to Plato and Cicero; not even according to the examples of history; nor according to the definitions of monarchial writers or lexicographers; but what is "a Republican form of government" according to the requirements of the Constitution of the United States? Of course these important words were not introduced and unanimously adopted without a purpose. They must be interpreted so as to have a real meaning. Any interpretation which renders them insignificant is on this account to be discarded as irrational and valueless, if not dishonest. They cannot be treated as a phrase only; nor as a dead letter; nor as an empty figure-head. Nor can they be treated as a mere profession and nothing more, so that the Constitution shall merely *seem* to be republican: reversing the old injunction "to be rather than to seem"—*Esse quam videri*. They must be treated as real. Thus interpreted they become at once a support of Human Rights and a balance-wheel to our whole political system.

#### REJECTED DEFINITIONS.

In determining their signification, I begin by putting aside what is vague, unsatisfactory, and inapplicable, in order to bring the inquiry directly to American Institutions.

I put aside all illustration derived from the speculations of ancient philosophers, because, on careful examination, it appears that the term "Republic," as used by them, was so absolutely different from any idea among us as to exclude their definition from the debate. This captivating term is of Roman origin. It is the same as Commonwealth and means the public interests. As originally employed, it was not a specific term, describing a particular form of government, but a general term, embracing all Governments, whether kingly, aristocratic, democratic, or mixed. Its equivalent in Greece was "Polity," which was the general term for all Governments. Therefore, the definition of a Republic, according to these ancient masters, is simply the definition of an organized Government, whether kingly, aristocratic, democratic, or mixed. Following this definition the words of the Constitution are only the "guarantee" of an organized Government, without determining its character. This, of course, leaves open the very question now under consideration.

While the nomenclature of ancient philosophers cannot be cited in determining the definition of a Republic, we may, nevertheless, be encouraged by them in demanding that all government, under whatever name it may be called, shall be to establish justice and secure the general welfare. Thus Plato, who commenced these interesting speculations, is pleased to liken government to a just man, delighting in justice always, however he may be treated by

others; and the philosopher insists that every man is a government to himself, as every community is a government to itself. According to him, every well-ordered man, like every well-ordered community, is a Republic. Aristotle, in a different vein, and with more precision, says, in most suggestive words, that "every political society is a sort of community or partnership," (Aristotle's *Politics*, book i, cap. i.) that "the object of all good government is the common good," (book iii, cap. iv.) that "it is the best plan to admit to a participation in the governing power as many as can be admitted with safety: for where large numbers are excluded, there will be discontent and danger," (*Ibid*, book iii, cap. vi.) and that "when the One, the Few, or the Many govern well and for the common good, theirs must be called a good Government." (*Ib.*) Cicero gives to the same ideas new fervor and expansion, when he says, "A Republic is for the good of the whole people. But by the people I do not mean every assemblage of men, anyhow gathered together, but an assemblage united by a common accord respecting rights, and a common enjoyment of the public weal." (*De Republica*, cap. xxv.) And then again, in another place, the Roman philosopher says, "Liberty can have no certain dwelling in any state *except where the laws are equal* and the power of public opinion is supreme." (*Ibid*, cap. xxxi.) But all these requirements or aspirations are applicable to any Government, of whatever form; and it is well known that Cicero recorded his preference for a Government tempered by an admixture of the three different kinds: so that we are not advanced in our definition, unless we insist that our Republic should have all those virtues which are accorded to the ideal Commonwealth. And yet there are two principles which all these philosophers teach us: the first is justice, and the second is the duty of seeking the general welfare.

I next put aside the examples of history, as absolutely fallacious and inapplicable. Governments in all ages have been called Republics, which can be no example to us. Indeed, there is hardly a government, from that of the great hunter, Nimrod, down to insulted and partitioned Poland, which has not been called a "Republic." In 1772, only a few years before the adoption of the National Constitution, Russia, Austria, and Prussia, after dividing Poland, undertook to establish certain fundamental laws for this conquered country, one of which was as follows:

"The government of Poland shall be forever free, independent and republican in form. The true principle of said government consisting in the strict execution of its laws and the equilibrium of the three estates, namely, the king, the senate, and the equestrian order."—*John Adams's Works*, vol. iv, p. 370.

But a government thus composed cannot be recognized in this debate as "republican in form."



At the adoption of the Constitution, the most competent persons, who disagreed on other things, agreed in discarding these examples. Alexander Hamilton and John Adams met here on common ground. The former, in the brief of his argument on the Constitution, thus exhibits the various forms of government to which the term "Republic" has been applied:

"A republic, a word used in various senses. Has been applied to aristocracies and monarchies. (1.) To Rome under kings. (2.) To Sparta, though a Senate for life. (3.) To Carthage, though the same. (4.) To United Netherlands, though Stadtholder, and hereditary nobles. (5.) To Poland, though aristocracy and monarchy. (6.) To Great Britain, though a monarchy."—*Hamilton, Works*, vol. ii, p. 463.

John Adams, in his *Defense of the American Constitutions* written immediately anterior to the adoption of the National Constitution, thus concurs with Hamilton:

"But of all the words in all languages, perhaps there has been none so much abused in this way as the words *Republic*, *Commonwealth*, and *Popular State*. In the *Rerum publicarum Collectio*, of which there are fifty and odd volumes, and many of them very incorrect, France, Spain, and Portugal, the four great empires, the Babylonian, Persian, Greek, and Roman, and even the German, are all denominated 'Republics.'"—*John Adams's Works*, vol. v, p. 453.

In his old age, the patriarch expressed himself in the same sense and with equal force:

"The customary meaning of the words *republic* and *commonwealth* have been infinite. They have been applied to every government under heaven; that of Turkey and that of Spain, as well as that of Athens and of Rome, of Geneva and San Marino."—*Ibid.*, vol. x, p. 378; *Letter of 31st March*, 1819.

And then again he said:

"In some writing or another of mine, I happened *currante calamo*, to drop the phrase, The word *republic*, as it is used, may signify anything, everything, or nothing. For this escape I have been pelted, for twenty or thirty years, with as many stones as ever were thrown at St. Stephen, when St. Paul held the clothes of the stoners. But the aphorism is literal, strict, solemn truth. To speak technically, or scientifically, if you will, there are monarchical, aristocratical, and democratical republics. The government of Great Britain and that of Poland are strictly republics as that of Rhode Island or Connecticut."—*Ibid.*, x, 379; *Letter of 30th April*, 1819.

In this latter remark, Mr. Adams simply repeats what he says in his treatise, when he calls England and Poland "monarchical or regal republics." (*Ibid.*, vol. iv, p. 359.)

It is plain that our fathers, when they adopted the "guarantee" of "a republican form of government" intended something certain, or which at least, if not certain on the face, could be made certain. But this excludes the authority of incongruous and inconsistent examples. They did not use words to signify "anything, everything, or nothing;" nor did they use words which were as applicable to England and Poland as to the United States. Therefore, I cannot err when I put aside all these examples, which, however they may illustrate the definition of Republican Government in times past, are utterly out of place as a guide to the interpretation of our Constitution. Something bet-

ter must be found for this purpose; nor is it wanting.

I put aside also the definitions of European writers and lexicographers anterior to the Constitution: for all of these have the vagueness and uncertainty of political truth at that time in Europe. Among these none is of higher authority than Montesquieu, who brought to political science study, genius, and a liberal spirit. But even this great writer, who profited by all his predecessors, quickens and elevates without furnishing a satisfactory guide. He taught that "virtue" was the inspiring principle of a Republic, and by "virtue," he says that he meant the love of country, which, he says, is the love of Equality. This is beautiful; but, with curious inconsistency, he proceeds to include "democracy" and "aristocracy" under the term "Republic," the former being where the people in mass have the sovereign power and the latter "where the sovereign power is in the hands of a part of the people." When defining "democracy" he expresses the importance of the suffrage as one of the fundamentals of government, saying, among other things, that it was as important to regulate *by whom* the suffrage should be given, as in a monarchy to know who is the monarch. (*Esprit des Loix*, liv. ii, chap. 2 and 3.) But among all these glimpses of truth there is no definition of "a Republican form of government" which can help us essentially in interpreting the Constitution. Surely an aristocracy, "where the sovereign power is in the hands of a part of the people," cannot find a just place in our political system. It may be a "Republican form of government," according to Montesquieu, but it cannot be according to American institutions.

One of the ablest of the predecessors of Montesquieu, in modern times, was the Frenchman, John Bodin, who wrote nearly two centuries earlier. He uses the term "Republic" as it is used by the ancient writers, to embrace Monarchy, Aristocracy, and Democracy, which he calls "three kinds of Republics"—*trium rerum publicarum genera*. If the Republic is in the power of one, *penes unum*, it is a monarchy; if in the power of a few, *penes paucos*, it is an aristocracy; if in the power of all, *penes universos*, it is a democracy. Proceeding further he says, that a Democracy is "where all or the major part of all citizens, *major pars omnium civium*, collected together, have the supreme power." (*Bodin de Republica*, lib. ii, cap. 1.) Here the philosopher plainly follows the rule of jurisprudence in the case of corporations; but this definition seems to sanction the exclusion of a part of the citizens, less than a majority, while it is inadequate in other respects. It says nothing of equality of rights or of that great touchstone of the republican idea, the dependence of taxation upon representation.

There are other definitions which may be put aside. Thus, for instance, it has been often

said, that a Republic is "a government of laws and not of men;" and this saying found favor with some among our fathers. (John Adams's *Works*, vol. iv, p. 106.) Long before them Aristotle had declared, that such a government "would be the kingdom of God." But this condition, though marking an advanced degree of civilization and of course essential to a Republic, cannot be recognized as decisive. On its face it is vague from its comprehensiveness. It is enough to say that it would embrace England, whose government our fathers renounced in order to build a Republic. And still further, it would throw its shield over a government which had "framed iniquity into law." This will not do.

There is also a plausible definition by Miller, the learned author of the work on the British Constitution, who states, hypothetically, that by Republic may be meant "a government in which there is no king or hereditary chief magistrate." (Miller's *View*, vol. iii, p. 326.) But this again must be rejected as leaving aristocracies and oligarchies in the category of republics.

Sometimes it has been said, that a Government with an elective Chief Magistrate is a Republic. Here again nothing is said of aristocracy or oligarchy, which obviously may co-exist with an elective Chief Magistrate, as in the case of Venice, where the elected Doge was surrounded by an oligarchy of nobles; and in the case of Holland, where the elected Stadtholder was a prince surrounded by princes. But there are other instances which make this definition unsatisfactory, if not absurd. The Pope of Rome is an elective Chief Magistrate; so also is the Grand Lama; but surely the States of the Church are not republican, nor is Thibet.

Rejecting the definition founded on the elective character of the Chief Magistrate, we must also reject another, founded on "the sovereignty of more than one man." It has been said positively, by one who has written much on this subject, that "the strict definition of a Republic is that in which the sovereignty resides in more than one man." (John Adams's *Works*, vol. x, p. 378.) But this strict definition will embrace aristocracies and oligarchies.

I conclude these rejected definitions with that of Dr. Johnson in his Dictionary, which appeared before American Independence:

"*Republic*: (1)—*Commonwealth*, state in which the power is lodged in more than one. (2)—*Common interest*, the publick."

These definitions are all as little to the purpose as the "vulgar error," chronicled by Sir Thomas Browne, that storks lived only in republics, or the saying of Rousseau, at a later day, that a society of gods would govern themselves democratically, or the remark of John Adams, that "all good government is, and must be republican." It is evident that we

must turn elsewhere for the illumination which we need. If others thus far have failed, it is because they have looked across the sea instead of looking at home, and have searched foreign history and example, instead of simply recognizing the history and example of their own country. They have imported inapplicable and uncertain definitions, forgetting that the Fathers, by positive conduct, by solemn declarations, by declared opinions, and by public acts, all in harmony and constituting one overwhelming testimony, have exhibited their idea of a Republican Government in a way which is at once applicable and certain. They are the natural interpreters of their own Constitution. Mr. Fox, the eminent English statesman, exclaimed on one occasion in debate that, if by some interposition of Divine Providence all the wise men who ever lived in the world were assembled together, they could not invent even a tolerable Constitution; meaning, of course, that a Constitution must be derived from habits and convictions, and not from any invention. There is sound sense in the remark; and it is in this spirit that I turn from a discussion which has only this value, that it shows how little there is in the past to interpret the meaning of the Fathers.

#### TRUE SOURCE OF DEFINITION.

Every Constitution embodies the principles of its framers. It is a transcript of their minds. If its meaning in any place is open to doubt, or if words are used which seem to have no fixed signification, we cannot err if we turn to the framers; and their authority increases in proportion to the evidence which they have left on the question. By a "republican form of government" our fathers plainly intended that Government which embodied the principles for which they had struggled. Now, if it appears, that, through years of controversy they had insisted on certain principles as vital to free government even to the extent of encountering the mother country in war; that afterward, on solemn occasions, they had heralded these principles to the world as "self-evident truths;" that also, in declared opinions, they had sustained these principles; and that, in public acts, they had embodied these principles—then is it beyond dispute, that these principles must have entered into the idea of that government which they took pains to place under the "guarantee" of the United States. But all these things can be shown unanswerably.

In these words of hypothesis, I have already fore-hadowed the four different heads under which these principles may be seen: *First*, as asserted by the Fathers throughout the long revolutionary controversy which culminated in war; *Secondly*, as announced in solemn declarations; *Thirdly*, as sustained in declared opinions; and *Fourthly*, as embodied in public acts.

PRINCIPLES ASSERTED BY OUR FATHERS PRECEDING THE REVOLUTION.

