THE FORMATION

OF THE

STATE OF

WEST VIRGINIA,

AND OTHER

INCIDENTS OF THE LATE CIVIL WAR;

WITH REMARKS ON SUBJECTS OF

PUBLIC INTEREST,

ARISING SINCE THE WAR CLOSED,

BY

GRANVILLE PARKER.

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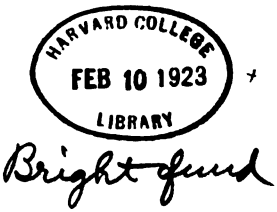

PREFACE.

I submit the following pages to my countrymen. They aim to state some facts connected with the Formation of the State of West Virginia, and other Incidents of our late Civil War, not, I think, generally known; and explain others. So far as they relate to my *personal* experiences they give in the main, my feelings, views and action as expressed at or near the time the events occurred, as will appear from the date and place, which are generally affixed.

I have thought a pretty free interchange by the members of our Great Political Family, of *personal* experiences during the War, would best enable us to realize that amount of Political Wisdom which the magnitude of the Sacrifice made, ought to yield. In this belief I have ventured to contribute my mite—hoping others equally interested, will approve the suggestion, and contribute of their abundance. Sincerity and Truth on all subjects, rather than the graces of style, seem to me to be the characteristics most needed. Also some remarks on subjects Political, Financial, Educational and Religious, as they arose, since the War closed. We have got to get back, or down, to the Principles on which our Government rests, and Conform our Lives to them—else we are *Falsities*—politically so, at least. So Unique and Conspicuous a Government as we possess, cannot be long successfully run, unless its citizens be Honest, Intelligent, Level-headed, Industrious men, and Discreet, Frugal and Virtuous women.

WELLSBURG, W. VA., August, 1875.

ERRATA.

I note here material errors discovered on perusal, and give the correction. On page 45, paragraph 3—the *practice* with the Virginia Legislature prior to 1861 was to first take the sense of the voters on calling a Convention to alter or amend her Constitution. It was done prior to those of 1829 and 1850—though at no time was it *required* by her existing Constitution prior to that date. On page 194, paragraph 1, for "EPHRAIM B. HALL," read A. BOLTON CALDWELL "Attorney General;" and for "Judge BROWN" read Judge BERKSHIRE "became its first President." Both Mr. HALL and Judge BROWN were second, I think, in succession to these offices under the New State. I find no typographical errors which the context will not readily correct.

CONTENTS.

RESOLUTIONS IN REGARD TO THE JOHN BROWN RAID ON HARPER'S FERRY, UNANIMOUSLY ADOPTED AT A MEETING OF THE CITIZENS OF GUYANDOTTE AND VICINITY, DECEMBER 12, 1859.

WHEREAS The recent atrocities committed at Harper's Ferry, the conduct of our authorities, both civil and military, relating thereto, and the move made in other States—demand in our judgment, a calm, full, and earnest expression of the sentiments of our people: Therefore Resolved,—

FIRST: That the recent audacious and unprovoked aggression of John Brown and his associates upon the laws and dignity of our State, and the rights guaranteed to us by the Federal Constitution—merits the unqualified reprobation of all men, wherever resident, who believe in the common rights of Humanity, or that the Constitution and Union are worth preserving; and that the existence of an opposite sentiment on this subject, whether expressly avowed, or necessarily implied, denotes the greatest perversion of the moral, or derangement of the intellectual faculty.

SECOND: That as citizens of the State thus assailed, and entertaining these views, whether living upon the banks of the Ohio, or the shores of the Chesapeake—we know of but one course to pursue, and that is, *to repel at all hazards*.

THIRD: That the conduct in this emergency of Governor WISE and other officers, Judicial, Executive and Military, has our unqualified approval—they having represented faithfully throughout, the prudence and calm determination, the high respect for law, and humanity, of our people.

FOURTH: That while we have witnessed with feelings of the deepest sorrow, manifestations in some of our sister States, approving the treasonable and murderous attack, which unrebuked, would imply general acquiescence—we hail with corresponding joy every instance of its condemnation.

FIFTH: That we in common with the slave and non-slaveholding portions of the people of our State, solemnly protest against any foreign, or outside interference with the slaves of Virginia; and conjure our fellow citizens of other States, by all that is sacred in the ties of country and kindred, worth our remembrance in the past, valuable to us in the present, or worthy our hope in the future, to leave this subject to our own management—believing, as we religiously do, that all foreign, outside interference tends only to the permanent injury of both Bond and Free, and to bias and becloud with passion and prejudice that arbiter, to whose decision alone the Federal Constitution, the voice of mankind, and the will of the Almighty, have committed it—*a clear perception of our own best interest.*

SIXTH: That as Virginians, every inch of her soil is dear and sacred to us; and while we partake of her present blessings, and past glory, we pledge our *all* to her defence—with unshaken confidence, that by a seasonable removal of unjust discrimination now existing among her great interest, a liberal, enlightened and *active* policy in completing her works of Internal Improvement, increasing her Home Manufacture, fostering her Commerce, and encouraging, with her Military, the Mechanic Arts—our beloved Commonwealth will yet become, as she has ever been in the Cabinet and the Field, first also in point of Wealth and Material greatness.

SEVENTH: That we believe there is no natural, or necessary antagonism in our vast, and as yet but partially developed and sparsely settled country—between free and slave labor; but that the two systems, *if let alone*, will long continue to adjust themselves to the wants of the country, with entire harmony, and the happy effects to our National prosperity and happiness, heretofore experienced: That what is termed the "Irrepressible Conflict" can have no existence in *fact*, while our country needs, as it does now, a hundred laborers where it has one, free and slave included; but has been gotten up and promulgated by unpatriotic men, North and South, in order to excite and divide the people, and serve their own selfish ends.

LAST APPEAL OF THE PEOPLE OF CABELL COUNTY AND VICINITY, TO THE RICHMOND LEGISLATURE, JANUARY, 1860.

To the General Assembly of Virginia:

Whereas The undersigned, being legal voters, residing along the western, and in the present alarming crisis—the frontier border of the State, and seperated at present (unless the unfrozen and sufficiently deep waters of the Ohio shall admit our going round by the improvements of other States) about six days journey from our Capitol—the only proper place to look for succor in time of need; and whereas the recent audacious assault upon Harper's Ferry appeals to our people to fortify and strengthen by all the means in their power—we would respectfully, but earnestly urge upon your Honorable body, the imperative necessity of completing at once the Covington and Ohio Railroad to the Kentucky line—for the following reasons:

First: It will bring that portion of the cis-Alleghany branch of the family, now so alien by position, but not as yet in affection, in close and easy communication with the Maternal head—to promptly give and receive succor, and exchange daily congratulations and favors—which tend so much to make a Great People in heart and in purpose, one.

Second: While we regard all the great interests of the State, and every section thereof, entitled to equal protection and favor from the Legislature; and reflect that our broad, and as yet—for want of adequate outlets—very imperfectly developed section of country—has for many years been subjected to heavy, and in some instances, unequal and unjust taxation—to help build up Railroads and Canals in other parts of the State—we feel it to be our just right, arising from adequate consideration already rendered, to have the Covington and Ohio Railroad promptly completed.

Third: But rising above sectional and personal considerations, we say the sound policy of the State, and whole South, repeat the demand. The State, because it will unite more closely to the Maternal head, by bonds of interest and affection, a large and growing section, now the most exposed, and yet beyond the reach of giving, or receiving seasonable aid—and thereby increase her Military strength.

It will place her Commercial and Manufacturing cities in direct, expeditious and cheap communication with the great West—the produce and trade of which have mainly built up, and now sustain in all their pride and greatness, the cities on our North. It will materially help to make Norfolk a great depot, and when this takes place, direct trade with the ports of Europe will spontaneously and at once spring up—as that city will then be able with necessary despatch to collect and load, and discharge and distribute, the cargoes of Ocean-going ships. It will open both East and West, cheap and expeditious outlets, and thereby help to develop and turn into money, her vast mineral stores, and greatly enhance her Agricultural wealth. The power of the thousand waterfalls along the line will become a most effective auxilliary in building up Home manufacture—so necessary to her independence—and in fine it will be to her present unfinished system of Improvements, and to her people, a quickening spirit—infusing into them new life; and inspire her people with that love of Industry, and the Practical Industrial Arts, which has made England, the progenitor of us all—"what England is!"

Its speedy completion will greatly strengthen and enhance the interest, independence and convenience of the whole South, by establishing on Southern soil, upon the Atlantic, great Commercial and Manufacturing depots, with a cheap, quick and safe access thereto, and to our Springs and Watering places—*for every species of property.*

FOURTH: The completion of this road will give to itself and the entire system of Improvements, including the water line, with which it is to connect, and form the main trunk and feeder—some now in decay, and all a languishing burden—a vital and highly remunerative existence—that shall soon extinguish the Public Debt. To delay, therefore, seems to us in this point of view merely, as unwise and suicidal, as it would be for an individual to delay the opening of the main Sluice to the Reservoir, after having dug all the ramifications to irrigate his extensive Farm; or to complete the last rod of an extensive Toll Bridge, which should connect it with the opposite shore.