(1.) I begin with the principles asserted by our fathers throughout the protracted controversy that preceded the Revolution. If Senators ask why our fathers struggled so long in controversy with the mother country, and then went forth to battle, they will find that it was to establish the very principles for which I now contend. To secure the natural rights of men, and especially to vindicate the controlling maxim that there can be no taxation without representation, they fought with argument and then with arms. Had these been conceded at that time there would have been no Lexington or Bunker Hill, and the Colonies would have continued yet longer under transatlantic rule. The first object proposed was not independence but the establishment of these principles; and when at last independence was proposed, it was because it became apparent that these principles could be secured in no other way. Therefore, the triumph of independence was the triumph of these principles, which necessarily entered into and became the animating soul of the Republic which was then and there born. The evidence is complete, and if I dwell on it with some minuteness, it is because of its decisive character on the present occasion.

The great controversy opened with the pretension on the part of Parliament to tax the colonies. This pretension was first disclosed to Benjamin Franklin as early as 1754. It was at the time a profound secret; but this patriot philosopher, whose rare intelligence embraced the natural laws of government not less than those of science, in a few masterly sentences exposed the injustice of taxation without representation. For a moment the ministry shrank back; but at last, when the power of France had been humbled, and the colonies were no longer needed as allies in war, George Grenville, blind to principle and only seeing an increase of revenue, renewed the irrational claim. The colonies were to be taxed by the Parliament in which they had no representation. Two million and a half of people—for such was the colonial population then—were to pay taxes without any voice in determining them. The men of that day listened to the tidings with dismay. They saw in this ministerial outrage the overthrow of their liberties, whether founded on natural rights or on the rights of British subjects. In their conclusions they were confirmed by two names of authority in British history—Algernon Sidney and John Locke, each of whom had solemnly asserted those liberties which were now in danger. One had borne his testimony on the scaffold; the other in exile.

Sidney, in his *Discourses on Government*, did not hesitate to say "that God has left to nations the liberty of setting up such Governments as best pleased themselves," and then

again, "that all just magisterial power is from the people." (*Discourses*, p. 25, 14.) Such words were calculated to strengthen the sentiment of human freedom; but it was Locke who gave formal expression to the very principles which were now assailed. In a famous passage of his work on *Civil Government*, written during his exile in Holland, this eminent Englishman bore his testimony thus:

"It is true government cannot be supported without great charge, and it is fit every one who enjoys his share of the protection should pay out of his estate his proportion for the maintenance of it. But still it must be with his own consent; *i. e.*, the consent of the majority, *giving it either by themselves or their representatives chosen by them*; for, if any one shall claim a power to lay and levy taxes on the people by his own authority *and without such consent of the people*, he thereby invades the fundamental law of property and subverts the end of government; for what property have I in that which another may by right take, when he pleases, to himself?"—*Locke's Civil Government*, book ii, ch. 7; ch. 14.

Here is a plain enunciation of two capital truths: first, that all political society stands only on the consent of the governed; and, secondly, that taxation without representation is an invasion of fundamental right. It was these truths that our fathers embraced in the controversy before them, and these same truths, happily characterized by Hallam as "fertile of great revolutions and perhaps pregnant with more," are as fertile and as pregnant now as then.

Unquestionably, Sidney and Locke exercised more influence over the popular mind, preceding the revolution, than any other writers. They were constantly quoted, and their names were held in reverence. But their authority has not ceased. As they spoke to our fathers, they now speak to us. *Sicut patribus, sic nobis.*

The cause of human liberty, in this great controversy, found a voice in James Otis, a young lawyer of eloquence, learning, and courage, whose early words, like the notes of the morning lark mingling with the dawn, awakened the whole country. Asked by the merchants of Boston to speak at the bar against writs of assistance, which had been issued to enforce ancient Acts of Parliament, he spoke, not only as a lawyer, but as a patriot. His speech was the most important, that, down to that occasion, had ever been made on this side of the ocean. An eminent contemporary, who was present, says, "No harangue of Demosthenes or Cicero ever had such effect upon the globe as this speech." (*John Adams's Works*, vol. x, page 236.) It was the harbinger of a new era. For five hours the brilliant orator unfolded the character of these Acts of Parliament; for five hours he held the court-room in attentive and astonished admiration; but his effort ascended into statesmanship, when, after showing that the colonists were without representation in Parliament, he cried out, that, notwithstanding this exclusion, Parliament had undertaken "to impose taxes and enormous taxes, burdensome, oppressive

taxes, ruinous, intolerable taxes," and, then, glowing with a generous indignation at this injustice, he launched that thunderbolt of political truth. "Taxation without representation is Tyranny." From the narrow court-room where he spoke, the thunderbolt passed, smiting and blasting the intolerable pretension. It was the idea of John Locke; but the fervid orator, with tongue of flame, had given to it the intensity of his own genius. He had found it in a book of philosophy; but he sent it forth as a winged messenger, blazing in the sky.

John Adams, who, as a young man just admitted to the bar, was present at this scene, dwells on it often with sympathetic delight. There, in the old Town House of Boston, sat the five judges of the province, with Hutchinson as Chief Justice, in robes of scarlet, with cambric bands and judicial wigs; and there too in gowns, bands, and tie-wigs were the barristers. Conspicuous on the wall were full-length portraits of two British Monarchs, Charles II and James II; while in the corners were the likenesses of Massachusetts Governors. In this presence the great oration was delivered. The patriot lawyer had refused compensation. "In such a cause," said he, "I despise all fees." He spoke for his country and for mankind. Firmly he planted himself on the rights of man, which he insisted were, by the everlasting law of nature, inherent and inalienable; and these rights he nobly proclaimed, were common to all, without distinction of color. To suppose them surrendered in any other way than by *equal rules and general consent* was to suppose mendicots or madmen, whose acts are not binding. But he especially flew at two arguments of tyranny: first, that the colonists were "virtually" represented; and secondly, that there was such a difference between direct and indirect taxation, that while the former might be questionable, the latter was not. To these two apologies he replied: first, that no such phrase as "virtual representation" was known in law or constitution—that it is altogether a subtlety and an illusion, wholly unfounded and absurd—and that we must not be cheated by any such phantom or any other fiction of law or politics, or any monkish trick of deceit and hypocrisy; and, then, in the second place, he said with the same crushing force, that, in the absence of representation, all taxation, whether direct or indirect, whether internal or external, whether on land or on trade, was equally obnoxious to the same unhesitating condemnation. The effect of this effort was electric. The judges were stunned into silence, and postponed their judgment. The people were aroused to a frenzy of patriotism. "American Independence," says John Adams, in the record of his impressions, "was then and there born; the seeds of patriots and heroes were then and there sown, to defend the vigorous youth. Every man of a crowded audience appeared to go away as I

did, ready to take arms against writs of assistance. Then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. Then and there the child Independence was born." (J. Adams's *Works*, vol. x. p. 247; see also pp. 293-375; Tudor's *Life of Otis*, pp. 71-77.) But this great birth is inseparably associated with the principle, then and there declared, that "Taxation without representation is Tyranny."

From this time forward Otis dedicated himself singly to the cause he had so bravely upheld, and the popular heart clove to him. He became the favorite of his fellow-countrymen. His arguments were repeated; his words were gratefully adopted, and the saying, "Taxation without representation is tyranny," became a maxim of patriotism. In May 1761, only a few weeks after this utterance, he was chosen a representative of Boston, in the Legislature, by an almost unanimous vote. The Crown officers were dismayed by this most significant election, and one of them, speaking with prophetic lamentation, said that "It would shake the province to its foundation," on which John Adams remarked, many years later when some of its results were already visible, "That election has shaken two continents and will shake four." (*Ibid*, p. 248.) Of course this was simply because it affirmed and invigorated a practical truth of government, by which all the people are lifted to political power. At his new post of duty, Otis became the acknowledged leader, constant, fervid, eloquent, and according to his own language "daring to speak plain English." While still declaring an unhesitating loyalty to the Crown, and even pledging "the last penny and the last drop of blood, rather than, by any backwardness, his Majesty's measures should be embarrassed," he made haste to announce in words, where humor blends with truth, "that God made all men naturally equal; that the ideas of earthly superiority are educational and not innate; that no government has a right to make hobby-horses, asses, and slaves of the subject, nature having made sufficient of the two former for all the lawful purposes of man, from the harmless peasant in the field to the most refined politician in the cabinet; but none of the last, which infallibly proves they are unnecessary." But the case would have been imperfectly stated, if the patriot representative had not once more cried out against taxation without representation and warned against the calamities which must follow from this unquestionable tyranny. This early debate is preserved in a pamphlet, printed in 1762, and entitled "A Vindication of the House of Representatives of Massachusetts Bay, by James Otis, Esq.," which we are told, by an eminent authority, contains, in solid substance, all that is to be found in the Declaration of Rights and Wrongs, issued by Congress in 1774, the Declaration of Independence in 1776, and the subsequent writings of those political phil-

osophers who upheld the national cause. (J. Adams's *Works*, vol. x, pp. 300-312.) Pardon me if I dwell too minutely on this history. I do it only to illustrate the issue of principle actually made in the controversy with the mother country.

The controversy still continued, when in 1764, the orator, who had already by voice and pen maintained the cause of his country, put forth another publication, entitled, "The Rights of the Colonists asserted and proved." Mark, if you please, the vigor of the title. The rights of the colonists are not only "asserted," but "proved." Reprinted in London, this pamphlet was read by Lord Mansfield, Chief Justice of England, and was answered by Soame Jenyns, a partisan writer of the *Crown*. The copy I now hold in my hand has the imprint of London, and is marked third edition. Perhaps all things considered, it is the most remarkable pamphlet of our country and one of the most remarkable ever written. Recent events, verifying the truths it so early announced, elevate its place in history. Here will be found the same vital principles, enforced with learning and eloquence, which Otis had announced at the bar in the case of writs of assistance, and then again in the debates of the legislature; and here may be seen, not only the truths asserted by our fathers, but the unanswerable arguments by which they were vindicated. Even an abstract would be too long for this occasion; but the character of this Defense of the American People, not unlike Milton's famous *Defensio pro Populo Anglicano*, will appear in a few passages, where, as in gleams, may be discerned the *Idea of a Republic*.

I do not pause on the assertion, "that every man of sound mind should have his vote," or the authority which he invokes, when he says, "Lord Coke declares that it is against Magna Carta and against the franchises of the land for freemen to be taxed but by their own consent." Nor do I dwell on that admirable statement of much in little, where he says, "the first and simple principle is Equality and the Power of the Whole." (Page 14.) The Equality of All and the Power of All! The two buttresses of a just government. I come at once to the plain statement of fundamental right. Here are two sentences:

"The Supreme Power cannot take from any man any part of his property *without consent in person, or by representation.*"

"Taxes are not to be laid on the people, *but by their consent in person, or by representation.*"—Page 37.

Such, he says, are "the first principles of law and justice and the great barriers of a free state," and then he adds, "I ask, I want no more." And these principles he claims for all, without distinction of color.

"The colonists are by the law of nature free-born, as indeed are white and black. Does it follow that it is right to enslave a man because he is black? Will short, curled hair, like wool, instead of Christian hair, as it is called by those whose heart is as hard as the

neither mill-stone, help the argument? Can any logical inference in favor of slavery be drawn from a flat nose, a long or a short face?"—Page 29.

Assuming that these rights are common to all, whether white or black, he then insists that any taxation, whether direct or indirect, without representation, is only another form of slavery:

"I can see no reason to doubt but that the imposition of taxes, whether on trade, or on land, or houses, or ships, or real or personal, fixed or floating property in the colonies, is absolutely irreconcilable with the rights of the colonists, as British subjects and as men. I say men, for in a state of nature no man can take my property from me without my consent. *If he does he deprives me of my liberty and makes me a slave.* The very act of taxing, exercised over those who are not represented, appears to me to deprive them of one of their most essential rights as freemen; and if continued seems to be in effect *an entire disfranchisement of every civil right.* For what one civil right is worth a rush after a man's property is subject to be taken from him at pleasure, without his consent?"—Page 37.

Such was the voice of James Otis, who was our John the Baptist. It was he who went before in this great controversy. He first stated the case between the colonies and the mother country, and first developed the principles in issue. But though first, he was not long alone. Conspicuous among his followers was Samuel Adams, that austere patriot, always faithful and true, who desired to make Puritan Boston "a Christian Sparta." He was remarkable for the simplicity, accuracy, and harmony of his style, and on this account often held the pen for the Legislature or for the Town meeting. In obedience to the latter, he drew up instructions to the representatives of Boston, which were afterward adopted in Faneuil Hall, where repeating the very arguments of Otis, he says, "If our trade may be taxed, why not our lands? Why not the produce of our lands and everything we possess or make use of?" And then, advancing in the subject, he asks, "If taxes are laid upon us in any shape, *without our having a legal representation where they are laid*, are we not reduced from the character of free subjects to the miserable state of tributary slaves?" (John Adams's *Works*, x, p. 294.) In asking this question he leaves no room to doubt the answer it deserved.