FIFTH: It is equally as necessary in our mind, that the appropriation should be expended simultaneously, and in equal proportions at least, at the East and West ends. For an additional million expended during the next two years in tunnelling the Alleghanies, will scarcely be perceptible to anybody, while that sum expended on the Western end, will save the half million now fast going to decay, open

a cheap outlet to the Ohio to a large portion of our people, for their Mineral and Agricultural products, and from the easy grade of this section, will overcome to some extent the obstacles that now seperate us.

These are our firm convictions on this vitally important subject, formed upon careful and mature consideration; and having expressed them earnestly and in respectful terms to your Honorable Body, which alone has the power to act—our duty ends for the present—the rest is with you.

This Memorial was numerously signed and forwarded to Richmond, but the prayer was unheeded. The entire appropriation made, was ordered to be expended on the East end. I think this was our last appeal to the Richmond Legislature.

In reply to a long and labored article that appeared in the New York *Courier and Enquirer*, of the 20th of November, 1860, with Massachusetts' "Personal Liberty Laws" annexed—assuming to show the same were not in violation of the United States Constitution or Laws, I sent to the Boston *Courier* the following Letters, which are preceded by the Massachusetts Laws, and the Editor's prefatory remarks. For the laws of Congress on the same subject in force at the time, reference is made to Brightly's Digest, page 294.

From the New York Courier and Enquirer, November 20, 1860.

"FUGITIVE SLAVE ACT AND PERSONAL LIBERTY LAWS.

"We have said that there is no law in any Northern State nullifying the Fugitive Slave Law. We proceed to prove it. We will give the Massachusetts law, which is known as a Personal Liberty Law, in

full, as it contains the pith and substance of all the laws of a similar character in other States. We will give abstracts of like laws in other States, and then show that not one of them nullifies the Fugitive Slave Law.

We copy from the Revised Code of Massachusetts:

REVISED CODE OF MASSACHUSETTS. CHAPTER 144.

§. 57. The Governor, by and with the advice and consent of the Council, shall appoint in every county one or more commissioners, learned in the law, who shall, in their respective counties, when any person is arrested or seized, or in danger of being arrested or seized, as a fugitive from service or labor, on being informed thereof, diligently and faithfully use all lawful means to protect and defend such alleged fugitive, and secure to him a fair and impartial trial by jury, and the benefits of the provisions of this chapter; and any attorney whose services are desired by the alleged fugitive may also act as counsel. (Act 1855, 489, § 17.)

§. 58. The commissioners shall defray all expenses of witnesses, clerks' fees, and officers' fees, and other expenses which may be incurred in the protection and defence of any person so seized or arrested; and the same, together with the reasonable charges of the commissioners for their services as attorneys and counsel, shall be paid from the treasury of the Commonwealth on a warrant to be issued by the Governor. (Act of 1855, § 18, p. 489.)

§. 59. No person while holding any office of honor, trust, or emolument, under the laws of this State, shall in any capacity take cognizance of any case, issue any warrant or other process, or grant any certificate, under or by virtue of an act of Congress approved the twelfth day of February, in the year 1793, entitled "An act respecting fugitives from justice and persons escaping from the service of their masters," or under or by virtue of an act of Congress approved the eighteenth day of September, 1850, entitled "An act to amend, and supplementary to 'An act respecting fugitives from justice and persons escaping from the service of their masters,'" or shall, in any capacity, serve such warrant or other process. *Any justice of the peace who shall offend against the provisions of this section, by directly or indirectly acting in such cases, shall forfeit a sum not exceeding one thousand dollars, or be imprisoned in jail not exceeding one year, for each offence.* (Acts of 1843, page 69, § 1, 3, and 1855, page 489, § 1, 9.)

§. 60. No jail, prison, or other place of confinement belonging to or used by the State, or any county therein, shall be used for the detention or imprisonment of any person accused or convicted of an offence created by either of the acts of Congress mentioned in the preceding section, or accused or convicted of obstructing or resisting any process, warrant, or order issued under either of said acts, or of rescuing, or attempting to rescue, any person arrested or detained under any of the provisions of either of said acts, nor for the imprisonment of a person arrested on mesne process or execution in a suit for damages or penalties accruing, or claimed to accrue, in consequence of aid rendered to any fugitive escaping from service or labor. (Acts of 1843, page 69, and 1855, page 489, § 19.)

§. 61. Whoever shall remove from the limits of this State, or assist in removing therefrom, or come into the State with the intention of removing or assisting in the removing therefrom, or procure or assist in procuring to be so removed, any person being in the peace thereof, who is not held to service or labor by the "party" making "claim," or who has not "escaped" from the party making "claim," or whose service or labor is not "due" to the "party" making "claim" within the meaning of those words in the Constitution of the United States, on the pretence that such person is so held or has so escaped, or that his "service or labor" is so "due," or with the intent to subject him to such "service or labor," *shall be punished by fine not less than one thousand nor more than five thousand dollars, and by imprisonment in the State prison not less than one nor more than five years.* And any person sustaining wrong or injury by any proceeding punishable as aforesaid, may also maintain an action and recover damages therefor. (Act 1855, 489, sections 7, 8.)

§. 62. Any sheriff, deputy sheriff, jailor, coroner, constable, or other officer of this State, or of the police of any city or town, or any district, county, city, or town officer, or any officer or other member of the volunteer militia of this State, who shall hereafter arrest, imprison, detain, or return, or aid in arresting, imprisoning, detaining, or returning, any person for the reason that he is claimed or adjudged to be a fugitive from service or labor, *shall be punished by fine not less than one thousand and not exceeding two thousand dollars, and by imprisonment in the State Prison for not less than one nor more than two years.* (Acts 1843, 69, sec. 23; 1855, 489, secs. 1, 15.)

§. 63. The volunteer militia shall not act in any manner in the

seizure, detention, or rendition of a person for the reason that he is claimed or adjudged to be a fugitive from service or labor. Any member thereof who shall offend against the provisions of this section *shall be punished by fine not less than one thousand and not exceeding two thousand dollars, and by imprisonment in the State Prison for not less than one nor more than two years.* (Act of 1855, 489, section 16.)

§. 64. The penalties prescribed by the two preceding sections shall not apply to any act of military obedience and subordination performed by any officer or private of the militia. (Act of 1858, 175, section 2.)

§. 65. Nothing in the eight preceding sections, nor in sections nineteen, twenty, and twenty-one, shall be construed to apply to so much of the act of Congress of the twelfth of February, 1793, as relates to fugitives from justice. (Act of 1855, 489, 21.)

§. 66. No person holding a judicial office under the laws of the United States, or the office of Commissioner of the Circuit Court of the United States, shall hold any judicial office under the Constitution and laws of this State, except that of Justice of the Peace. No Justice of the Peace, while holding the office of Commissioner of the United States Circuit Court, shall have authority to grant any warrant, or to issue any process, civil or criminal, other than summonses to witnesses, or hear and try any cause, civil or criminal, under the laws of this State. (Act of 1858, 175, sec. 1.)"

OUR FATHERS' BOND.—No. 1.

MY FRIENDS AND FELLOW CITIZENS OF MASSACHUSETTS:

It is natural for the dearest memories of life to cluster around the place of our birth, and graves of our Ancestors. For here upon the unsoiled tablets of our youthful minds are indelibly daguerreotyped the pleasantest impressions, by the rays of Love from Parents whose ashes sanctify their graves.

If the spot happens to be known to fame, or to be hallowed in the annals of our country by the heroic and patriotic deeds of these Ancestors, a just pride naturally adds strength to the attachment.

No Massachusetts boy needs to be reminded how prominent and

glorious in those annals are Boston, Lexington, Concord, and Bunker Hill, or the Actors in those scenes. The world knows them by heart—and hence it is, that however long or remotely separated I am from my native State, my anxious solicitude for her glory and welfare does not abate. And while I claim with pride, as a just inheritance, a share in her past glory, I deplore, with the deepest filial sorrow, her present standing in the Union, and in relation to our Fathers' Bond, the Constitution, that forms that Union.

To establish and perfect this Union for themselves and posterity, the Fathers, (the brightest constellation of great men that ever lived) sacrificed their treasure, ease, comfort, and in fact their whole lives.

Look now for a moment to the fruits this Union has produced in the short space of eighty-four years. From the thirteen feeble and discordant Colonies, it has swelled to thirty-three States; each an Empire, or containing the elements of one, within itself; each with a Republican form of Government, self-acting and independent, except so far as restrained by our Fathers' Bond, the Federal Constitution. This Bond also established a Republican form of Government for Imperial and General purposes, resting for support immediately upon the People of *all* the States, from whom it derived its powers; and is also *self-acting* and entirely *Supreme*, within the scope of the powers granted it.

This Federal Government is charged with the care of the *People* of the *United States* as a *unit*, to be, the impartial Guardian and Protector of all—the People of each State being left free to conduct and manage through their respective State Governments, all their local and domestic matters, as the soil, climate, and resources of their particular State shall in their judgment require; provided always they do not encroach upon, or obstruct the due execution of the Federal powers, which are in all cases within the scope of powers granted it, *Supreme*.