Meanwhile Franklin, as the general agent of the colonies, had been maintaining the same principles in England. But the ministry, hurried on by that fatal folly which leads to destruction, persevered in their pretension. The stamp act was passed, and for the first time in our history papers were to bear stamps, in order to swell the revenue of the Crown. Massachusetts remonstrated against the tyranny, in formal resolutions, adopted unanimously, wherein it is declared, "that by the law of nature no man has a right to impose laws more than to levy taxes upon another; that the freeman pays no tax, as the freeman submits to no law, but such as emanates from the body in which he is represented; that the Parliament possessed no

right of enacting laws binding upon the colonies, and that whatever legislative power to that effect had been exercised by the Parliament had been *abusive and unlawful*." (John Adams's *Works*, vol. i, p. 78.) In an address to the royal Governor, the Legislature, after setting forth the injustice of the stamp act, proceeded to say: "We must beg your Excellency to excuse us from doing anything to assist in the execution of it." The people in town meetings took up the strain and *all united against the act*. But Massachusetts was not alone. A writer in Virginia, catching the spirit of Otis, declared, in an elaborate pamphlet, that it was an "essential principle of the English Constitution that the subject shall not be taxed *without his consent*;" and then, again, quoting the words of another, said: "Men have natural and freemen legal rights which they may justly maintain, and no legislative authority can deprive them of." (*Considerations on the propriety of Taxes in the British Colonies*, p. 5.) The Legislature of Virginia, even before Massachusetts, adopted resolutions kindred in spirit, which were moved by Patrick Henry and heroically carried by his eloquent voice, even against the menacing cry of "treason." Thus spoke Virginia in one of these resolutions, exposing the true issue in question, and insisting that taxation and representation were inseparable:

"Resolved, That the taxation of the people by themselves or by persons chosen to represent them, who can only know what taxes the people are able to bear, or the easiest method of raising them, and must themselves be affected by every tax laid on the people, is the only security against burdensome taxation and the distinguishing characteristic of British freedom, without which the ancient constitution cannot exist."—*Ward's Life of Patrick Henry*, p. 57.

Pennsylvania, by her House of Assembly, spoke also to the same effect as follows:

"Resolved, *Nem. Con.* That this House think it their duty thus firmly to assert with modesty and decency, their *inherent rights*, that their posterity may learn and know that it was not with their consent and acquiescence, that *any taxes* should be levied on them by any person but their own representatives."

The controversy still proceeded. At the invitation of Massachusetts a Congress assembled at New York in October 1765, where were delegates from Massachusetts, Connecticut, New York, Pennsylvania, Delaware, and South Carolina, which, after a session of three weeks, adopted a declaration of colonial rights, where, among other things, it is declared:

"That it is inseparably essential to the freedom of a people, and the undoubted right of Englishmen, that no tax be imposed on them but *with their own consent, given personally or by their representatives*."

"That the people of the colonies are not, and from their local circumstances cannot be represented in the House of Commons of Great Britain."

At last the stamp act was repealed, but the pretension of taxation was suspended rather than abandoned. A ministerial partisan con-

tinued to urge the scheme in the following bare-faced words:

"All countries, unaccustomed to taxes, are at first violently prepossessed against them, though the price, which they give for their liberty, like an ox untamed to the yoke, they show at first a very stubborn neck, but by degrees become docile and yield a willing obedience." \* \* \* \* \* "America must be taxed."—*Justice and Necessity of taxing the American Colonies Demonstrated*. London, 1766.

As time advanced the old audacity was revived; and, under the lead of the reckless Charles Townsend, taxes were imposed by Parliament on tea, glass, lead, paper and painters' colors. The old opposition in the colonies was revived also, and taxation without representation was again denounced. Committees of correspondence were established and the work of organization began. The whole country was in a fever. Massachusetts, as in times past, did not hesitate to proclaim the true principle. At a Town meeting of Boston in 1772, there was a declaration of rights, "which no man or body of men, consistently with their own rights as men and citizens or members of society, can for themselves give up or take away from others;" and here we meet again familiar words:

"The supreme power cannot justly take from any man any part of his property without his consent in person or by his representatives."—*Page 10*.

Against all Parliamentary taxation, as often as it showed itself, this was the impenetrable buckler that was raised. But the mother country was perverse. Ship-loads of tea arrived. At Boston the tea was thrown into the harbor. The colonies entered into an agreement of non-importation. Then came troops, and the Boston Port Bill, by which this harbor was vindictively closed against commerce. The whole country, including even South Carolina, made common cause with Massachusetts. Gadsden exclaimed, "Massachusetts sounded the trumpet, but to Carolina is it owing that it was attended to." And Virginia exclaimed, "*We will never be taxed but by our representatives*." This is the great badge of freedom. Whether the people in Boston were warranted by justice when they destroyed the tea, we know not; but this we know, that the Parliament, by their proceedings, have made us and all North America, parties in the present dispute." (Wirt's *Life of Patrick Henry*, p. 99.) Meanwhile more troops arrived. All things portended strife; and yet the colonists did not ask for independence. They only asked for their rights, insisting always that there should be no taxation without representation. "The patriots of this province," said John Adams in 1774, "desire nothing new, they wish only to keep their old privileges. They were for one hundred and fifty years allowed to tax themselves. This plan they wish may continue forever." (John Adams's *Works*, vol. iv, p. 131.) And thus stood the two parties face to face.

Then came the Continental Congress, which at once put forth resolutions, where, after claim-

ing the enjoyment of life, liberty, and property as natural rights, it was insisted that the colonists could be bound by no law to which they had not consented by their representatives. Here was the original programme of James Otis: first the rights of men, according to natural laws; and secondly, the principle that government, including of course taxation, depended on the consent of the governed. "*The foundation of English Liberty and of all free government*," said these resolutions, "is a right in the people to participate in their legislative council." (*American Archives*, 4th series, vol. i, p. 822.) In harmony with these resolutions were the several addresses of the Continental Congress—to the people of Great Britain—to the people of the Province of Quebec—and to the king himself, each of which pleads for Human Rights in the largest sense. The address to the people of England begins by an appeal for "the rights of men and the blessings of Liberty," and then insists "that no power on earth has a right to take our property from us without our consent." (*Ibid.*, p. 918.) The address to the people of the Province of Quebec, in similar spirit, says, "*the first great right is that of the people having a share in their own government by their representatives, chosen by themselves*, and in consequence of being ruled by law, which they themselves approve; not by edicts of men over whom they have no control. This is a bulwark surrounding and defending their property." (*Ibid.*, p. 931.) And the address to the king has the same key-note when it says, "Duty to your Majesty and regard for the preservation of ourselves and our posterity, *the primary obligations of nature and of society* command us to entreat your royal attention." (*Ibid.*) Thus constantly, down to the last moment, did our fathers set forth the principles which they sought to establish as essential to free government. Thus constantly did they testify to the cause for which I now plead.

Answering voices came back from England, all showing the principles in issue. The right of taxation was asserted; but there were many who disguised the tyranny by assuming that the colonies were "virtually represented." Sir James Marriott, the Admiralty Judge, insisted boldly, that, since the lands of the colonies, according to their charters, were held in socage tenure, "as of the royal manor of East Greenwich in Kent," and since East Greenwich was represented in Parliament, therefore our fathers were represented in Parliament. Perhaps that spirit of legal technicality, which is satisfied by mere form at the expense of reason, was never more strikingly illustrated than in this senseless argument. The whole pretension was scouted by Mr. Pitt, afterward Lord Chatham, in terms of indignant eloquence. "The idea," said he, "of a *virtual representation* of America in this House is the most contemptible that ever entered into the head of a man. It does not

deserve a serious refutation." As the controversy continued, and especially as those masterly state papers—the addresses of the Continental Congress—reached England, the ministers of the king were put on the defensive. They retained as their advocate none other than Dr. Johnson, who, for a sum of money, lent the pen which had written *Rasselas*, the *Vanity of Human Wishes*, and the *English Dictionary*, to a rancorous attack on the principles of our fathers. Its concentrated spirit was all expressed in its title, "*Taxation no Tyranny*." Another pamphlet appeared in reply, with the epigraph, "*Resistance no Rebellion*," embodying the idea that, where there is taxation without representation, resistance is justifiable; and thus was issue joined even at London. This was in 1775. Already the "embattled farmers" had gathered at Lexington and Bunker Hill; already Washington had drawn his sword at Cambridge, as Commander-in-Chief and generalissimo of the new-born armies; already war had begun. At last to the defiant watch word "*Taxation no Tyranny*," sent from across the sea, our fathers returned that other defiant watchword "*Independence*." But in seeking Independence, they did not turn their backs upon the principles asserted throughout the long controversy. Independence was the means to an end, and that end was nothing less than a Republic, with Liberty and Equality as the animating principles, where the government should stand on the consent of the governed, or, which is the same thing, where there should be no taxation without representation: for here was the distinctive feature of American Institutions.

#### SOLEMN DECLARATIONS OF THE FATHERS.

(2.) The principles, heralded through fifteen years of controversy, were not forgotten when Independence was declared: and here I come to the second head of these illustrations.

It sometimes happens that men fail in support of the cause to which they are pledged, or content themselves with something less than the truth. But it was not so with our fathers. In declaring Independence they continued loyal to their constant vows. The natural rights of all men and the consent of the people as the only just foundation of government, which James Otis had first announced; which Samuel Adams had maintained with splendid simplicity; which Patrick Henry had vindicated, even against the cry of "treason," and which had been affirmed by legislative bodies and public meetings, were embodied in the opening words of the Declaration. There they stand, like a mighty overture to the new Republic, interpreting, inspiring, and filling it with their transforming power. These are the words:

"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."

Foremost is the Equality of all men. Of course, in a declaration of rights, no such supreme folly was intended as that all men are created equal in form or capacity, bodily, or mental; but simply that they are created equal in rights. This is the first of the self-evident truths that are announced, leading and governing all the rest. Life, liberty, and the pursuit of happiness are among inalienable rights; but they are all held in subordination to that primal truth. Here is the starting-point of the whole, and the end is like the starting-point. In announcing that Governments derive their just powers from the consent of the governed, the Declaration repeats again the same proclamation of Equal Rights. Thus is Equality the Alpha and the Omega, in which all other rights are embraced. Men may not have a natural right to certain things, but most clearly they have a natural right to *impartial laws*, without which justice, which is the end and aim of government, must fail. Equality in rights is the first of rights. It was because these self-evident truths, beginning with Equality, had been set at naught by Great Britain, in her relations with our fathers, that Independence was declared. To these truths, therefore, was the new Government solemnly dedicated, as it assumed its separate and equal station among the Powers of the earth. Do you ask for the definition of "Republic?" Here it is by patriot lexicographers, whose authority cannot be questioned by us.

As the war of Independence began with a declaration of principles, so it ended with a like declaration. At its successful close, the Continental Congress, in an address to the people, by the pen of James Madison, thus announced the objects for which it had been waged, and thus supplied another definition of the new government:

"Let it be remembered that it has been the pride and the boast of America, that the rights for which she has contended were the rights of human nature. By the blessing of the Author of these Rights, they have prevailed over all opposition and form the basis of thirteen Independent States. No instance has heretofore occurred, nor can any instance be expected hereafter to occur, in which the unaltered forms of Republican Government can pretend to so fair an opportunity of justifying themselves by their fruits. In this view the citizens of the United States are responsible for the greatest truth ever confided to a political society."—*Journal of Continental Congress*, April, 1783, vol. viii, p. 201.

Such was the sublime declaration. It was for the "rights of human nature" that our fathers went forth to battle, and these rights are proclaimed to "form the basis of thirteen independent States." But foremost among these rights is Equality, including of course the equal right of all to a voice in the Government. And this is the Republic which our fathers, with pride and boast, then gave as an example to mankind.

The same spirit appears in the National Constitution, which, by its preamble, asserts practically the same sentiments. Here it is:

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

Thus, according to this proclamation, the Constitution was ordained, not to create an oligarchy or aristocracy, not to exclude certain persons from the pale of its privileges, not to organize *inequality of rights* in any form, but "to establish justice," which is Equality; "to insure domestic tranquillity," which is vain without justice; "to provide for the common defense," which is the defense of all: "to promote the general welfare," which is the welfare of all; and "to secure the blessings of Liberty" to all the people and their posterity, which is to give to all the complete enjoyment of rights, foremost among which is Equality. Here, then, is another authoritative definition of the Republic which was formed.

Thus has our country testified to its idea of a Republic, not only throughout its long days of controversy, but in these solemn declarations, which are in themselves monumental acts.

#### OPINIONS OF THE FATHERS.

(3.) I am now brought to consider how these same principles have been sustained by eminent characters, whose names are historic, all testifying to the character of that government which they founded and upheld. In their weighty words you will find a definition, constantly repeated, which is in harmony with all the promises of the Fathers, whether in controversy or in these solemn instruments which are among the very title-deeds of the Republic.

I begin with Benjamin Franklin, who saw all questions of government with a surer instinct than any other person in our history. As early as 1736, while still a young man, he wrote an article on government, which was published in the *Pennsylvania Gazette*, where will be found these words:

"Popular Governments have not been framed without the wisest reasons. It seemed highly fitting that the conduct of magistrates, created by and for the good of the whole, should be made liable to the inspection and animadversion of the whole."—*Franklin's Works*, vol. ii, p. 269.

It is for the *good of the whole*, and not for an odious oligarchy or an aristocratic class that our patriot speaks, and in these words we find foreshadowed the idea of a republican government; but it was in the discussions on the stamp act, after Otis had flung his flaming bolt, that we find a fuller and more precise definition. Here it is, as adopted, if not written, by Franklin in 1769:

"That every man of the commonalty, except infants, insane persons, and criminals, is of common right,



and by the laws of God, a freeman and entitled to the free enjoyment of liberty. *That liberty or freedom consists in having an actual share in the appointment of those who frame the laws, and who are to be the guardians of every man; life, property, and peace; for the all of one man is as dear to him as the all of another; and the poor man has an equal right, but none need to have representatives in the Legislature than the rich one.*

"That they who have no voice nor vote in the electing of representatives do not enjoy liberty; but are absolutely enslaved to those who have votes and to their representatives; for to be enslaved is to have governors whom other men have set over us, and be subject to laws made by the representatives of others, without having had representatives of our own to give consent in our behalf."—*Franklin's Works*, vol. ii, p. 372.

In these emphatic words will be found a complete vindication of the *equal right* of representation, as essential to free government, so much so, that where this does not exist, Liberty does not exist.

Jefferson has followed Franklin in the same vein, expressing himself with greater fervor. The author of the Declaration of Independence could not do otherwise. Constantly he testifies to his idea of a Republic. Thus he wrote to Alexander von Humboldt, under date of June 13, 1817, affirming the rights of the majority as "the first principle of republicanism," and assuming the principle of Equal Rights:

"The first principle of republicanism is, that the *lex majoris partis* is the fundamental law of every society of individuals of equal rights. To consider the will of the society constrained by the majority of a single vote as sacred, yet the least which is thoroughly learned. This law once disregarded, no other remains but that of force, which ends necessarily in military despotism."—*Jefferson's Works*, vol. vii, p. 75.

In another letter to John Taylor, of Caroline, dated May 28, 1816, he thus defines a Republic:

"Indeed, it must be acknowledged, that the term *republic* is of very vague application in every language. Witness the self-styled republics of Holland, Switzerland, Genoa, Venice, Poland. Were I to assign to this term a precise and definite idea, I would say, purely and simply, it means a Government by its citizens in mass, acting directly and personally, according to rules established by the majority; and that every other Government is more or less republican, in proportion as it has in its composition more or less of this ingredient of the direct action of the citizens."—*Jefferson's Works*, vol. vii, p. 605.

Here again, while confessing the unquestionable vagueness of the term according to old examples, he assumes that in a Republic all the citizens must have a voice. And in another place he thus indignantly condemns denial of representation:

"And also that one half of our brethren who fight and pay taxes are excluded, like Helots, from the rights of representation, as if society were instituted for the soil and not for the men inhabiting it, or one half of these could dispose of the rights and the will of the other half without their consent."—*Ibid.*, p. 607.

Thus did he scold the whole wretched pretension of oligarchy and monopoly by which citizens are deprived of equal rights.

Madison was colder in nature than Jefferson, but they were associates in opinion, as in political life. The former in the debates on

the Constitution thus condemned the denial of rights on account of color:

"We have seen the mere distinction of color, made in the most enlightened period of time, a ground of the most oppressive dominion ever exercised by man over man."—*Elliot's Debates*, vol. iv, p. 162.

Speaking directly of the right of suffrage, he uses the following language:

"The right of suffrage is certainly one of the fundamental articles of republican government, and ought not to be left to be regulated by the legislature. A gradual abridgment of this right has been made in which aristocracies have been built on the ruins of popular forms."—*Elliot's Debates*, vol. v, p. 388.

Thus declaring himself against "aristocracies," he naturally recognized the true idea, and here he was perplexed by the question of a property qualification, which he says in one place, "does not satisfy the fundamental principle that men cannot be justly bound by laws in making which they have no part." (*Ibid.*, p. 580.) And then again in another place, "It violates the vital principle of free government, that those who are to be bound by laws, ought to have a voice in making them, and the violation would become more strikingly unjust as the law-makers become the minority." (*Ibid.*, p. 582.) Thus completely recognizing the great American principle that just government can stand only on "the consent of the governed," he is brought to this conclusion:

"Under every view of the subject, it seems indispensable that the mass of citizens should not be without a voice in making the laws which they are to obey and in choosing the magistrates who are to administer them."—*Ibid.*, p. 583.

In one of the most remarkable chapters in the *Federalist*, Madison gives expansion to this idea in his formal definition of a Republic:

"If we resort for a criterion to the different principles on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from the great body of the people, and is administered by officers holding their offices during pleasure, for a limited time, or during good behavior. It is essential for such a government that it be derived from the great body of the society, not from an inconsiderable proportion, or a favored class of it; otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to the rank of republicans, and claim for their government the honorable title of republic."—*Federalist*, No. 39, by Madison.

Thus, in these few significant words, does this authority teach that a Republic is a government "derived from the great body of the people," and not from "a favored class of it." Better words could not be found for the American definition.

Hamilton follows with, perhaps, equal authority. Though approaching political questions from opposite points of view, we find him on this occasion uniting with Franklin, Jefferson, and Madison. Here is a glimpse of the definition he would supply:

"As long as offices are open for all and no constitutional rank is established, it is pure republicanism."—*Hamilton's Works*, vol. ii, p. 47.

Not for an oligarchy, but for all is a Republic

created. Then again he testifies for Equal Rights and against *partial distinctions*:

"There can be no truer principle than this, that every individual of the community has an equal right to the protection of government." \* \* \* "We propose a free government. Can it be so, if partial distinctions are made?"—*Ibid.*, p. 418.

And then again he says in positive words:

"A share in the sovereignty of the State, which is exercised by the citizens at large in voting at elections, is one of the most important rights of the subject, and in a Republic ought to stand foremost in the estimation of the law. It is that right by which we exist as a free people."—*Hamilton, Works*, vol. ii, p. 315.

He then portrays the principles of the Revolution as follows:

"They taught the inhabitants of this country to risk their lives and fortunes in asserting their liberty, or, in other words, their right in a share in the government. That portion of the sovereignty to which each individual is entitled, can never be too highly prized. It is that for which we have fought and bled."—*Ibid.*

More could not be said in the few words employed. But it is when Hamilton comes to consider the Constitution of the United States and to expound its provisions, that, while recognizing the anomalous condition of Slavery, and expounding what he calls "the compromising expedient of the Constitution," by which "the state is divested of two fifths of the man," he yet declares "the equal level of free inhabitants," and announces "that if the laws are to restore the rights which have been taken away the negroes could no longer be refused an equal share of representation with the other inhabitants." Here are the important words:

"It is only under the pretext that the laws have transferred the negroes into subjects of property, that a place is disputed them in the computation of numbers: AND IT IS ADMITTED THAT IF THE LAWS WERE TO RESTORE THE RIGHTS WHICH HAVE BEEN TAKEN AWAY, THE NEGROES COULD NO LONGER BE REFUSED AN EQUAL SHARE OF REPRESENTATION, WITH THE OTHER INHABITANTS."—*The Federalist*, No. 54, by Hamilton.

Thus, according to Hamilton, if the slaves are restored to the rights which have been taken away—in other words, if they become freemen—they will be on the same *equal level*, and will be entitled to the same *equal share* of representation with the other inhabitants. The two ideas of Equality and of a right to representation, which were so early and so constantly avowed by the Fathers, are here again recognized as essential conditions of government; and this is the true definition of a Republic.

With these great representative names to illustrate the American idea of a Republic, I might close this catalogue. Surely this is enough. But there are yet others, whose authority cannot be disregarded.

Here is the testimony of that inflexible spirit, who had thought and acted much, Samuel Adams, in a letter to his kinsman, John Adams:

"That the sovereignty resides in the people is a political doctrine which I have never heard an American politician seriously deny." \* \* \* "We, the people, is the style of the Federal Constitution. They adopted it; and, conformably to it, they delegate the exercise of the powers of government to par-

ticular persons, who, after short intervals, resign their powers to the people, and they will reelect them, or appoint others, as they see fit."—*John Adams's Works*, vol. vi, p. 421.

Here also is the testimony of another Republican, who signed the Declaration of Independence, Roger Sherman, in a letter to John Adams:

"What especially denominates it a *republic* is its dependence on the public, or people at large, without any hereditary powers. But it is not of so much importance by what appellation the government is distinguished, as to have it constituted to secure the rights, and advance the happiness of the community."—*Ibid.*, p. 437.

There also was John Adams himself, who was the least distinct of all the fathers on this question; but we find in the introduction to his *Defense of the American Constitution* a passage which is full of prophetic meaning. Here it is:

"Thirteen governments, thus founded on the natural authority of the people alone, without a pretense of miracle or mystery, and which are destined to spread over the northern part of that whole quarter of the globe, are a great point gained in favor of the rights of mankind."—*J. Adams's Works*, vol. iv, p. 203.

Here is a plain assertion that our thirteen States were founded "on the natural authority of the people alone," and that they were destined to spread over all North America.

Here also is a voice from South Carolina, in a speech of Charles Pinckney, on the adoption of the Constitution:

"The doctrine of representation is the fundamental of a Republic." \* \* \* "As to the United Netherlands, it is such a confusion of states and assemblies, that I have always been at a loss what species of government to term it. According to my idea of the word, it is not a Republic; for I conceive it as indispensable in a Republic that all authority should flow from the people." \* \* \* "A Republic is where the people at large, either collectively or by representation, form the Legislature."—*Elliot's Debates*, vol. iv, pp. 329-328.

Colonel Mason, of Virginia, who always spoke with so much point, said in the National Convention:

"The true idea was that every man having evidence of attachment to and permanent common interest with the society, ought to share in all its rights and duties."—*Elliot's Debates*, vol. v, p. 357.

Again we have a plain recognition of the revolutionary idea. Here, also, is another voice from Virginia. I quote the words of a Virginia writer on government—John Taylor, of Caroline:

"The end of this guarantee is a republican form of government." The meaning of this expression is not so unsettled here as in other countries, because we agree in one descriptive character as essential to the existence of a republican form of government. This is representation. We do not admit a Government to be even in its origin republican, unless it is instituted by representation; nor do we allow it to be so, unless its legislation is also founded on representation."—*Construction Constructed*, by John Taylor, of Caroline, p. 342.

I close this array, illustrative of opinion, by the words of Daniel Webster, in harmony with the rest:

"Now, fellow-citizens, I will venture to state in a few words what I take these American principles in

substance to be. They consist, as I think, in the first place, in the establishment of popular governments on the basis of representation. "This representation is to be made as equal as circumstances will allow,"—*Webster's Works*, vol. ii, p. 691.

Thus, at every stage, from the opening, when Otis announced the master principle, "Taxation without representation is Tyranny," all along to Daniel Webster, we find "representation" an essential element in the American definition of a republican Government.

#### PUBLIC ACTS OF THE STATES.

(4.) From authoritative opinions I now pass to public acts, which testify to the true idea of Republican Government. These public acts are of two different classes: first, by the United States, in their collective character; and secondly, by the States individually.

Looking at the States, in their collective character, we shall find that at the adoption of the National Constitution they had refused to recognize any exclusion from the elective franchise on account of color or race. The Fathers knew too well the requirements of a Republican Government to sanction any such exclusion. Recognizing Slavery as a transitory condition, which would soon cease, they threw over it a careful oblivion; but they were none the less jealous of the rights of all freemen. *The slave did not pay taxes*, and, so far as he was a person and not property, he was a part of the family of his master, by whom he was represented, so that the commanding principle of the Revolution was not disturbed in his case. But, on becoming a freeman, the slave stepped at once within the pale of taxation, and therefore necessarily of representation, since the two were inseparable. And this consideration was the guide to our fathers.

The Congress of the Confederation refused point blank to insert the word "white" in the Articles of Confederation. The question came up 25th June, 1778, on these words: "THE FREE INHABITANTS of each of these States (paupers, vagabonds and fugitives from justice excepted) shall be entitled to all privileges and immunities of FREE CITIZENS in the several States." The delegates from South Carolina moved, in behalf of their State, to limit this guarantee to "free WHITE inhabitants." On the question of inserting the word "white," eleven States voted: two in favor of the insertion; one was divided; and eight were against it. South Carolina, not disheartened, made another attempt, by moving to add, after the words "the several States," the further clause, "according to the law of such States respectively for the government of their own FREE WHITE inhabitants," thus seeking again to limit the operation of this guarantee. This proposition was also voted down by the same decisive majority of eight to three. And thus did our fathers testify to the right of representation without distinction of

color. On other occasions, for successive years, they constantly gave the same testimony.

By two different acts of the Confederation, one in April, 1783, and another in April, 1784, the war expenses were apportioned among the several States, according to "the number of white and *other free citizens and inhabitants*," thus positively embracing colored persons. In the Act for the temporary government of the territory "ceded or to be ceded" to the United States, dated April 23, 1784, and drawn by Jefferson, the voters are declared to be the "free males of full age," without distinction of color. In the famous Ordinance for the government of the Northwestern Territory, drawn by Nathan Dane, of Massachusetts, adopted by the Confederation July 13, 1787, and then reenacted by our Congress, after the adoption of the Constitution, the voters are declared to be "free male inhabitants of full age"—again without distinction of color. Then came successive acts of Congress for the government of Territories, where the rule in the Ordinance for the northwestern Territories was followed, and there was no distinction of color. If this rule was changed, it was only when the partakers in the Revolution and the authors of the Constitution had ceased to exercise their influence over public affairs. The testimony of the Fathers was constant, and it is only of this that I speak on this occasion.