Under the workings of this transcendantly wise System, our Territory has expanded from narrow strips along the Eastern and Western Slopes of the Alleghanies, to the Pacific—our People from three to about thirty millions—our Cities, from one, Philadelphia—then numbering 40,000 inhabitants, to about one hundred and thirty; with New York, now the third, and soon, *if the Union is preserved*, to become the first in the World. Our Commerce is second only to that of Great Britain. Our Tonnage, increased from a few inferior ves-

sels, to over 5,000,000. Our annual Exports from comparatively nothing to about $300,000,000; and in fact the increase of everything else, which makes a People great, independent and happy, has been equally wonderful and hitherto unexampled in the World. Our flag known and honored by all Nations; and even the isolated and heretofore sealed up people of the *East, have been recently allured to our shores—asking our friendship and alliance.

Nor has the rapid extension of our Government over new Countries and new peoples, occasioned any injurious competition or antagonism, in the working of the Great and vastly diversified Industrial interests, under its wonderful System; but the whole have been characterized by that perfect harmony and reciprocity shown in the workings of the vital functions of a healthy animal body—no where too much, and every where enough—each part receiving and imparting vigor and nourishment—(save only here and there the grating jar of obstruction to the due execution of the Fugitive Slave Law.) Blessed with plentiful harvests, and general health; at honorable Peace with all nations; and until within a few short weeks, every department of business prosperous, and our people full of hope and happiness.

Now—a *Crisis* is upon us! Secession is attempted; Revolution is invoked; the whole Industrial and Commercial interests of the Country are fast sinking into distrust and bankruptcy. Alarm is becoming depicted on every countenance; and all this National greatness, happiness and hope, are threatened with desolation and ruin!

These apparently violent and startling phenomena must have an *adequate cause somewhere.* For this we should diligently seek, if we hope to effect a cure. Is it the recent election of Messrs. LINCOLN and HAMLIN by Constitutional majorities? By no means; for this fact itself, cannot weigh a feather in any rational mind. It is the *sectional* character of these votes, with the *well known causes* that produced them, and the *foreshadowed future*, that have alarmed and roused the South.

Sound reason naturally infers the future from the present and past. What then is the Present, and what has been the Past in relation to the all absorbing subject of African Slavery, which now embraces about 4,000,000 of African extraction, happily intermingling in the capacity of servants with the whites of fifteen States?

*Japan.

At the formation of our Federal Constitution, the thirteen original Colonies, I think, held slaves; but few along the Northern Border and thickening Southward. Interest and a sound political economy soon induced the Northern States to get rid of Slavery, either by selling South, or emancipation. An ancestor of mine had some sixty emancipated by a Court's decision of Massachusetts. I can well remember, (as many of you must,) the fate of the emancipated negroes of your State. There was a time when "Nigger Hill" in Boston was as *famous* in that vicinity as Bunker Hill in Charleston, but for a very different cause. And the ridiculous caricatures of their *Abolition Day*, derisively called "Bobolition Day" by the whites, too clearly show with what esteem the freed blacks were held by the people of Massachusetts, at that day. They soon vanished away like the Indian before a superior race. The census of 1859 shows the increase of *free* blacks from 1840 to 1850, to have been only ten per cent; while the increase of *Slaves*, during the same period, was thirty per cent. This is a very material and significant fact in determining which is the true normal condition of the race.

At the formation of the Constitution, Cotton, Rice and Sugar, now the great staples of the South, were comparatively unknown in this country. My cotemporaries can remember when "India Cotton" was all we heard of. Our Southern Statesmen at that time saw little chance in their States for future *profitable* employment of Slaves, and hence their recommendation of gradual emancipation, and hence as one reason their failure to make more ample and explicit provisions in the Constitution for this species of property.

The great Cotton, Sugar, and Rice interests have all grown up since. The climate and soil suited to their successful culture, required negro labor; and hence their increase in value and numbers, from $100 to $1,500 in value, and from comparatively few in number, to about 4,000,000—Virginia and other States, whose soil and climate were not fitted to raise these products, found it profitable to grow Slaves for Southern Markets, particularly after 1809, when Foreign importation was prohibited. Cotton has now become the clothing of the World. The Gulf States have hitherto proved its only successful producers. Hence it has become "Lord Paramount" of the World, and Thrones and Principalities, it may be almost said, rest upon it. To this *unforeseen* growth and demand for Cotton, and corresponding *importance* of *African Slave Labor*, the primary cause of our present troubles and dangers can mainly be traced; for the Free States soon began

to question whether the Federal Constitution afforded, or contemplated room for it; while the constantly increasing stimulus of powerful interest urged the South—*to make room for it.* Here began some forty years since the Conflict, which has continued to wax warmer and warmer, till the fearful Present!

Both Free and Slave States continued to view the subject as one purely of Political Economy, until some twenty-five years since. When my conscience and education were formed and built up in Massachusetts, the subject of African Slavery had no place in any code of morals, in any Sermons, or Prayers of Pulpits, or lessons and teachings of the School-house, or under the Paternal roof.

It was a question then to be settled by profit and loss merely, there, as in the South. But since my day the subject has been *elevated* to the "forum of Conscience:" first in the Free States by weak, or designing men, and took the name of Abolitionism; which was at first very odious, often rotten-egged, and shunned by Political Demagogues, as a pestilence. But as the subject was peculiarly fitted to arouse and enlist the feelings, and as all the facts connected with the actual working of the Institution were too remote to admit of practical correction—Utopian moralists, and stormy preachers, too desirous of notoriety, espoused the subject as a hobby. It entered the School-house, and ascended the Pulpit, and began to become an element in forming and building up the conscience and education of the rising generation. Its progress was slow, however, until the name was changed to "Free Soilism" about 1848, soon after the acquisition of the Mexican Territory. The subject then became respectable, and entered most of the Pulpits and School-houses, was courted by political demagogues, and soon began to ascend to the highest offices.

It has entered so largely into the formation and building up of the consciences and education of the present generation, that I really believe very many in the Free States conscientiously look upon African Slavery as the greatest of moral evils, without any *accessable* means of becoming undeceived.

This I look upon as the most alarming feature of the disease by far; for the delusion has entered as a reality into the conscience, which is being daily worked upon by so large an array of interested and unscrupulous men, without the accessable means of correction. Meanwhile, on the other hand, the South in a spirit of retaliation,

and stimulated by great and increasing pecuniary interest, have formed and built up a directly opposite conscience, viz: That African Slavery is a great moral and political good to the blacks, at least; and here we come to the fearful issue, now to be either compromised, or tried by force of arms!

The South, holding in their hands the Cotton King, something of which the North must have; and the 4,000,000 blacks to be supported and taken care of by somebody—will agree to abide by our Fathers' Bond, the Constitution, as their rights have been, or shall be, decided by the Supreme Court, provided the Free States will do the same.

To nothing short of this will the South ever submit. They will encounter disunion and death, rather than submit to injustice or dishonor.

Now is it not right that the Free States should come to these terms? What sacrifice will they have to make? I am unable to see any. From my stand point the vital interest of every Free State lies in preserving the integrity of the Union. The South will still be content to confine herself to raising the raw material, (always the poorest paying part in the producing process) and exchange with the North for her manufactured articles, or pay the customary duties on whatever she imports, rather than forego the blessings of Union and open a Free Trade Alliance with England and France. All she asks is to be let alone, and secured in her Rights to the extent the Constitution guarantees.

What substantial sacrifice, I repeat, does she ask the Free States to make? Nothing, I affirm, but to keep inviolate our Fathers' Bond. To do that you will only have to abjure that false, artificial, and abnormal conscience, which cunning and designing men have studiously built up among you, upon a subject you can know but little of, and have no concern with, except faithfully to perform the requirements of the Bond as our Fathers intended. That is all. The acts of the Free States flatly contradict their professed humanity for the negroes. There exists too long and too strong an array of actual facts and conduct, towards that unfortunate race, to hang a doubt on, of the entire heartlessness of all such professions.

Would true humanity for the blacks dictate the walling in of the present 4,000,000, that increase thirty per cent. every ten years,

TO DIE OUT; or permit them to accompany their Masters, to enjoy fresh, virgin lands, in a congenial climate? Mine would certainly dictate the latter.

I have read in the New York *Courier and Enquirer* of the 20th ult., extracts from the so called "Personal Liberty Laws" now standing on the Statute Books of Massachusetts and other Free States, and a long and labored article by the Editor, attempting to prove their entire consistency with the Federal Constitution and Fugitive Slave Laws passed by Congress in pursuance thereof—though he distinctly admits they amount to "Unfriendly Legislation."

I never witnessed a more unsuccessful attempt. Nor did I know before that such *rank nullification, not only in spirit and meaning, but in letter*, existed on her Statute books. I learn also from the same source that Massachusetts was the *first* to pass these nullification laws, and that the other nullifying States only *followed her example.* It is her laws therefore I propose to test by the provisions of the Constitution in my next.

CABELL COUNTY, WESTERN VA., December 1, 1860.

OUR FATHERS' BOND.—NO. 2.