Turning from the States collectively, and looking at them individually, we shall find the same testimony. By the Constitution of New Hampshire, at the time of the adoption of the National Constitution, the suffrage was vested in "every male inhabitant of each town and parish" with certain qualifications, but without any exclusion on account of color. By the Constitution of Massachusetts, the suffrage was vested in "every male person" with certain specified qualifications, but without distinction of color. Rhode Island, at the adoption of the Constitution, was under her original colonial charter, which provided for elections by "the major part of the freemen of the respective towns or places," without distinction of color. Connecticut was likewise under her original colonial charter, which required that the voters should have "maturity in years, quiet and peaceable behavior, a civil conversation and forty shillings freehold or forty pounds personal estate," without distinction of color. By the Constitution of New York, the suffrage was vested in "every male inhabitant of full age," with certain specified qualifications, but without distinction of color. By the Constitution of New Jersey it was vested in "all inhabitants of this colony of full age," with certain specified qualifications, but without distinction of color. By the Constitution of Pennsylvania it was vested in "every freeman of the full age of twenty-one years," with certain specified qualifications, but without distinction of color. By

the Declaration of Rights prefixed to the Constitution of Delaware, it was announced that "every freeman, having sufficient evidence of permanent common interest, with an attachment to the community, hath the right of suffrage," without distinction of color. By the Constitution of Maryland the suffrage was vested in "all freemen above twenty-one years of age," with certain specified qualifications, but without distinction of color. By the Declaration of Rights prefixed to the Constitution of Virginia it was announced that "ALL MEN having sufficient evidence of permanent common interest, with an attachment to the community, have the right of the suffrage," without distinction of color. And it is added that "they cannot be taxed or deprived of their property for public use, without their own consent or that of their representatives so elected, nor bound by any law to which they have not in like manner assented for the public good." By the Constitution of North Carolina the suffrage was vested in "all freemen of the age of twenty-one years," with certain specified qualifications, and without distinction of color; and this rule continued down to 1835, when the Constitution was amended or rather, let me say perverted. That eminent citizen, Chief Justice Gaston, of North Carolina, in giving judgment at a later day, said: "It is a matter of universal notoriety that *free persons, without regard to color, claimed and exercised the franchise.*" (4 Dev. and Battle, Rep. 35. The State vs. Manual.) By the Constitution of Georgia in 1796 the suffrage was vested in "citizens and inhabitants," with certain specified qualifications, but without distinction of color. To these States I may add Tennessee, which was carved out of North Carolina, and followed her benign example. Her Constitution, which was adopted in 1796, vested the suffrage in "every freeman of twenty-one years," with certain qualifications, but without distinction of color; and this rule continued down to the perversion of the Constitution in 1834. Mr. Cave Johnson, of Tennessee, once Postmaster General, is reported to have said that he was originally elected to Congress by the votes of colored persons, and I have heard Mr. John Bell make the same confession with regard to himself.

It only remains to speak of South Carolina, the early and constant marplot of republican institutions, where, by the Constitution, the suffrage was vested "in every free white man, and no other person," with certain specified qualifications. This was the only State, among the original Thirteen, unless Georgia be grouped with South Carolina, which at that time allowed a discrimination, founded on color, to find a place in its Constitution. It was the only State which, after uniting in a National Declaration, that "all men are created equal," openly and audaciously commenced the example of a "white man's Government." This apostate idea, which

has since played such a part as a disturber of the national peace, was then and there born, as the opposite idea was born in Massachusetts, under the inspiring words of James Otis. And the other States, in their constitutions, followed this patriot voice. They spoke of "persons," "inhabitants," "freemen," or better still "men," without any prefix of "white." Color was not mentioned. But even in South Carolina, which introduced the discreditable tyranny into her Constitution, this exclusion was more apparent than real. In point of fact, even as late as 1790, when the first census was taken, there were in this State only one thousand eight hundred and one free colored citizens. Of course their exclusion was wrong, mean, and un-republican; but I do not assert that it was on such a scale as to justify the interference of the Nation to reform it, especially where there was no lapse of the State Government. On the other hand its sufferance cannot be interpreted into a waiver of the principles for which the Revolution was fought.

Such are the public acts of the States collectively and individually at the time of the adoption of the National Constitution, illustrating with rare harmony the American idea of a Republic, and testifying against any exclusion founded on color. Add to these that the National Constitution, which carefully excepts "Indians not taxed" from the basis of representation, pays an open homage to the principle that there can be no taxation without representation. Add then, that it expressly founds the Government upon "the people," not only in the preamble, which begins "we, the people," but also in providing that the House of Representatives shall be "chosen by the people of the several States." Add also the crowning fact, that it recognizes no distinction of color—that it treats all with the same impartial justice—and who are you, sir, who will dare foist into this Magna Carta an oligarchical idea which can find no sanction in its republican text?

AMERICAN DEFINITION OF A REPUBLICAN GOVERNMENT.

And here I bring this part of the argument to a close. We have seen the origin of the controversy which led to the Revolution, when Otis, with such wise hardihood, insisted upon Equal Rights, and then giving practical effect to the lofty demand, sounded the battle-cry that "Taxation without Representation is Tyranny." We have followed this controversy in its anxious stages, where these principles were constantly asserted and constantly denied, until it broke forth in battle; we have seen these principles adopted as the very frontlet of the Republic, when it assumed its place in the family of nations, and then again when it ordained its Constitution; we have seen them avowed and illustrated in memorable words by the greatest authorities of the time; lastly, we have seen them embodied in public acts of the States col-

lectively and individually; and now, out of this concurring, cumulative, and unimpeachable testimony, constituting a speaking aggregation absolutely without precedent, I offer you the American definition of a Republican form of government. It is in vain that you cite philosophers or publicists, or the examples of former history. Against these I put the early and constant postulates of the Fathers, the corporate declarations of the Fathers, the avowed opinions of the Fathers, and the public acts of the Fathers, all with one voice proclaiming: first, that all men are Equal in rights; and secondly, that Governments derive their just powers from the consent of the governed; and here is the American idea of a Republic, which must be adopted in the interpretation of the National Constitution. You cannot reject it. As well reject the decalogue in determining moral duties, or as well reject the multiplication table in determining a question of arithmetic.

Counter to this irresistible conclusion there can be only one suggestion having any seeming plausibility, and this is founded on the contemporary recognition of slavery. On this point it is enough if I remind you, first, that our fathers did not recognize slavery as a permanent part of our system, but treated it as exceptional and transitory, while they concealed it from view by words which might mean something else; secondly, that the slave was always regarded, legally and politically, as a part of the family of his master, according to the nomenclature of Blackstone's Commentaries, which were much read at the time, where master and servant were grouped with husband and wife, parent and child, and, as in the case of wife and child, *the slave was represented by the head of the family, who also paid the taxes on his account*, so that, in his case, the cardinal principle of the Revolution, associating representation and taxation together, was not in any respect violated; and thirdly, that by the acts of the Continental Congress, and by all the State Constitutions, except that of South Carolina, all distinction of color was discarded in determining the elective franchise, and that one of the authorized expounders of the National Constitution at the time Alexander Hamilton announced in the *Federalist*, as if anticipating the very question now before us, IF THE LAWS WERE TO RESTORE THE RIGHTS WHICH HAVE BEEN TAKEN AWAY, THE NEGROES COULD NO LONGER BE REFUSED AN EQUAL SHARE OF REPRESENTATION WITH OTHER INHABITANTS. Such was the understanding, and such was the promise at the adoption of the Constitution. Such was the declared meaning of our fathers, according to the contemporary testimony of Alexander Hamilton. Therefore, while confessing sorrowfully their inconsistency in recognizing slavery, and throwing over their shame the mantle which the son of Noah threw over his father, we must reject every argument or inference on this account

against the true idea of a Republic, which is none other than where all the citizens have an *equal voice* in the Government. As Washington, by his august example, gave to mankind a new idea of political greatness, so did the Fathers, by their great example, give to mankind a new idea of government. Do you ask again for authority? I offer it to you. It is an early Dictionary of James Otis, Samuel Adams, Patrick Henry, and Benjamin Franklin. It is in the *Lexicon of the Revolution*. It is in the *Thesaurus of our national history*. It is in the *Collection of Public Acts*. This new idea was the great discovery of our fathers. Rob them of this, and you take from them their highest title to gratitude. Columbus, venturing into an unknown sea, discovered a New World of space; but our fathers, venturing likewise, discovered a New World of public duty. It is for us, their children, not to forget their discovery.

#### RECENT FRENCH DEFINITIONS.

After our own country, there is one other only which can help in determining what is a Republican form of government, and this is France. There, as in the United States, a Republic has been declared. If in the former country it failed to be maintained; still the generous effort has been made, and we have its testimony. This is explicit. As the Provisional Government in 1848 proclaimed the Republic, it was careful, after proper deliberation to proclaim at the same time "universal suffrage," which Lamartine, standing on the steps of the Hotel de Ville, and speaking in the name of the government, said was "the first truth and only basis of every National Republic." (*Garnier Pagés, Histoire de la Revolution*, tom. i, p. 328.) The proclamation of the Republic was itself submitted to the vote of "all the citizens;" and on the terms of this submission another member of the Government, of solid sense and perfect fidelity, thus expresses himself:

"By these words—*all the citizens*—the Provisional Government intended to consecrate definitively the fundamental principle of democracy; it intended to proclaim openly and forever the inalienable, imprescriptible right, inherent in each member of society, to participate directly in the government of his country; it intended to put in practice effectually and loyally the great principles until then shut up in the domain of the abstract theories of philosophy."—*Ibid.*, tom. v, p. 348.

The same person, M. Garnier Pagés, who was at once an eminent actor in these scenes and their most authentic historian, thus again dwells on the true idea of a Republic:

"The Republic, that government of *all by all* where each has his place, his duty, and his right; the Republic, that is Liberty itself, the liberty to do every act and to put forth every thought not injurious to another; the Republic, that fraternal ground where are admitted all parties, the representatives of the past as well as those of the future, where every intelligence, and every association can develop its authority."—*Ibid.*, tom. vii, p. 407.

To this authentic testimony of modern France, in harmony with our own country, I add the definition of a very recent foreign publicist,

who, after dwelling on Equality as the idol sentiment of a Republic, says:

"This shows us the nature and the end of republican government. It is a Government founded on the general interests and equality."—*B'ock, Dictionnaire de Philosophie, article, République.*

Admirable words! in themselves a definition. And here, before closing this testimony, let me call attention to two authorities, contemporary with our fathers, which stand apart, one English and the other German. The first is that of Dr. Richard Price, the friend of John Adams, who very early appreciated the American Revolution, and vindicated it before the world. Here is his idea of good government, compendiously expressed:

"*Legitimate government consists only in the dominion of Equal Laws made with common consent, and not in the dominion of any man over other men.*"—*J. Adams's Works, vol. iv, p. 401.*

The German was none other than that great thinker, Emanuel Kant, who, in his speculations on Perpetual Peace, says, that to this end every State should be a Republic, which he defines as follows:

"That form of government where every citizen participates by his representative in the exercise of the legislative power, and especially in that of deciding on the questions of peace and war."—*Wheaton, History of Law of Nations, p. 731.*

The statement of Kant is as simple as Pure Reason, which is the title of his great work. It claims plainly for "every citizen" a share in the Government: and such is the definition furnished by this eminent philosopher, whose name, rarely quoted in politics, is an unimpeachable authority.

#### REBEL STATES ARE NOT REPUBLICAN GOVERNMENTS.

Such is the definition of a Republican form of government. It remains now that we should bring these lapsed States to this touchstone, and see their small title to recognition. Authentic figures are not wanting. The census of 1860 discloses the population of the States in question. Here is the table:

States.	White population.	Colored population, slave and free, including Indians.
Alabama.....	526,271	426,930
Arkansas.....	321,213	111,397
Florida.....	75,417	62,677
Georgia.....	591,550	465,733
Louisiana.....	357,155	359,596
Mississippi.....	353,991	437,501
North Carolina.....	623,912	362,680
South Carolina.....	291,300	112,108
Tennessee.....	826,712	283,679
Texas.....	429,891	18,331
Virginia.....	1,017,299	519,610
	5,417,222	3,666,110

A glance at this table is enough. Taking the sum total of the population in the eleven States, we find 5,417,222 whites to 3,666,110 colored

persons: and you are now to decide, whether in the discharge of your duties under the Constitution, and bound to guaranty a Republican form of government, you will disfranchise this mighty mass, shutting them out from those Equal Rights promised by our fathers, and from all voice in the government of their country. They surpass in numbers, by at least a million, the whole population of the colonies at the time our fathers raised the cry, "Taxation without Representation is Tyranny;" and now you are to decide whether you will strip them of representation while you subject them to a grinding taxation by tariff and excise, acting directly and indirectly, which dwarts into insignificance everything attempted by the British Parliament. Our fathers could not bear a stamp act, in the making of which they had no voice, and they went forth to battle with the most formidable Power of the globe, rather than pay a tax of threepence on tea imposed by a Parliament in which they were not represented. Are you ready, sir, in disregard of this great precedent, and in disregard also of all the promises and examples of our past history, to thrust a single citizen out of all representation in the Government, while you consume his substance with taxation, subject him to stamp acts, compel him to pay a duty of twenty-five cents a pound on tea, and then follow him with your imposts in all the business of life? Clearly if you do not recognize his title to representation, you must at least by careful legislation relieve him from this intolerable taxation. Some of these millions, whom you thrust out, already contribute largely to the public revenue. How, then, can you deny them representation? Their money is not rejected. Why reject their votes? But if you reject their votes, you cannot take their money. As you can detect no color in their money, you ought to detect no color in their votes.

If looking at these States together the duty of Congress seems clear, it becomes clearer even when we look at them separately. Begin with Tennessee, which disfranchises 283,679 citizens, being more than a quarter of its whole "people." Thus violating a distinctive principle of republican government, how can this State be recognized as republican? This question is easier asked than answered. But Tennessee is the least offensive on the list. There is Virginia, which disfranchises 519,610 citizens, being more than a third of its whole "people." There is Alabama, which disfranchises 437,501 citizens, being nearly one half of its whole "people." There is Louisiana, which disfranchises 359,596 citizens, being one half of its whole "people." There is Mississippi, which disfranchises 437,501 citizens, being much more than one half of its whole "people." And there is South Carolina, which disfranchises 112,108 citizens, being nearly two thirds of its whole "people." A Republic is a pyramid

standing on the broad mass of the people as a base; but here is a pyramid balanced on its point. To call such a government "republican" is a mockery of sense and decency. A monarch, "surrounded by republican institutions," which at one time was the boast of France, would be less offensive to correct principles, and give more security to Human Rights.

It is not difficult to classify these States. They are aristocracies or oligarchies. An aristocracy, according to the etymology of the word, is the government of the best. An oligarchy is the government of the few, and is not even an aristocracy, but an abuse of aristocracy, as despotism is the abuse of monarchy. Perhaps these States may be characterized in either way; and yet the term aristocracy, especially in its origin, has something respectable which cannot be attributed to a combination, whose single distinctive element is the color of the skin.

The eminent publicist, Bodin, in his definition of an aristocracy, says that it exists *where a smaller body of citizens governs the greater*, and this definition has been adopted by others, especially by Montesquieu. But this is not satisfactory. Hallam, whose judgment is of the highest value, after discussing the merits of this definition, proposes the following most suggestive substitute:

"We might better say, that the distinguishing characteristic of an aristocracy is the enjoyment of privileges which are not communicable to other citizens simply by anything they can themselves do to obtain them." —*Hallam's Literature of Europe*, vol. ii, cap. 4, sec. 52. These words completely characterize the aristocracy of color; for such an aristocracy is plainly in the enjoyment of privileges, which are not communicable to other citizens, by anything they can themselves do to obtain them.

To show that our rebel States are aristocracies or oligarchies is enough for the present occasion. But we must not forget that, born of Slavery, they have the spirit of that iniquity, so that they are essentially of a low type. Founded on the color of the skin, they are, beyond all question, the most senseless and disgusting of all history. Would you know to what they might incline? Listen to the frank words of the greatest Venetian writer, the famous Father Paul, while he counsels the privileged class, in a state refined by art and elevated by glory, how to use their powers. "If a noble," says he, "injure a plebeian, justify him by all possible means; but should that be found quite impossible, punish more in appearance than in reality. If a plebeian insult a noble, punish him with the greatest severity, that the commonalty may know how perilous it is to insult a noble." (*Serpi, Opinione per il perpetuo Dominio di Venetia*, p. 13.) Such is the terrible rule laid down in a document, which taught how to make the power of Venice perpetual. But this same spirit predominates still in the rebel States. It

rages there with more revolting cruelty than it ever raged in Venice. And such is the government which now claims recognition as "republican."

The pretension thus organized is hate-filled on another ground. It is nothing less than a Caste, which is at once irreligious and un-republican. A Caste cannot exist except in defiance of the first principles of Christianity and the first principles of a Republic. It is Heathenism in religion and tyranny in government. The Brahmins and the Sudras in India, from generation to generation, have been separated, as the two races are now separated in these States. If a Sudra presumed to sit on a Brahmin's carpet he was punished with banishment. But our recent rebels undertake to play the part of Brahmins, and exclude citizens, with better title than themselves, from essential rights, simply on the ground of Caste, which, according to its Portuguese origin, *casta*, is only another term for race.

But this pretension is in yet other respects hostile to good government. It is essentially a Monopoly in a country which sets its face against all monopolies as unequal and immoral. If any monopoly deserves unhesitating judgment it must be that which absorbs the rights of others and engrosses political power. How vain it is to condemn the petty monopolies of commerce and then allow this vast, all-embracing monopoly of Human Rights.

Clearly, most clearly, and beyond all question, such a government cannot be considered "republican in form." Call it an Oligarchy, call it an Aristocracy, call it a Caste, and it a Monopoly; but do not call it a Republic.

#### DUTY OF CONGRESS.

Of course such a government can exist only in defiance of the Constitution, and it is the duty of Congress to interfere against it. President Johnson, in his annual message, says:

"In case of the usurpation of the government of a State by one man or an *Oligarchy*, it becomes the duty of the United States to make good the charter to that State of a Republican form of government."

The President forgets to mention an Aristocracy, and does not add, what is true, that the authority which must make good the guarantee is the sole judge of the exigency. To this end everything centers in Congress whose powers are commensurate with the occasion. In aid of the "guarantee" clause are the other words in the Constitution, providing that Congress "shall have power to make all laws which shall be necessary and proper for carrying into execution the powers vested in the Government of the United States." Under this ample provision there is a duty to be performed, by any means which may seem best. The jurisdiction is complete and in both Congress. If any authority for this proposition were needed it would be found in the words of Chief

Justice Taney, speaking for the Supreme Court of the United States:

"The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guaranty to every State in the Union a republican form of government, and shall protect each of them against invasion; and, on the application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence.

"Under this article of the Constitution, it rests with Congress to decide what government is the established one in a State. For, as the United States guaranty to each State a Republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is Republican or not."—7 *Howard Rep.* 42, *Luther vs. Borden*.

In the exercise of this power two courses at least are open. One is to impose an irrevocable condition upon the unrepubli- can States, requiring them, before recognition, to reform their governments to the satisfaction of Congress. The other, and more direct course, is by Act of Congress, in performance of the "guarantee," and according to the plenary authority "for carrying into execution the powers vested in the Government of the United States," to provide all needful safeguards in the unrepubli- can States, and especially to place the Equal Rights of All under the guardianship of National Law.

Against the exercise of this power there are but two arguments. First, that the Constitution, by providing that "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature," has reserved to each State the power of excluding citizens merely on account of color, even though constituting more than a majority of the population. The other argument is that, since certain States at the North have disfranchised the few colored persons within their borders, the United States are so far constrained by this example that they cannot protect the millions of freedmen in the rebel States from disfranchisement, and cannot save the Republic from the peril of such a crying injustice. I know not which of these two arguments is the least reasonable, or rather, which is the most reprehensible. They are both unreasonable and both reprehensible. They both do violence to the true principles of the Constitution, if not to common sense.

It is true that, according to the text of the Constitution, each State may determine the "qualifications" of electors, but this can have no application to an exigency like the present, where, at the close of a prolonged and desperate rebellion, the United States are obliged to guaranty to certain States a republican form of government. In the performance of this "guarantee," the United States can look only at the essential elements of such a government; not more nor less; without regard to State laws. But I am not willing to rest the argument here. Even assuming that there has been no lapse of State governments, so as to bring the "guarantee" into operation—assuming that

we are in a condition of assured peace—then I utterly deny that the power to determine the "qualifications" of electors can give any power to disfranchise actual citizens. It is "qualifications" only which the States can determine, meaning, by this limited term, those requirements of personal condition which are regarded as essential to the security of the franchise. These "qualifications" cannot be in their nature permanent or insurmountable. Color cannot be a "qualification," any more than size or the quality of the hair. A permanent or insurmountable "qualification" is equivalent to a deprivation of the suffrage—in other words, it is the tyranny of taxation without representation; and this tyranny, I insist, is not intrusted to any State of this Union. This is the very ground taken by Mr. Madison, when, defending the National Constitution in the Virginia convention, he said:

"Some States might regulate the elections on the principle of *Equality*, and others might regulate them otherwise." \* \* \* "Should the people of any State, by any means, be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government." \* \* \* "If the elections be regulated properly by the State Legislatures, the congressional control will very probably never be exercised. This power appears to be satisfactory and unlikely to be abused as any part of the Constitution."—*Elliot's Debates*, vol. iii, p. 347.

With these decisive words from one of the chief framers of the Constitution, backed by the reason of the case, I dismiss this objection to the little consideration it deserves. And I dismiss to the same indifference that other objection, that our hands are tied because certain Northern States have done a wrong and mean thing. Pray, sir, how can the failure of these States affect the power of Congress in a great exigency under the Constitution of the United States? But duty on the present occasion is identical with power. No matter if this power has been long dormant, it is none the less vital. It is like that slumbering statue, which Cicero describes as a sword in the scabbard, *tanquam gladius in vagina*. It only remains that it should be drawn forth.

This duty has been fortified by the Constitutional Amendment, which, after providing for the abolition of slavery, empowers Congress to "enforce" it by "appropriate legislation," thus heaping Ossa upon Pelion. Clearly under these words Congress may do what, in its discretion, seems "appropriate" to this end, and there is no power to call its action in question. On this point, the authority of the Supreme Court, in the masterly judgment of Chief Justice Marshall, is most explicit:

"The government, which has a right to do an act and has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means, and those who contend that it may not select *any appropriate means*, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception." \* \* \* "Let the end be legitimate, let it be within the scope of the Constitution,



and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution are Constitutional."—4 *Wheaton R.* 409-421—*McCullough vs. Bank of Maryland*.

These words of the Chief Justice are reënfored by a kindred declaration from another great authority, Mr. Justice Story, speaking also for the Supreme Court, on an important occasion:

"The Constitution unavoidably dealt in general language. It was not intended merely to provide for the exigencies of a few years, but was to endure through a long lapse of ages; the events of which were locked up in the inscrutable purposes of Providence. Hence the Constitution leaves it to the legislative power from time to time, to adopt its own means to effectuate legitimate objects."—1 *Wheaton R.* 325; *Martin vs. Hunter*.

Apply these words to the present question, and the conclusion is irresistible. Whatever legislation shall seem to Congress "appropriate" to "enforce" the abolition of slavery; whatever "means" shall seem "proper" to this end, must be within the powers of Congress under the Constitutional Amendment. You cannot deny this principle without setting aside those most remarkable judgments which stand as landmarks of constitutional history. But who can doubt that the abolition of the whole Black Code, in all its oligarchical pretensions, civil and political, is "appropriate" to "enforce" the abolition of Slavery? Mark, if you please, the language of this grant. Congress may "enforce" abolition, and nobody can question the "means" which it thinks best to employ. Let it not hesitate to adopt the "means" which promise to be the most effective. As the occasion is extraordinary, so the "means" employed must be extraordinary.

But the Senate has already by solemn vote asserted this very jurisdiction. You have, sir, decreed that colored persons shall enjoy the same civil rights as white persons; in other words, that, with regard to civil rights, there shall be no Oligarchy, Aristocracy, Caste, or Monopoly, but that all shall be equal before the law without distinction of color. And this great decree you have made as "appropriate legislation" under the Constitutional Amendment "to enforce" the abolition of slavery. Surely you have not erred in this act. Beyond all question the protection of colored persons in civil rights is essential to complete the abolition of slavery; but the protection of colored persons in political rights is not less essential; and the power is as ample in one case as in the other. In each you legislate for the maintenance of colored persons in that Liberty which has been so tardily accorded, and the legislation is just as "appropriate" in one case as in the other. The protection of colored persons in their civil rights by Act of Congress will be a great event. It will be great in itself. It will be greater still, because it establishes the power of Congress, without any further amendment of the Constitution, to protect colored persons in

all their rights, including of course the elective franchise. There are precedents of Congress, as well as of courts, which are landmarks; and this is one of them.

Therefore, as authority for Congress you have two sources in the Constitution itself, first, the guarantee clause, and, secondly, the Constitutional Amendment: each sufficient—the two together a twofold sufficiency. To establish the Equal Rights of All, no further amendment is needed. The actual text is exuberant. Instead of adding new words, it will be enough if you give to those which exist the natural force which belongs to them. Instead of neglecting them, use them. Instead of supplementing them, interpret them. An illustrious magistrate once retorted upon an advocate, who, dissatisfied with a ruling of the court, threatened to burn his books, "You had better read them;" and so would I say now to all who think the Constitution needs amendment, you had better read it. Yes, sir, read it in the principles proclaimed by the Fathers before the Revolution; read it in the declarations of the Fathers when they took their place as a Republic; read it in the avowed opinions of the Fathers; read it in the Public Acts of the Fathers; and in all this beaming light you will discern its true meaning. Then again read it in that other light which, as from another sun, newly risen at mid-day, streams from the obligation of Congress to "enforce" the abolition of slavery. And then again read it in the glowing illumination of the war. But, in whichever light you read it, you will find always the same irresistible meaning. Even if the text were doubtful, the war makes it clear. The victory which overthrew slavery has carried with it all those glosses and constructions by which this wrong was originally fastened upon the Constitution. For generations the Constitution has been interpreted for Slavery. From this time forward it must be interpreted, in harmony with the Declaration of Independence, so that Human Rights shall always prevail. The promises of the Fathers must be sacredly fulfilled. This is the commanding rule, superseding all other rules. This is one of the great victories of the war—perhaps the greatest. It is nothing less than the Emancipation of the Constitution itself.

#### THE BALLOT, THE ONLY SUFFICIENT GUARANTEE.

Mr. President, such is the testimony of history, authority, and Constitution, which binds the judgment on this occasion, leaving no alternative. Thus far, I have done little but bring the diversified testimony together and weave it into one body. It is not I who speak, I am nothing. It is the cause, whose voice I am, which speaks to you. But there are yet other things which, even at this late hour, crave to be said. And here, after this long review, I am brought back to more general considerations, and end as I began, by showing the ne-

cessity of Enfranchisement for the sake of Public Security and Public Faith. I plead now for the ballot, as the Great Guarantee; and *the only Sufficient Guarantee*—being in itself peacemaker, reconciler, schoolmaster, and protector—to which we are bound by every necessity and every reason: and I speak also for the good of the States lately in rebellion, as well as for the glory and safety of the Republic, that it may be an example to mankind.

Let me be understood. What I especially ask is impartial suffrage, which is, of course, embraced in universal suffrage. What is universal is necessarily impartial. For the present, I simply insist that all shall be equal before the law, so that, in the enjoyment of this right, there shall be no restriction which is not equally applicable to all. Any further question, in the nature of "qualification," belongs to another stage of the debate. And yet I have no hesitation in saying that universal suffrage is a universal right, subject only to such regulations as the safety of society may require. These may concern (1) age, (2) character, (3) registration, (4) residence. Nobody doubts that minors may be excluded, and so, also, persons of infamous life. Registration and residence are both prudential requirements for the safeguard of the ballot-box against the Nomads and Bohemians of politics, and to compel the exercise of this franchise where a person is known among his neighbors and friends. Education also, may, under certain circumstances, be a requirement of prudence, especially valuable in a Republic, where so much depends on the intelligence of the people. These temporary restrictions do not in any way interfere with the right of suffrage, for they leave it *absolutely accessible to all*. Even if impediments, they are such as may be easily overcome. At all events, they are not in any sense insurmountable, and this is the essential requirement of republican institutions. No matter under what depression of poverty, in what depth of obscurity, or with what diversity of complexion you have been born, you are, nevertheless, a citizen—the peer of every other citizen, and the ballot is your inalienable right.