MY FRIENDS AND FELLOW CITIZENS OF MASSACHUSETTS:

In my former number I endeavored to give you what seemed to me to be the true diagnosis of our present National disease, from which our present imminent danger springs. I will now endeavor to convince you of some of the errors at least, you have been led to commit by reason thereof, with the hope you may correct them *before it shall be too late.*

The only clause in our Federal Constitution which relates to the *Rendition* of Fugitive Slaves is the following:

"No person held to service or labor in one State under the Laws thereof, escapiug into another, shall, *in consequence of any law or regulation therein* BE DISCHARGED from such services or labor, BUT SHALL BE DELIVERED UP, on claim of the party to whom such service or labor may be due."

Article 6, Section 2, of the Federal Constitution is as follows:

"This Constitution and the Laws of the United States, which shall be made in pursuance thereof, and all Treaties made, or which shall be made under the authority of the United States, SHALL BE THE SUPREME LAW OF THE LAND; *and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the contrary notwithstanding.*"

These clauses are characterized by the same simplicity, comprehensiveness and precision of language that mark the other parts of that Instrument, as well as the other productions of WASHINGTON, FRANKLIN, HAMILTON, MADISON, PINCKNEY, and their associates—all eminently practical—and accustomed to say and write just what they meant in plain English, so that to be misunderstood, or misconstrued, requires the labor and pains.

Now if my servant, owing me service or labor for life, or my apprentice, owing me service or labor for a term of years, should escape to Massachusetts, what in the fair meaning and spirit of these Provisions of the Federal Constitution, would be the *duty* of the people of Massachusetts TO DO; and WHAT TO ABSTAIN FROM DOING? The clauses themselves answer both branches of the inquiry: First, "*he shall not be discharged by reason of any Law or regulation of Massachusetts.*" Hence any attempt to effect his discharge, directly or indirectly, openly or covertly, by any act of her Legislature, her officers, or citizens, would violate this clause of the Constitution, and involve all parties participating therein, in a breach of their oaths to support the Federal Constitution, the "Supreme Law of the Land." Having seen what it is their duty *to abstain from doing*, the next inquiry is, what does it *enjoin on them to do*? The clause itself also answers this branch of the inquiry in equally explicit terms, viz: *he* "*shall be delivered up* on claim of the person to whom such service or labor may be due." It is unquestionably the duty of the claimant to first prove his title to such Fugitive—but he can only be required to prove it in the manner the title to other property was required to be proved by the rules of the Common Law *as it existed at the adoption of the Constitution;* at which time the testimony of ONE unimpeached witness would be sufficient, and *depositions* of absent witnesses *were admissable.* This would clearly be the rule for proof of title until such time as Congress, whose duty it is to see all rights secured by the Federal Constitution fully sustained and carried out—should prescribe other rules.

What is meant by the words "deliver up?" They certainly imply *action* and not merely *permission* for the claimant to come and take his slave, *if he can find and catch him.* What does Bail or Surety, in common cases, have to do in order to "deliver up" his principal? He certainly has to *catch* his principal, *and actually deliver him over to the officer or Court*—and a like *positive duty* would be required on the part of the people of a State, to satisfy this clause of the Constitution according to its fair intendment and meaning.

But *whose duty* is it thus "to deliver up?" It seems to me very clear, that this duty "to deliver up" rests upon the State in its *corporate* capacity—as well as on every citizen thereof—he being bound to assist in faithfully discharging a Constitutional duty resting on his State; and being also a citizen of the United States, and bound by *paramount* obligation to support its Constitution—he may be lawfully required, at all times, by either Sheriff or United States Marshal, to help form a posse to assist in such "delivering up."

Any attempt therefore, on the part of any State to *prevent or deter* its citizens by the impositions of *heavy fines*, and *infamous imprisonments*, from faithfully and fully discharging this plain Constitutional duty, would be *atrocious* indeed! As it would thereby impose on its own citizens, the awful and justly abhorent alterative of submitting to these *heavy fines and infamous imprisonments, or a violation of their Oaths to support the Federal Constitution!* And it seems to me to be equally clear that it is the duty of the State in its *corporate* capacity, acting by, and through its Officers, to "deliver up" such fugitive; for the *same sentence*, which forbids a State making any "law or regulation," "to discharge" (which would be clearly a corporate act,) continues the same corporate duty, to "deliver up," which can be done only by and through its Officers. This seems to me to be the fair meaning and intendment of the Fugitive Slave clause in the Federal Constitution, when taken in connection with the other clause before quoted.

But it is stated by the Editor of the *Courier and Enquirer* in the article before referred to, that when Congress passed the Fugitive Slave laws and assumed to enforce and carry out the rights secured by the Federal Constitution, it thereby *ousted* and *displaced* the *State jurisdiction*, of the subject, and thereby absolved the State and all its citizens from further obligation to "deliver up," or to allow Federal authorities the use of State Jails, Court Houses, &c., in connection with the subject; and cites the case of Prigg, vs. Pennsyl-

vania. I have not seen this case, nor have I at hand the book containing it; and cannot therefore say what the case undertakes to decide. There are doubtless cases, where legislation by Congress would oust the State jurisdiction on the same subject; but I am wholly unable to see how any Act of *Congress*, whose powers are always *subject to* and *limited by* the *Federal Constitution*, can absolve a State, or its citizens from a *positive duty, unconditionally imposed by the Federal Constitution itself*—unless the creature be above its creator—the inferior, above the superior.

There can be no doubt but that this *positive duty* so imposed on the State, and its citizens, to "deliver up," by the Federal Constitution—the Supreme Law—does continue until removed by the same high authority that imposed it, any law of Congress, or Constitution or laws of States to the contrary nothwithstanding. And hence it is the duty of the State in its *corporate* capacity, and all its citizens, to *cordially co-operate* with the Federal authorities in faithfully carrying out the Fugitive Slave Law, as our Fathers intended; and to extend the use of State Jails, &c., for the purpose.

But where no such *positive constitutional duty exists on a State, or its citizens*, it seems to me equally clear, the Federal Government has no better right to State Jails, &c., than any one else; nor any right to call on State officers as such; but only as citizens of the United States, to which the citizens of every State owe a paramount allegiance.

One word now as to the way the Editor says they contrive to work these "Personal Liberty Laws," so as to attain their end, without violating the Federal Constitution! Which is as follows:—First, The Legislation by Congress, that is the passage of the Fugitive Slave Laws of 1793 and 1850 ousted and displaced the State jurisdiction, and absolved the State and all its citizens from further obligation to "deliver up." That is, the field is cleared for the Federal officers to come and take the fugitive, if they can find and catch him. The State enforces the withdrawal of all her citizens, and officers of every description, from Governor down to Town Constable, with her volunteer militia, by pecuniary fines not less than one, nor more than two thousand dollars, and confinement in the State Prison from one to five years, and closes all her jails, &c. But as soon as the claimant gets his warrant from the United States Commissioner, and places it in the hands of the United States Marshal, and enters the field—thus to all appearance cleared of obstruction—Lo! from

an unexpected quarter, a corps of Commissioners, "Learned in the Law," one or two from each County appointed by the Governor, and whose duty it is made to "protect" and defend all fugitives arrested, "or in danger of being arrested," and if caught, to secure to them a fair and impartial trial by a jury! (The laws of Congress which these Commissioners so "learned in the law" claim to have displaced State jurisdiction and absolved all State duties, provide that all trials should be had before a United States Commissioner.) Still if in spite of the protecting care of these Commissioners, so "learned in the law," the United States Marshal happens to nab the fugitive, and have him in legal custody, these Commissioners, by some transcendental art, known only to the "higher-law" people, RESTORE, *instantaneously, the State jurisdiction!* but *not* the *duty* and *obligation* to "deliver up!" and one of their number applies at once to a State Judge—makes oath that the fugitive "*is illegally held*," and procures a writ of *habeas corpus* and places it in the hands of a Sheriff, who brings the claimant, supposed Fugitive, and Marshal, before the State Judge—by virtue, as they say, of this other provision of the Federal Constitution, viz: "The privileges of the writ of *habeas corpus* shall not be suspended, unless in cases of Rebellion or Invasion, the public safety shall require it." Overlooking the fact, that their invasion of, and resistence to, the Federal authority by arresting the United States Marshal, fugitive and claimant, create *the very exigency* which *suspends the right to writ of habeas corpus*. (Webster defines Rebellion, "A resistance to Lawful Authority.") By their "higher-law" however, they are enabled to get over these things. Having thus superseded the Federal proceedings, and United States Commissioner, and gotten all hands before a State Judge, they encounter this other obstacle, viz: that this State Judge is a man who has a reputation and conscience to look out for, and has taken an oath to support the Federal Constitution! They fear to trust him. Though from the earliest history of the Common Law, to the present time, in England and this Country, the writ of *habeas corpus* has always been tried and decided by the *Judges*, and *never by a jury*. But their "higher law" soon enables them to surmount this difficulty, by this other Clause of the Federal Constitution, viz: "Suits at Common Law, where the *value* in controversy shall *exceed* $20.00, the right of trial by jury, shall be preserved." "The value in controversy!" This makes its necessary to give a value to the fugitive exceeding $20.00, which would imply "property in man!" Which all

"higher law" people deny. Nor can I be expected to tell how they get over this also, for their thoughts and ways are above ours; but a "higher law" jury is always summoned, who discharge the fugitive, and then follows inevitably the "*dead-fall*" to the unfortunate claimant! For this verdict of the Jury and judgment upon it, becomes *conclusive evidence* against such claimant, that the supposed fugitive "did not escape," "or did not owe him service or labor," and that the claimant came into the State under "pretence," the Fugitive did. These facts established, and the claimant is inevitably subject to the heavy pecuniary fines and infamous penalties prescribed in the 61st Section of the "Personal Liberty Laws;" and these Commissioners, so "learned in the law" are ready to say to another unfortunate claimant, "Come walk into my parlor, little fly!" In many of these "Personal Liberty Laws," *two* witnesses are required to establish the claimant's title, though *one* has always been held sufficient in trials of *other* property; and by the Common Law, *depositions* of absent witnesses have always been admissible in trials of title to property; but *are denied* by the "Personal Liberty Laws!"

With all these embarrassments the claimant *must* fail, and become subject to the awful penalties. It renders the Fugitive Slave Law to all intents and purposes inoperative. It *is nullification* to all intents and purposes, and in a most treacherous and sneaking form, for it seeks to attain the object fully, and shirk a just, though awful responsibility.

The Editor of the *Courier* and *Enquirer* states that the whole object and purpose of these laws were to prevent Kidnapping! That there were men of wealth in New York and Boston, who are engaged in the Slave trade, and would not hesitate to kidnap and sell a free negro into Southern bondage! I cannot tell what *other moral monsters* have been generated by this "higher law" conscience of late years, but I do know, that while I was acquainted with those cities, a Kidnapper was as rare as a South Sea Islander; and there would have been as much necessity for *Such Legislation* to prevent depredations by one, as the other. So grave and heinous a charge against a large class of citizens, only shows to what an extremity an Editor may be pushed.

Depend upon it my friends, there is a storm coming on. It is for your highest interest and honor to wipe, *at once*, this rank nullification from your Statute Book; and have your own hands clean and

your house in order. The recent victory of your party enables you to do it without any sacrifice of pride, but purely as an act of patriotism and magnanimity. Besides, it should be the pleasure, as well as duty, of a worthy *Leader* to lead out at once, those her example has led into danger and error. The principles and platform laid down by the Hon. A. H. STEPHENS, in his great speech of advice to the Legislature of Georgia of the 14th ult., will, on one contingency, unite the entire South. The platform contains as one of its immovable planks, that the nullifying States, they having been the first to aggress, shall first recede. These principles are fast permeating all classes of our people, satisfying the understanding and conscience, and uniting the hearts of all. Should the nullifying States set about repealing at once their justly obnoxious and odious laws, a settlement *may* be effected and the Union preserved—but if not—a settlement will be regarded *unattainable*, and redress sought in some form, by Revolution if no gentler means will serve. I can further say—speaking from no limited knowledge of her people—that the United South upon Mr. STEPHEN'S platform—notwithstanding her supposed inherent weakness—will prove invincible; as she will have Right, the approbation of good men, and our Fathers' God, on her side.

If I find time I will endeavor to show in another number, the ruinous effects such a withdrawal and loss of 12,000,000 consumers will have on all New England interests.

CABELL COUNTY, WESTERN VA., December 6, 1860.

OUR FATHERS' BOND.—NO. 3.

MY FRIENDS AND FELLOW CITIZENS OF MASSACHUSETTS:

As it has been in my former, it will be my purpose in this number, to address myself to the business and laboring classes, whose great purpose of life is, to make a good living for themselves and families, by honest means, and not to your present leading politicians, who are standing on tip-toe in large places once *filled* by WEBSTER, DAVIS, CHOATE and their like, as mere indices, showing in their constituency either an extreme elevation above, or depression below, that standard of sound, practical common sense, which so peculiarly

distinguished those great men, as well as the Fathers who formed the Constitution; nor your Utopian Moralists, nor one-ideaed Sensational Preachers, who, neglecting to feed the hungry at their own doors, are leading you captive after an abstract perfection in human institutions and affairs, which the Almighty has denied us in this world. Nor to subsidized Editors, nor six-penny Lawyers, who so framed your "Personal Liberty Laws" as to nullify completely the Federal Constitution, and laws of Congress made in pursuance thereof—without violating either!

I have lived too long and seen too much of the world to hope to effect any change in that quarter, for *their bread and personal aggrandisement lie there.* It is the honest and industrious Capitalists, the Merchant and Mechanic, the owners of Real Estate in Cities and Towns, the Farmers, and owners of Stocks in Railroads and Factories, the Ship-owners, and the great laboring classes, engaged in various departments of Manufacture, that I wish to address upon the inevitable results that will follow the withdrawal of the fifteen Slave States, the 12,000,000, which are now the consumers of your manufactured articles, and the formation of a separate Confederacy, with a Free Trade Alliance with England and France.

The withdrawal of two or three Cotton States will not effect this. It will require a withdrawal of *all* the Slave States. The Border Slave States, Missouri, Kentucky, Virginia, Maryland and Delaware will go with the *Southern* Confederacy. Their interest will be to do so, and so will be their feelings. The result will be to these Border States, they will become the great Manufacturing States of the South. They will retain the Slave Institution, but have in fact but few slaves. They will form thereby the bulwark between the Free and great raw material producing States South, in which slave labor will be almost exclusively employed. The raw material producing States will sympathise with and help all they can, these Border Manufacturing States; and what they cannot supply, they will get from England and France, *but nothing from New England;* for there will exist for a long time at least a great Gulf between them, and prohibitory and retaliative Legislation will widen and deepen that Gulf. English ships and English sailors will do the carrying instead of yours. *Direct* trade will be at once established between Baltimore, Norfolk, Charleston, Savannah and New Orleans, with the ports of Europe. There will be no more going *round* by New York or Boston. New England will have to purchase her Cotton, &c., at an advanced

price, and pay cash. It is proposed to raise revenue to support the *new* Government by imposing an *export* duty on Cotton and other articles, the *monopoly* of which will warrant.

I recently read an article from the London *Chronicle*, stating that the withdrawal of American Cotton from their Markets for the space of three months would create Revolution!

But if New England can still purchase Cotton at an advanced price, and pay cash—where can she find Markets for her surplus of manufactured goods, and all manufactured articles? She can still go to China, Japan, Mexico and South America, in competition with England and France; and for a while she would have the North Western States. But how soon a Free State becomes a Manufacturing State, at least to the extent of her own consumption. Look at Ohio, Indiana and Illinois, already competing with New England in a variety of manufactured articles. And how long will it be before the other Free States will be in the same condition. Besides, these Western and North Western States have rich soil and genial climate, and can raise abundance of provisions. But how will it be with New England, where *ice* and *granite* are the natural staples, and the soil is capable of producing but a small proportion of what the present inhabitants consume.

When a Market for her Manufactured articles ceases, how can her people Live! All experience shows that where Slavery exists to any great extent, Manufactures do not flourish. This labor can only be profitably employed in Agriculture, in raising the raw material, and has to depend upon others to furnish them with nearly all Manufactured articles, Clothing, Shoes, Agricultural Implements, Carriages, Household Furniture, &c., &c. I have only attempted to give you an outline of the picture; your own *particular knowledge* can fill it up —as you know better than I can, who it is that consumes your Surplus of Manufactured articles, and furnishes Cargoes for your Ships, &c.

It may be answered that Labor and Capital will remove to the Border States of Missouri, Kentucky, Virginia, Maryland and Delaware, and manufacture in those States. This will be done to a great extent, I have no doubt. But they will have to leave behind their "higher law" notions, acknowledge the *necessary* imperfections of *all human* institutions, submit to make an *honest endeavor* to produce the greatest amount of real, practical happiness to *all*, with the least pos-

sible injury to *any*. This would all be done I have no doubt by these classes; but what will become of the *fixed* property of New England? The Land, the Wharves, the Ware-houses, the Stores, the Dwellings, the Palaces, and even the Ships of her Commercial Cities, the Factories and immense property of every description, dependant upon them, the Farming interests, Railroads, &c.?

It may also be answered that this discrimination against the Free States would soon give way to *interest* and *convenience*. But where the interest and convenience England and France have not the power to give, and will not give most gladly in exchange for Cotton and the *monopoly* of supplying them with *all manufactured* articles? It is hard to find in these days, *whole peoples that are content* to be mere "hewers of wood and drawers of water," as the mere *producers of raw material are*, when compared with the Manufacturer, Merchant and Carrier. The fifteen Slave States have hitherto been such *contented* peoples, owing entirely to African Slavery which necessitates it, and at the same time improves, or at least satisfies both Master and Slave; while the Free States by the aid of a protective tariff, have been made hitherto the exclusive recipients of the *cream* part of the great industrial producing processes of the country. All the South demanded in return, was simply *to be let alone* in the enjoyments of that peculiar system of labor, which produced this RARE *harmony* of interest, so enriching to the North. This the North has denied them! An infatuation and blindness to interest that has no parallel!