The ballot is *peacemaker*, and, are we not told, Bismarck are the peacemakers? High among the Benefits, let it be placed, for there it belongs. Deny it, and the freedman will be the victim of a perpetual warfare. In ceasing to be a slave he only becomes a sacrifice. Grant it, and he is admitted to those Equal Rights which allow no sacrifice. Plutarch records that the wise man of Athens charmed the people by saying that *Equality covers no Blood*,—"both the rich and poor repeated it." And so master and slave will yet enjoy the tranquillizing power of this principle. The nation will recognize the new citizen. The slave will stand with tranquil self-respect in the presence of the master. Brute force dis-

appears. Distrust is at an end. The master is no longer a tyrant. The freedmen is no longer a dependent. The ballot comes to him in his depression, and says, "Use me and be elevated." It comes to him in his passion, and says, "Use me and do not fight." It comes to him in his daily thoughts, filling him with the strength and glory of manhood.

The ballot is *reconciler*. Next after peace is reconciliation. But reconciliation is more than peace. It is concord. Parties that have been estranged are brought into harmony. They learn to live together. They learn to work together. They are kind to each other, even if it be only as the Arab and his horse; and this mutual kindness is a mutual advantage. Unquestionably, the ballot promotes this great boon, because it brings all into natural relations of justice, without which reconciliation is a vain thing. Do you wish to see harmony truly prevail, so that industry, society, government, civilization, may all prosper, and the Republic may wear a crown of true greatness? Then do not neglect the ballot.

The ballot is *schoolmaster*. Reading and writing are of inestimable value, but the ballot teaches what these cannot teach. It teaches manhood. Especially is it important to a race whose manhood has been denied. The work of redemption cannot be complete if the ballot is left in doubt. The freedman already knows his friends by the unerring instinct of the heart. Give him the ballot, and he will be educated into the principles of government. Deny him the ballot, and he will continue an alien in knowledge as in rights. His claim is exceptional, as your injustice is exceptional. For generations you have shut him out from all education, making it a crime to teach him to read for himself the Book of Life. Let not the tyranny of the past be an apology for any further exclusion. Prisoners for a long time immured in dungeons are sometimes blinded as they come forth into the light of day; but this is no reason for continued imprisonment. To every freedman the ballot is the light of day.

The ballot is *protector*. Perhaps, at the present moment, this is its highest function. Slavery has ceased in name; but this is all. The old masters still assert an inhuman power, and now by positive statutes seek to bind the freedman in new chains. Let this conspiracy proceed unchecked, and the freedman will be more unhappy than the early Puritan, who, seeking liberty of conscience, escaped from the "lords bishops" only to fall under the "lords elders." The master will still be master under another name, as according to Milton,

"New preacher is but old priest writ large."

Serfdom or apprenticeship is slavery in another guise. To save the freedman from this tyranny, with all its accumulated outrage, is

your solemn duty. For this we are now devising guarantees: but, believe me, the only sufficient guarantee is the ballot. Let the freedman vote, and he will have in himself under the law a constant, ever-present, self-protecting power. The armor of citizenship will be his best security. The ballot will be to him sword and buckler—a sword with which to pierce his enemies, and a buckler on which to receive their assault. Its possession alone will be a terror and a defense. The law, which is the highest reason, boasts that every man's house is his castle; but the freedman can have no castle without the ballot. When the master knows that he may be voted down, he will know that he must be just, and everything is contained in justice. The ballot is like charity, which never faileth, and without which man is only as sounding brass or a tinkling cymbal. The ballot is the one thing needful, without which rights of testimony and all other rights will be no better than cobwebs which the master will break through with impunity. To him who has the ballot all other things shall be given—protection, opportunity, education, a homestead. The ballot is like the Horn of Abundance, out of which overflow rights of every kind, with corn, cotton, rice, and all the fruits of the earth. Or better still, it is like the hand of the body, without which man, who is now only a little lower than the angels, must have continued only a little above the brutes. We are fearfully and wonderfully made; but as is the hand in the work of civilization, so is the ballot in the work of government. "Give me the ballot and I can move the world." may be the exclamation of the race still despoiled of this right. There is nothing which it cannot open with almost fabulous power, like that golden mistletoe, offshoot of the sturdy oak, which, in the hands of the classical adventurer, unclosed the regions of another world, and like that golden bough, it is renewed as it is used:

"One plucked away, a second branch you see,  
Shoot forth in gold and glitter from the tree."

If I press these illustrations, it is only that I may bring home to your minds that supreme efficacy, which cannot be exaggerated. Though simple in character, there is nothing the ballot cannot accomplish; like that homely household lamp in Arabian story, which, at the call of its possessor, evoked a spirit, who did all things, from the building of a palace to the rocking of a cradle, and filled the air with an invisible presence. But it is as protector that it is of immeasurable power—like a fifteen-inch Columbiad pointed from a Monitor. Ay, sir, the ballot is the Columbiad of our political life, and every citizen who has it is a full-armed Monitor.

Having pleaded for the freedman, I now plead for the Republic; for to each alike the ballot is a *necessity*. It is idle to expect any true peace while the freedman is robbed of this

transcendent right and left a prey to that vengeance which is ready to wreak upon him the disappointment of defeat. The country, sympathetic with him, will be in a condition of perpetual unrest. With him it will suffer and with him alone can it cease to suffer. Only through him can you redress the balance of our political system and assure the safety of patriot citizens. Only through him can you save the national debt from the inevitable repudiation which awaits it when recent rebels in conjunction with Northern allies once more bear sway. He is our best guarantee. Use him. He was once your fellow-soldier; he has always been your fellow-man. If he was willing to die for the Republic he is surely good enough to vote. And now that he is ready to uphold the Republic, it will be madness to reject him. Had he voted originally, the acts of secession must have failed. Treason would have been voted down. You owe this tragical war and the debt now fastened upon the country to the denial of this right. Vacant chairs in once happy homes, innumerable graves, saddened hearts, mothers, fathers, wives, sisters, brothers, all mourning lost ones, the poor now ground by a taxation they had never known before, all testify against that injustice by which the present freedman was not allowed to vote. Had he voted there would have been peace. If he votes now there will be peace. Without this you must have a standing army, which is a sorry substitute for justice. Before you is the plain alternative of the ballot-box or the cartridge box; choose ye between them.

*Reason* too in every way and with every voice cries out in unison with necessity. All policies, all expediences, all economies take up the cry. Nothing so impolitic as wrong; nothing so inexpedient as tyranny; nothing so little economical as the spirit of Caste. Justice is the highest policy, the truest expediency, and the most comprehensive economy. In this inspiration act. Do you wish to save the national credit, now imperiled by fatal injustice, and especially to secure gold as the national currency? Then do not let the question of Equal Rights disturb the country with its volcanic throes. You complain that labor is unorganized and that the cotton crop has failed. Do you wish labor to smile and cotton to grow? Then sow the land with Human Rights and encircle it round about with justice. The freedman will not, cannot work, while you deny his rights. Cotton will not, cannot grow in such an atmosphere. It is absurd to expect it. In using the freedman as you now do you imitate those barbarous Irish who insisted upon plowing by the horse's tail, until an Act of Parliament interferred to require plowing by harness. The infinite folly must be corrected among us, if for no higher reason than because it is unprofitable. But it is contrary to nature, and on this account renders the whole social

system insecure. Where Human Rights are set at naught there can be no tranquillity except that of force, which is despotism. This most reasonable conclusion is sustained by the philosophy of history, which, speaking by one of its oracles, the great Italian Vico tells us most sententiously that "nothing out of its natural state can either easily subsist or last long." Truer words were never uttered as a statement of philosophy or as a warning to injustice enacted into law.

#### GOOD AND GLORY OF THE REPUBLIC.

Mr. President, already I have taken too much time, and still the great theme, in its various and multitudinous relations, continues to open before us. At each step it rises in some new aspect—assuming every shape of interest and of duty—now with voice of command and then with voice of persuasion. The national security, the national faith, the good of the freedman, the concerns of business, agriculture, justice, peace, reconciliation, obedience to God—such are some of the forms it takes. In the name of all these, I speak to-day, hoping to do something for my country, and especially for that unhappy portion which has been arrayed in arms against us. The people there are my fellow-citizens, and gladly would I hail them, if they would permit it, as no longer a "section," no longer "the South," but an integral part of the Republic—under a Constitution which knows no North and no South and cannot tolerate any "sectional" pretensions. Gladly do I offer my best efforts in all sincerity for their welfare. But I see clearly that there is nothing in the compass of mortal power so important to them in every respect, morally, politically, and economically—that there is nothing with such certain promise to them of beneficent results—that there is nothing so sure to make their land smile with industry and fertility as the decree of Equal Rights which I now invoke. Let the decree go forth to cover them with blessings, sure to descend upon their children in successive generations. They have given us war; we give them peace. They have raged against us in the name of Slavery. We send them back the benediction of Justice for all. They menace hate; we offer in return all the sacred charities of country together with oblivion of the past. This is our "Measure for Measure." This is our retaliation. This is our only revenge.

All the omens are with the Republic which must yet win its sublimest triumphs. Timid or perverse counsels may postpone the glad consummation; but the contest now begun can end only when slavery is completely transformed by a metamorphosis, which shall substitute Justice for Injustice, Riches for Poverty, and Beauty for Deformity. From history we learn, not only the Past, but the Future. By the study of what has been we know what must

be, according to unerring law. Call it, if you please, the logic of events, and infer the inevitable conclusion. Or call it, if you please, the Rule of Three, and from the results of certain forces determine the proportionate results of increased forces. There can be no mistake in the answer. And so it is plain that the Equal Rights of All will be established. Amid all seeming vicissitudes the work goes on. Soon or late the final victory will be won. I believe soon. Speeches cannot stop it; crafty machinations cannot change it. Against its irresistible movement politicians are as impotent as those old conjurors, who imagined that,

"By rhymes they could pull down full soon,  
From lofty sky the wading moon."

These verses, which shine on the black-letter page of the great lawyer, Sir Edward Coke, aptly describe the incantations of our day to pull down Justice from her lofty sky. It cannot be done. In this conviction I can observe what comes to pass without losing faith. I can listen with composure to arguments which ought not to be made, and I can see with equal composure how individual opinions swing between Congress and the President. It is not to the oscillations of the pendulum that we look for the measure of time, but to the face of the public clock and the striking of the church bell. The indications of that clock and the striking of that bell leave no room for doubt.

In the fearful tragedy now drawing to a close there is a destiny, stern and irresistible as that of the Greek Drama, which seems to master all that is done, hurrying on the death of Slavery and its whole brood of sin. There is also a Christian Providence which watches this battle for right, caring especially for the poor and downtrodden who have no helper. The freedman still writhing under cruel oppression now lifts his voice to God the avenger. It is for us to save ourselves from righteous judgment. Never with impunity can you outrage human nature. Our country, which is guilty still, is paying still the grievous penalty. Therefore by every motive of self-preservation we are summoned to be just. And thus is the cause associated indissolubly with the national life.

But in saving the Republic we elevate it. In overthrowing an oppressive injustice we give full scope to the principles of our government and fulfill that "Idea of a perfect Commonwealth," which has entered into the visions of philosophy and poetry. "I am all that has been, that is, and that shall be, and none among mortals has hitherto lifted my veil;" such was the enigma cut on the pavement of the temple of Minerva. For ages it remained unanswered; but the answer is now at hand. The Republic is all that has been, that is, and that shall be; and it is your duty to lift the veil. To do less than this were a failure, for such was the aspiration and promise of the Fathers when they assumed their first vows in the family of nations.

To do this will fix the example of American Institutions. So long as slavery endured, it was impossible: so long as a Black Code, the wretched counterpart of slavery, endures in any form, it is impossible. To attain this idea we must proclaim the rule of Justice. Slavery thus far has been the very pivot, round which the Republic has revolved, while all its policy at home and abroad has radiated from this terrible center. Hereafter the Equal Rights of All will take the place of Slavery, and the Republic will revolve on this glorious pivot, whose infinite, far-reaching radiations will be the happiness of the Human Family. There is nothing that the imagination can picture which will not be ours. Where justice is supreme nothing can be wanting. There will be room for every business and for every charity. The fields will nod with increase; industry will be quickened to unimagined success, and life itself will be raised to a higher sphere. There will be that repose which comes from harmony, and also that simplicity which comes from one prevailing law, both of which are essential to the idea of the Republic. Our country will cease to be a patchwork where different States vary in the rights they accord, and will become a Plural Unit with one Constitution, one Liberty, and one Universal Franchise. With all these things the Republic will be a synonym for justice and peace, for these things will be inseparable from its name. In our longings we need not repair to philosophy or poetry. Nor need we go back to the memorable sage, who declared that the best government was where every citizen rushed to the defense of the humblest as if he were the State, for all this will be ours. Nor need we go back to that patriot king, in ancient tragedy, who, inspired by the Republican idea, exclaimed:

"The people I made supreme,  
And on this city with an equal right  
For all to vote, its freedom have bestowed."