Besides, this unconstitutional and infatuated *intermedling* with their peculiar system of labor by the Free States, has now begotten a deep seated enmity in the People of the South. This feeling pervades the *non*-Slave holding as well as Slave holding portions of our People. Neither can conceive of any other motive but to insult and wantonly annoy. Hence it has become *common cause*. And although in our State west of the Alleghanies, we have comparatively but little interest in Slaves, still a blow struck by the Free States upon any portion of the Slave holding States, would vibrate on every nerve, and rouse at once to arms. Nor do I think I can be mistaken as to the universality of this feeling. I think I know the People well. They are naturally generous, hospitable and confiding to those they esteem friends, but are the quickest and most resolute I ever knew, to resent injustice or insult. The whole People of the South feel such insult and aggression have been done to them by the People of the

Free States. Before this wanton intermedling with their Slaves, the People of the Slave States were never heard of ill-treating any man from the Free States. Their kindness and hospitality on the contrary were universally known and acknowledged. I can recollect of glowing accounts of these qualities, given by a brother forty years ago, who had lived among them, and my own experience has confirmed the truth and justice of his remarks. *Ask yourselves then,* WHAT *has produced this great change in the feelings of this People?* I have no doubt there are a small portion of the People of the Gulf States, following in the path long since marked out by Mr. CALHOUN, the most captivating sophists this country ever produced, who desire separation at all hazards, but the great mass of the South are for the Union, if it can be preserved with justice and honor; otherwise they are for separation.

These few Separatists *per se*, are making every effort to *unite* the *whole* South with them. This is the great game that is now being played; and it is for you to decide into whose hands, long dissertations on the "barbarism of Slavery," or the fiendish and exultant exclamation of "grinding the Slave power with the heel of his boot," will play the cards.

I have been intimately acquainted for nearly three years with the People along both sides of the Ohio. These People are always on the very best of terms. They have a practical knowledge of the "Peculiar Institution," and a dissertation on its Barbarism, I have no idea, would be listened to by the People on either side of the River. They ask for the dissertations of no Utopian Moralists. I am rejoiced to see by a late number of the New York *Courier and Enquirer*, that its Editor has been touched by the fire of his worthy ancestor, and is retracing his steps. My heart is with him in all he says of the blessings and glory of the Union. But I can say to him, no such glowing eulogy of the Union will satisfy in these times. A total repeal of the nullifying laws is what is now required, and a faithful discharge by the People, both North and South, of the great duties imposed on them by the Federal Constitution, from which neither Congress, nor State Legislatures, nor Conventions can absolve; but only the People of the United States, the sovereign power, that created the "Supreme Law of the Land," the Federal Constitution. Let the Editor effect this repeal and teach the People to respect their oaths and cordially discharge these important duties

to all their fellow citizens, and he may do much good. And when the People shall have learned to do this, like honest and earnest men, who love their country and appreciate the blessings of Union—all will be well. But I fear they will never learn this lesson from their subsidized and venal presses, nor wrangling demagogues, in or out of Congress—nor Utopian Moralists, nor one-ideaed Sensational Preachers, whose leader's Family, while attempting to drive Catholicism from the Mississippi Valley, established the *first* "underground Railroad" between Kentucky and Ohio, and received a *wound*, from the *smart* of which both male and female have ever since poured anathamas—in prayer and sermon, in Essay and ROMANCE, with all the embellishment and charms, the most gifted genius could bestow—but by reading the Constitution for themselves, with the like earnest and honest hearts and hard common sense, of the Fathers that made it.

WESTERN VIRGINIA, December 10, 1860.

IT was soon after these letters, the "solid men of Boston" and vicinity held a large meeting, at which the sentiments I had expressed were approved, and Massachusetts' "Personal Liberty Laws" were denounced as being in violation of the National Constitution, and ought therefore, to be at once repealed. But the "higher law" people had control of the Legislature, and its action was too hesitating and slow, as appeared to me. These letters, though failing to secure all the concessions hoped for, served I think in some degree, to make her people more determined when the trial at arms come.

A REPLY, through the Kanawha *Republican*, to the published resolutions and speeches of the late Hon. JOHN J. ALLEN, then President of Virginia Court of Appeals, and the late Hon. DAVID MC-

COMAS, Judge of the Kanawha Circuit, who affirmed the Constitutional right of a State to secede from the Union. This reply I inclosed to the late Hon. GEORGE W. SUMMERS, with permission to hand it to the editor of the *Republican*, if he thought its publication would do any good. Judge SUMMERS approved, and it appeared in that paper.

OUR NATIONAL CONSTITUTION—WHAT IS IT?

Editor of Kanawha Republican:—I have just read the Resolutions and Speeches of the Hon. JOHN J. ALLEN, and the Hon. DAVID MCCOMAS. My respect for their personal and high judicial characters, raised at once the hope of getting much *true light* upon the great question, which forms my caption, and is so vitally interesting at this time to the American people; and upon the most careful perusal I must say, I am disappointed. In the present Crisis the American People—the true and only source of power, who make and unmake Governments and Rulers—require to be put in possession of our Fathers' *true ideal* when they formed the Constitution; or in other words, of just what the Framers of that Instrument intended and meant at the time they made it. When they are fully possessed of this, they will be prepared to see what alteration, if any, is required to meet the present Crisis, and to execute aright, the Sovereign power which they *alone* possess.

True light therefore, is what the people need at this time from their Representative men. The occasion is too solemn and momentous for sophistry, however subtile and ingenious, or whether springing from deluded minds in the North, or in the South.

In order to *interpret* this instrument aright, the people should be placed at the stand point of our Fathers, with all their surroundings, as far as practicable; and standing in that position should with earnest and honest hearts and the hard practical common sense which so eminently characterized the Fathers, read for themselves the clear and unambiguous provisions of that Constitution. The almost superhuman labor through which these Fathers had just passed, to achieve their independence, had fashioned and accustomed their whole beings to actual facts and stern realities; and they were pressed by the same stern necessities when they framed and established the great Charter, which was to make secure to themselves and posterity, the just fruits

and blessings of that victory. Every link in the great Chain of Union they thus formed, shows such to have been their character.

From their stand point then, let us examine the Constitution and get if possible their *true ideal*—their true *intention* and *meaning*. It is undoubtedly true that prior to the Declaration of Independence, the thirteen Colonies were independent of each other, though all were united to one head—the Crown of Great Britain. To sever this common allegiance and accomplish and establish their Independence, they united against the Mother Country. A common cause and great pressure from without, held them together at first. In 1777–8, however, a Confederated written Union took place, entitled "Articles of Confederation and perpetual Union." These articles were assented to and ratified by delegates in Congress, appointed by the *Legislatures* of the several States. These delegates in closing the "Articles of Confederation," used this language: "And whereas it hath pleased the Great Governor of the World, to incline the hearts of the LEGISLATURES *we respectively represent in Congress*, to approve of, and to *authorize* us to ratify, said articles," &c. These represenattives, agents, or whatever other name they were called by, and not the *people* themselves, the Sovereign power—assented to, and ratified them.

The leading and fundamental idea of the Declaration of Independence, and all political organizations since, has been, that in the *people alone* resides, originally, all sovereign power. When the allegiance of the thirteen different Colonies was absolved from the British Crown, the people thereof became thirteen distinct and independent bodies. Each of these distinct and independent bodies set to work at once to erect for themselves, separate and independent Governments, then and now called State Governments. Each of the thirteen independent bodies shaped and formed its respective State Government as it pleased. These State Governments when formed, were only the *creatures* and *agents* of the respective bodies of people, who formed, and who could at any time, alter or abolish the creatures so formed. These creatures or agents, it was, that assented to and ratified the Articles—which was only a *compact* or *league* between the thirteen State Legislatures.

The central governmental power created thereby, the Congress, had power to act only on these Legislatures, and *not* on the People themselves. This central power, the Congress, could make and enact laws, and the Articles of Confederation provided that the

States should obey them; and still there was no way provided to enforce these laws against a refractory State, except by the other States declaring war against her. All the central government, the Congress, could do, was to *recommend* to the thirteen separate Legislatures for them to make their respective people observe its laws. The well known result was, that the greater part of these Legislatures refused to act, and the central government, the Confederation, became *powerless*. No money could be raised to pay the debt the late war had created, or defray the current expenses of government; rivalries and disputes were daily springing up between the different States in relation to commerce and other subjects, and the whole fruits of their long and glorious struggle with the Mother Country, were threatened with immediate dissolution and ruin.

It was at this crisis that Mr. MADISON wrote, "I hold it for a fundamental point that an individual sovereignty of the States is utterly irreconcileable with the idea of an aggregate sovereignty. I think at the same time that the consolidation of the States into one single sovereignty is not less unattainable, than it would be inexpedient. Let it be tried, then, whether any middle ground may be taken which will at once support a due superiority of the national authority, and leave in force the local authorities so far as they can be subordinately useful." Mr. EDMUND RANDOLPH wrote: "Government should be able to defend itself against encroachments, and that it should be paramount to State Constitutions and have power to call forth the force of the Union against any member thereof failing to fulfil its duty." Mr. PINCKNEY of South Carolina, wrote, "That the States must be kept in due subordination to the Nation. That if the States were left to act of themselves in any case, it would be impossible to defend the National prerogatives."

Amid these stern necessities it was that the Convention met at Philadelphia in 1787, and with GEORGE WASHINGTON in the Chair, they drafted and signed our present Constitution. The President in this wise, "GEORGE WASHINGTON, President and Deputy from Virginia." The others signed their names merely, without stating in whose behalf they acted.

In whose behalf, then, did these Deputies act? The preamble of the Constitution itself answers conclusively, viz:

"We, the *people of the United States*, in order to form a *more perfect Union*, establish Justice, ensure domestic tranquility, provide for

the common defense, promote the general welfare and secure the blessings of Liberty to ourselves and posterity, do ordain and establish this Constitution for the United States of America."

Then follows the Constitution with all its various provisions. If the work had stopped here even, the explicit language of the Preamble before recited would have required the necessary conclusion, that, "We, the People of the United States," in their individual capacity, and not the thirteen Bodies of People in their corporate capacity, were the real parties to the Instrument, acting through and by their deputies or agents. It would require a most violent and unnatural construction, to have held it a mere *compact* between the thirteen States, instead of a Constitution established by all the people of the United States. But at the time of the Deputies signing their names, they manifestly considered the Instrument as merely an *escrow*, or *draft*, without any force until assented to, and ratified by, the People themselves. And hence they passed a resolution to submit the same to Conventions of Delegates to be chosen in each State by the People thereof, and that as soon as the People of nine States should have assented to and ratified the same, it should take effect as to these People, and steps should be taken to organize under it.

Gen. WASHINGTON in his letter of the same date to Congress uses this language: "It is obviously impracticable in the Federal Government of these States to secure all rights of independent sovereignty in each, and yet provide for the interest and safety of all. Individuals entering into society must give up a share of Liberty to secure the rest." * * * "In all our deliberation on this subject we kept steadily in our view, that which appears to us the great interest of every true American—THE CONSOLIDATION OF OUR UNION."

In pursuance thereof, the people of the thirteen States in Conventions held in their respective States, assented to and ratified this Constitution in the following order: Delaware, December 7th, 1787; Pennsylvania, 12th December 1787; New Jersey, 18th December 1787; Georgia, 2d January, 1788; Connecticut, 9th January, 1788; Massachusetts, 6th February, 1788; Maryland, 28th April, 1788; South Carolina, 23d May, 1788; New Hampshire, 1st June, 1788; Virginia, 25th June, 1788; New York, 26th July, 1788; North Carolina, 21st November, 1789; Rhode Island, 29th May, 1790. Thus, the Legislatures of the thirteen States, that had comprised the Confederation, consented to the change in the form of government, when they ordered Conventions of their respective peoples to ratify the

Constitution proposed. The Congress had before consented. This was all the Articles required. Besides, the people in their sovereign capacity were competent to make any change they chose, without the consent of their Legislatures.

Now can there be the slightest doubt but that it was the purpose and meaning of this transaction to *unite all* the people of the thirteen States so fast as they assented to and ratified the Constitution, as *one People*, "consolidated" in one and the same Government, to the extent of the powers granted in the Constitution? The people, when they met in their several Conventions, certainly held, or *had the control* of, *all* the Sovereign power, whether residing in themselves, or previously delegated to their respective State Governments. It was competent for them, then, acting in these Conventions, *to transfer* to the Federal Government any portion of the Sovereignty they chose, and in doing so, if it became necessary for them to *resume* any portion before that delegated to their respective State Governments, they unquestionably had the power to do it. They possessed or controlled all Sovereign power, and it was in this case distributed by them according to the established forms. The People became thereby citizens of two distinct Governments—their respective State, and the Federal Government, owing allegiance according to the rank or supremacy of their respective powers. The fact that the whole People of the thirteen States constituted thirteen distinct and independent Governments at the time the Deputies drafted the Constitution, could not prevent, in any sense, their *consolidating* into one People to the extent of the Federal Powers granted, *as fast as they ratified the Constitution*. The process of consolidation proceeded *pari passu* with ratification, on the familiar principle of a subscription paper, headed, "We, the undersigned." The obligation attaches to the parties as they adopt and ratify by subscribing their names. The fact that the People of the United States ratified the Constitution by convening in thirteen separate Conventions, called and regulated by their respective State Legislatures, instead of *all meeting in one general Convention*, or in Conventions got up irrespective of State lines, cannot alter the legal effect. The plan they adopted was the natural and most convenient mode, and any departure from it at that time, must have occasioned much inconvenience and confusion.

The Federal as well as State Governments then are alike original and legitimate, and rest upon the people, who have expressly declared in their sovereign capacity "that the Federal Constitution and

Laws and Treaties of the United States, made in pursuance thereof, shall be the Supreme Law of the Land, the Constitution or laws of any State to the contrary notwithstanding," which constitutes a perfectly harmonious whole. The Federal Constitution established a perfect and complete Government, with its Legislative, Executive and Judicial Departments—self-acting, independent and supreme, within the scope of its Constitutional powers. These high powers were indispensably necessary for the proper discharge of the high and imperial duties with which it is charged: and was intended to be the faithful guardian and protector of all the people in whatever State resident, as it was the creature and agent of all. Its Judiciary has jurisdiction of all cases in law and equity arising under the Constitution, and the Laws and Treaties of the United States.

Its Judges are the Judges of all the people, and they are sworn to support the Federal Constitution. All State officers, before entering on the duties of their office, are required to take a similar oath. The peculiar nature and character of the provisions contained in the Constitution, can shed no light upon the present inquiry, which is, to ascertain who were the real parties to the instrument. And if it had provided that the President and Vice-President should have been appointed by the State Legislatures as the Senators now are, it would not have altered the case, so far as the present inquiry is concerned.

But in the face of all these facts, it is gravely contended that this great work of WASHINGTON and his co-patriots, amounts to no more than the placing together in juxtaposition, the thirteen independent bodies of people, then comprising the thirteen States, with no other bond of Union than their concurring wills at the moment, liable to be changed by the first movement of the Government, and each and all possessing the Constitutional power to fly off at pleasure, and resume all their former powers! And is this the thing that the Father of his Country and his compeers got up with the express purpose of curing the evils of the old Confederation, "to form a more perfect Union, to establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to themselves and posterity?" Is this the thing the people sought when they ordained and established a Constitution for the purpose above stated? No. Their idea was what WASHINGTON said it was in his cotemporaneous letter, to form a "consolidated Govern-

ment" of the whole people to the extent of the powers granted by the Constitution.

As well may the mice undertake to undermine Bunker Hill Monument, as the refined sophistry of the higher law pigmies of the North, or Secessionists of the South, undertake to change or efface this great and true Ideal, in the hearts of a hard sense people. Fortunate for such that the great arms now mouldering at Mt. Vernon, the Hermitage, at Ashland and Marshfield are not wielded by the will and fires of their former possessors. How sickly sentimental it is to see people purchase the Farm and Tomb of WASHINGTON to secure his ashes, while they thus labor to reduce to ruin the Constitution, the great work of his life!

And is there any thing in the peculiar form of ratification by the people of Virginia, June 26th, 1788, to vary their relation to the Government, or qualify the clear and explicit language of the Preamble of the Instrument. "We, the people of the United States in order, &c.?" The following are the words of their ratification: "With these impressions, with a solemn appeal to the Teacher of Hearts, for the purity of our intentions, and under the conviction that whatever imperfections may exist in the Constitutions ought rather to be examined in the mode prescribed therein, than to bring the Union into danger by delay with a hope of obtaining amendments previous to the ratification. We, the said Delegates, in the name and behalf of the People of Virginia, do by these presents assent to, and ratify the Constitution recommended on the 17th day of September, one thousand seven hundred and eighty-seven, by the Federal Convention for the Government of the Uniied States, hereby announcing to all those whom it may concern that the said Constitution is binding upon said People according to an authentic copy hereto annexed."

It is true that in the recital preceding the ratification, this language is used: "Do in the name and behalf of the People of Virginia, declare and make known that the powers granted under the Constitution, being derived from the *People of the United States*, may be resumed by *them* whenever the same shall be perverted to their injury or oppression; and that every power not granted thereby, remains with them and at their will."

Will it be contended that the People of Virginia meant anything more by this language than to re-affirm and reiterate, on entering into a new Government, the inherent right of Revolution in the people to

throw off a Government whose power shall become perverted to their injury and oppression; which was the great idea on which the Declaration of Independence was based? Can it be supposed for a moment that they meant thereby to *qualify their* ratification, and reserve a *constitutional* right to secede, or withdraw, at any time they chose, *without the consent of the People of the other States?* And is it to be supposed the people of New York, North Carolina, and Rhode Island would have ratified *afterwards and unconditionally as they did*, if they had so understood it? The question of *conditional* ratification came up in the Virginia Convention, and was rejected, as worse than no ratification at all.

In July, 1788, while the question of ratification was pending before the people of New York, ALEXANDER HAMILTON wrote Mr. MADISON, if a conditional ratification, with power peaceably to withdraw on a certain contingency, was admissable: in his reply, Mr. MADISON used this language: "The idea of reserving the right to withdraw was started at Richmond and considered as a conditional ratification, which was itself abandoned, as *worse than rejection*—the Constitution requires an adoption IN TOTO and FOREVER."