Here at last, among us, all this will be assured, and the Republic will be of such renown and virtue that all at home or abroad who bear the American name may exclaim with more than Roman pride, "I am an American citizen," and if danger approaches, they may repeat the words more than Roman confidence, "I will be a sufficient

L.

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the vision of a  
Republic. Do not turn  
from it. Vindicate  
the great cause, I intreat you, by the suppression of all oligarchical pretensions and the establishment of those Equal Rights, without which Republican Government is a name only, and nothing more. Strike at the Black Code,

as you have already struck at the Slave Code. There is nothing to choose between them. Strike at once; strike hard. You have already proclaimed Emancipation; proclaim Enfranchisement also. And do not stultify yourselves by setting at naught the practical principle of the Fathers, that all just government stands only on the consent of the governed, and its inseparable corollary, that *taxation without representation is tyranny*. What was once true is true forever, although we may for a time lose sight of it, and this is the case with those imperishable truths to which you have been, alas! so indifferent. Thus far the work is only *half done*. See that it is finished. Save the freedman from the outrage which is his daily life. As a slave he was "a tool without a soul." If you have ceased to treat him according to this ancient definition, it is only because you treat him even as something less. In your cruel philosophy he is only a "cipher," without the protection which the slave sometimes found in the self-interest of the master, or, rather let me say he is only a "cipher" where rights are concerned, but a numeral counted by millions where taxes are to be paid. The freedman is compelled not only to pay taxes; he must fight also, and he must obey the laws; three things which he cannot escape. But, according to the primal principle of Republican Government, he has an indefeasible right to a voice in determining how to be taxed, when to fight, and what laws to obey, all of which can be secured only through the ballot. Thus again, do I return to the same conclusion, which meets us at every point and at every stage, as a commandment which cannot be disobeyed.

Would you secure all the just fruits of this terrible war and trample out the Rebellion in its pernicious assumptions, as in its arms? Then do not hesitate; and this is the last stage of the argument. The Rebellion began in two assumptions, both proceeding from South Carolina: first, the sovereignty of the States, with the pretended right of secession; and, secondly, the superiority of the white race, with the pretended right of Caste, Oligarchy, and Monopoly, on account of color. The first was often announced in every way. The second showed itself at the beginning, when South Carolina alone, among the thirteen States, allowed her Constitution to be degraded by an exclusion on account of color; but it did not receive an authoritative statement until a later day, when that wicked evangelist, Mr. Calhoun, taking issue with the Declaration of Independence, audaciously announced in the Senate that to declare all were born free and equal was "the most dangerous of all political errors; and that it had done more to retard the cause of civilization, and is doing more at present than all other causes combined; that we now begin to experience the danger of admitting so great an error to have a place in the Declara-

tion of Independence." (Calhoun's *Speeches*, vol. iv, p. 51.) These two assumptions are kindred in effrontery. All agree that the dogma of State sovereignty must be repelled; but this is less offensive than that other dogma, having the same origin, that the Declaration of Independence is "the most dangerous of all political errors." To repel such an effrontery is not enough: it must be scorned.

The gospel, according to Calhoun, is only another statement of the imposture, that this august Republic, founded to sustain the rights of Human Nature, is nothing but "a white man's Government." The whole assumption is ignoble, utterly unsupported by history, and insulting to the Fathers, while it is offensively illogical and irreligious. It is illogical, inasmuch as our fathers, when they declared that all men are created equal, gave expression to a truth of political science, which, from the nature of the case, admits no exception. As an axiom it is without exception: for it is the essence of an axiom, whether in geometry or morals, to be universal. As an abstract truth it is also without exception, according to the requirement of such truth. And finally, as a self-evident truth, so announced in the great Declaration, it is without exception; for only such truth can be self-evident. Thus, whether axiom, abstract truth, or self-evident truth, it is always universal. But the assumption is not only illogical, it is irreligious, inasmuch as it flies in the face of that living truth which appears twice at the Creation: first, when God said, "Let us make man in our image;" and, secondly, in the Unity of the race, then divinely appointed, and which appears again in the gospel, when it said, "God that made the world, and all things therein, hath made of one blood all nations of men." According to the best testimony now, the population of the earth—embracing Caucasians, Mongolians, Malays, Africans, and Americans—is about thirteen hundred millions, of whom only three hundred and seventy-five millions are "white men," or little less than one fourth, so that, in claiming exclusive rights for "white men," you degrade nearly three-quarters of the Human Family, made in the "image of God" and declared to be of "one blood," while you sanction a Caste offensive

to religion, an Oligarchy inconsistent with Republican Government, and a Monopoly which has the whole world for its footstool.

Against this assumption I protest with mind, soul, and heart. It is false in religion, false in statesmanship, and false in economy. It is an extravagance, which, if enforced, is foolish tyranny. Show me a creature, with erect countenance looking to heaven, made in the image of God, and I show you a MAN, who, of whatever country or race, whether darkened by equatorial sun or blanched by northern cold, is with you a child of the Heavenly Father, and equal with you in all the rights of Human Nature. You cannot deny these rights without impiety. And so has God linked the national welfare with national duty, you cannot deny these rights without peril to the Republic. It is not enough that you have given Liberty. By the same title that we claim Liberty, we claim Equality also. One cannot be denied without the other. What is Liberty without Equality? What is Equality without Liberty? One is the complement of the other. The two are necessary to round and complete the circle of American citizenship. They are the two lobes of the mighty lungs through which the people breathe the breath of life. They are the two vital principles of a Republican Government, without which Government, although republican in name, cannot be republican in fact. These two vital principles belong to those divine statutes which are graven on the heart of Universal Man, even upon the heart of the slave who forgets them, and upon the heart of the master who denies them; and whether forgotten or denied, they are more enduring than marble or brass, for they share the perpetuity of the Human Family.

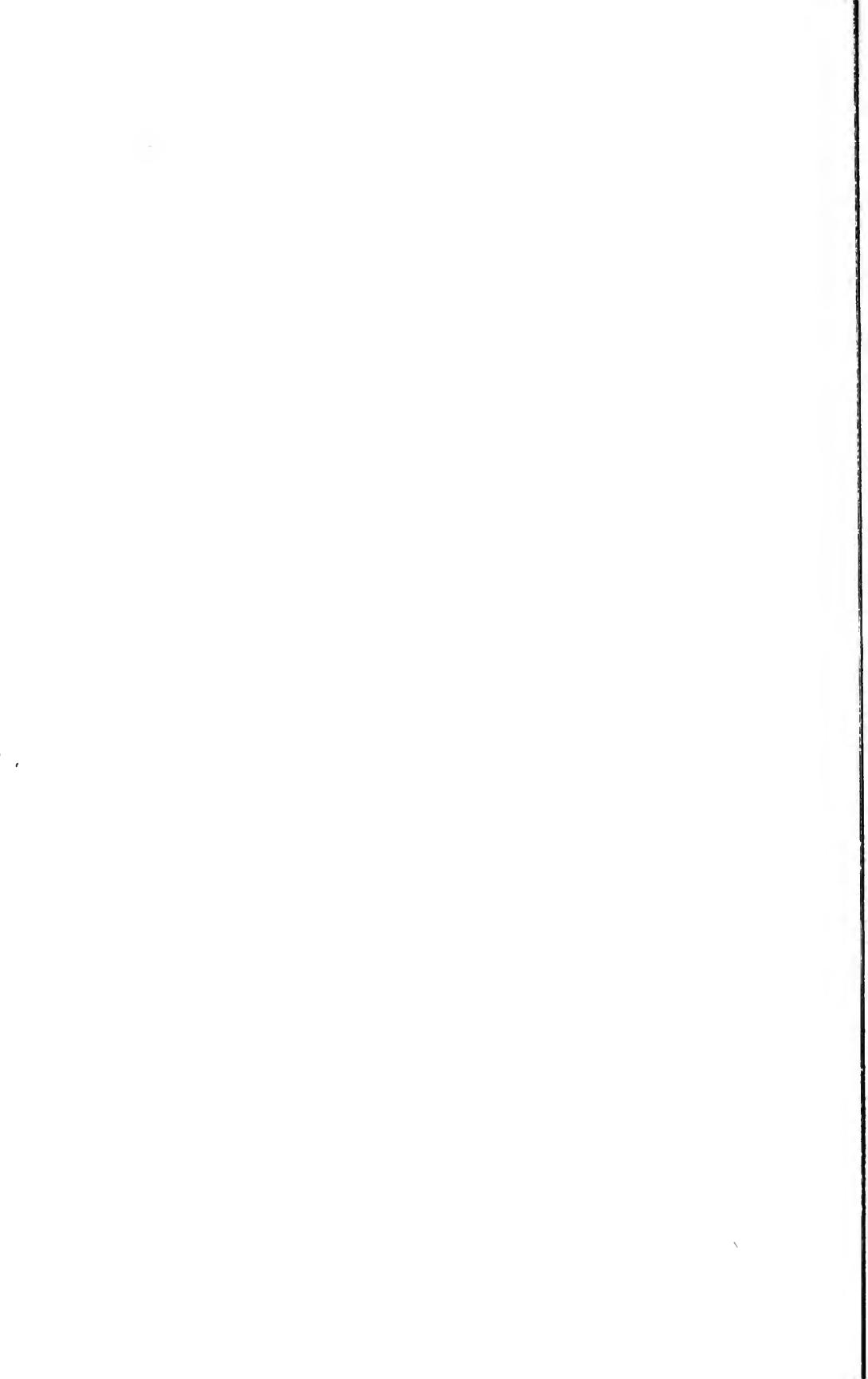
The Roman Cato, after declaring his belief in the immortality of the soul, added, that if this were an error, it was an error which he loved. And now, declaring my belief in Liberty and Equality as the God-given birthright of all men, let me say, in the same spirit, if this be an error, it is an error which I love; if this be a fault, it is a fault which I shall be slow to renounce; if this be an illusion, it is an illusion which I pray may wrap the world in its angelic forms.

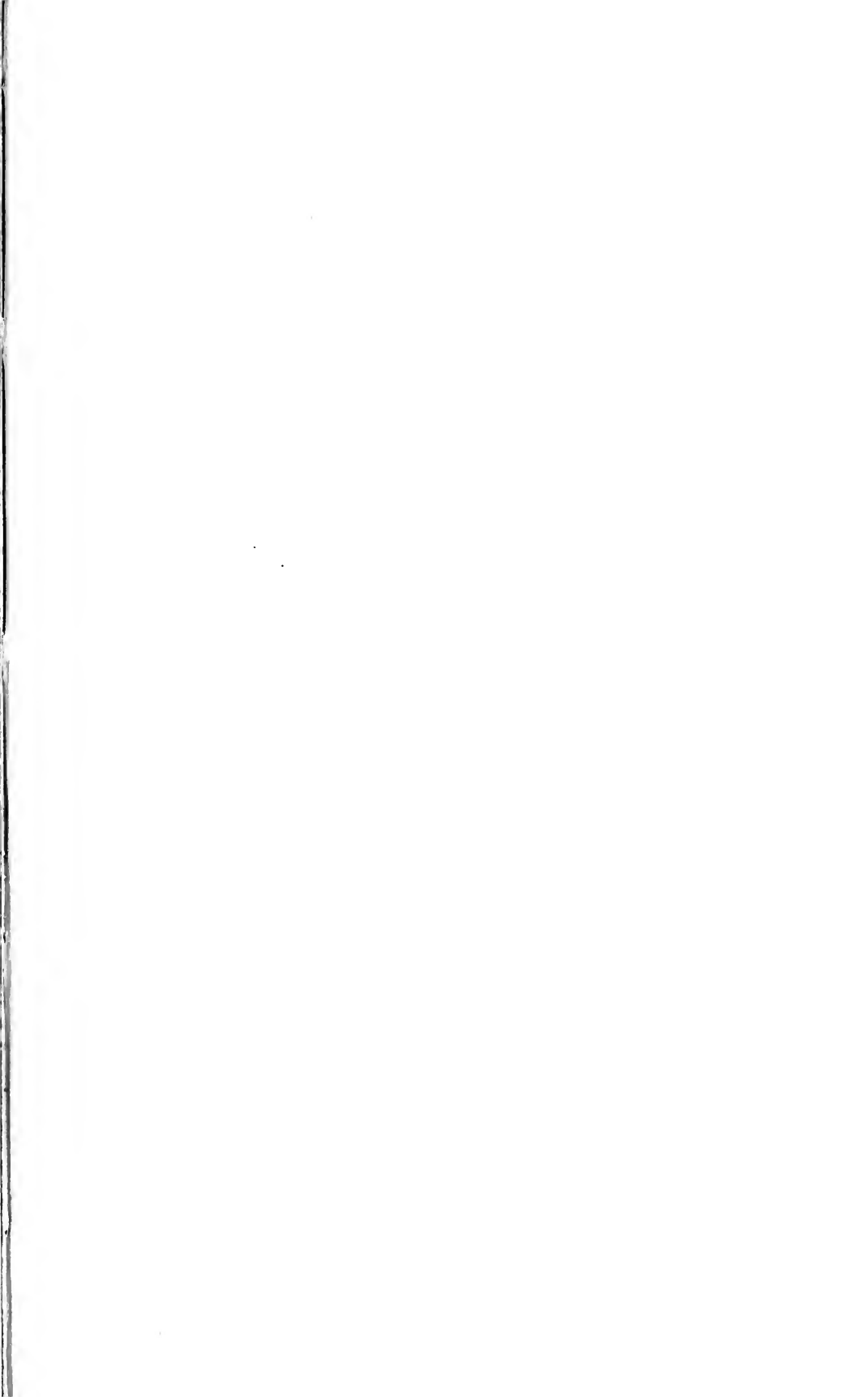












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