Will it comport with the accustomed fairness and honor of the People of Virginia to now say to the People of New York, that they meant, when they used in the connection and for the purpose before stated, the language, "The People of the United States can resume the powers granted," they in fact meant that the People of *Virginia* reserved a Constitutional right to resume and peaceably withdraw *without, or against the consent of the others?* This Constitutional Secession doctrine is a solvent that will disintegrate any Government, though it should possess the cohesive qualities of a rock, and must lead the People to consequences they do not foresee.

Should not a just and brave People, that have a just cause of complaint, place themselves in the present emergency upon firmer and more tenable ground? Let the Proviso introduced by the Hon. GEORGE W. SUMMERS in the Kanawha Convention, to submit any organic change in the Government which shall be proposed, to the final decision of the People, be faithfully observed by the State Convention.

CABELL COUNTY, WESTERN VIRGINIA, January 14th, 1861.

THE appearance of this letter determined, I think, in the minds of Secessionists, what my future status would be. Still, I labored to convince them that since we had kept the Bond, whilst others had broken it, both the Government and Flag belonged to us; and that it was the height of folly to abandon either.

A LETTER TO THE HON. THURLOW WEED, OF THE ALBANY EVENING JOURNAL, JANUARY 15, 1861.

GUYANDOTTE, CABELL CO., WESTERN VA., Jan. 15, 1861.

THURLOW WEED, Esq.

Dear Sir:—I have just read to a gathering of anxious people, the late speech of Mr. SEWARD, in the United States Senate, on the state of the couhtry, and the CRITTENDEN Resolutions. All had confidently expected that Mr. SEWARD would at once consent to these Resolutions being submitted to the vote of the People, who, we have no doubt, will approve them by the requisite majorities. We all saw the difficulty in the way of the Representative men of the Republican party making the *concession*, justice and the integrity of the Union imperatively demand; but we did not suppose for a moment, that any one would oppose the submission of them to their Constitutional masters, the People! The idea of mere servants withholding the subject, at a time like this, from their masters (because they were too excited to be trusted) is extraordinary indeed—it shows how far men reputed great, may fall below the present fearful exigency!

At the same time I read a statement of the reasons and purpose stated by yourself for concessions on the part of the Republican party, viz: Not to conciliate South Carolina, nor other Disunionists, but to conciliate and give strength and courage to the Union men of the Border States. This, next to putting yourselves right, is unques-

tionably the true reason. We of the Border States are for the Union. We have witnessed the outrages upon the Flag and dignity of the Federal Government, with as much pain and indignation as you. But what can we do, while from our stand point, the provocation on your side who desire the preservation of the Union, justifies, to a great extent at least, the conduct of the other side, who wish to destroy it. Many of us of Western Virginia have had considerable experience of the practical working of both Free and Slave Institutions, and are therefore qualified to judge of the relative merits, and demerits, of the two sections, better than those who have seen but one side. That great principle of human nature and municipal law which requires of every one who asks justice, first to do justice—asks the same of your party now. The Border States equally as anxious as yourselves to preserve the Union—ask it of your party *now*, by submitting the CRITTENDEN Resolutions to the People, whose Decision we will abide. When this is done, you will find ten of the Slave States at least, as ready as yourselves, to maintain the integrity and dignity of the Union, and punish all arrogant aggressors—*but not till then*. This is no more than the Union men of the Border States feel they have a right to ask of your party.

What is done should be done quickly. I wrote to friends in Massachusetts six weeks ago, warning them of the coming danger, and the necessity for their at once putting themselves right on their Statute Book, in order to secure the cordial co-operation of the Border States. That State has moved too slowly. Of all the representative men of the Republican party, you, in our judgment, have come the nearest to a correct comprehension of the true necessity of the present crisis.

WHEN it was known the Convention at Richmond had passed an Ordinance of Secession, though by fraud and violence, the 17th of April, 1861, the Secessionists became intolerant towards Union men,

insisting it would be treason both to Virginia and the Southern Confederacy (of which the Convention had then made her a part) to vote against its ratification the fourth Thursday of May then next. The Old Line Whigs and DOUGLASS Democrats did not so regard it; but stood firm. Our delegates were put under an oath of secrecy that many observed after returning to their constituents, and refused to divulge anything that had transpired in the Convention. ALBERT G. JENKINS, a citizen of Cabell County, theretofore a member of Congress from that District, commenced raising a Regiment of Cavalry under the authority of Governor LETCHER. The Secessionists of Cabell County either joined his regiment, or formed themselves into Home Guards under the pretence of preserving the peace. "The pomp and circumstance of glorious war" was everywhere about us. A very large majority of the politicians and large property owners were Secessionists. The Hon. H. J. SAMUELS, whose birth, education, and social relations, would naturally have allied him to that party, boldly opposed from the outset and stumped his County against its ratification. Similar proceedings took place in the other Counties in West ern Virginia, and when the day of election came the Ordinance was rejected in this section by a very large majority. The arrogant assumption of the Secessionists had wounded the Virginia pride, and aroused a patriotism and heroism, hitherto dormant, in the humble, inexperienced masses.

Soon after the election the Richmond Government proclaimed, as matter of course, a ratification of the Ordinance by the people; and General WISE was sent with an army to the Kanawha Valley, and PEGRAM and others with similar forces into other parts of Western Virginia—for the purpose of subjecting the Union men, or driving them from the State. The situation of the latter was perilous indeed, until Union forces appeared under the command of General MCCLELLAN, when WISE and his army skedaddled to the other side of the Alleghany Mountains—most of their adherents and sympathizers followed. During their stay, Secessionists had it pretty much their own way, especially in the lower end of the State. General WISE had his headquarters at Charleston, where JENKINS and similar bands joined, and from thence overrun the whole country—arresting and taking to WISE's camp incorrigible Unionists, and such as he failed to convert and subdue, he forwarded to Richmond. Judge SAMUELS left the State with his family in June, 1861. I left the 3d of July following, about one hour before a squad of JENKINS'

Cavalry came to arrest and take me to WISE'S headquarters. Many other Unionists took the same course, and afterwards, in both civil and military capacity, faithfully served the Union cause. Judge SAMUELS served as Adjutant General during the Re-organized Government, and when the New State was formed, was elected Judge of his native Circuit, which office he held with honor and satisfaction to all parties, until he resigned in 1868—after having organized and gotten in harmonious operation his Court in the six Counties comprising his Circuit, and many of them had been the most intensely rebel, in the State.

General JOHN H. WITCHER, recently a Representative in Congress from the Third District, and now United States Collector of Internal Revenue for the same District, was among the refugees from Cabell County to Ohio, where he obtained a Lieutenant's Commission, authorizing him to organize a Company, which he soon did, mostly of his fellow refugees. He served through the war with signal distinction for bravery and skill, had the honor to accompany General GRANT when he received the surrender of LEE'S army, and returned home a General.

I mention these gentlemen as examples of the kind of stuff Unionism in Cabell County was composed, when kindled and aroused as it was on that occasion. All its soldiers and citizens as a general thing proved equally brave and true. And what I have said of Unionism in Cabell County, I believe may be justly said of it in the other Counties comprising West Virginia, as the public records, both civil and military, show.

It was soon after General MCCLELLAN'S army had driven the rebels from Western Virginia, and upon learning the shameful defeat of the Union army at Bull Run—filling all loyal hearts with mortification and despondency—I felt impelled to address the following to the Cincinnati *Commercial*:—

LETTER NO. 1.—JULY 24, 1861.

SOME FACTS WHICH THE PROGRESS OF THE WAR HAS DEVELOPED.

Messrs. Editors:—It is now clear that the rebel portion of the American people having long contemplated the present conflict, are much better organized, drilled and prepared to put forth their full strength, than the loyal portion. For the last five or six years at least, the former have been practicing the Military art, with express reference to the actual state of war which now exists, and selecting officers of all grades, as the development of their fitness warranted; and finally crowned their preparatory work by robbing the Government of many of its most cherished officers, and the best and greater part of its arms and munitions of war—whilst the loyal portion, until the last three months—wholly unconscious of the gathering storm—were absorbed in their civil pursuits, and made no war preparations whatever.

The war has also disclosed on the part of the enemy, a desperation and hatred with an unscrupulous choice of instruments and means, which have no parallel in modern warfare. Secret Poisons, Concealed Mines, Masked Batteries, Ambuscades, Guerrilla Warfare, Punic Faith, and Fiendish Atrocities, allying them with a Barbarous and Savage age—the Parthian and his poisoned arrows, the American savage with his stealthy strategy and malicious slaughter! His Slave population hitherto reckoned by us as an element of weakness in such an emergency, has so far proved one of strength rather.

The Government has done wonders to maintain itself against this unnatural and parricidal blow. In the short space of three months it has raised and equipped an army of about 300,000 true and loyal men, who at the call of their beloved country, *volunteered* to exchange their various occupations, and comforts in civil life, for the untried and severe discipline of the camp. This change, so sudden and radical to American citizens, accustomed as they have always been to the enjoyment of large individuality and self-control, requires great sacrifice, and merits a corresponding consideration and reward. To make such sacrifice upon the altar of their country, and God, though deeply inspiring to noble minds, is not enough. They should

receive all the comforts and care the rules of war permit, in prompt pay, good food, clothing, medical attention, arms, and prudent and competent officers to lead them, and their families the consideration and fostering care of all. Nothing short of these will maintain the *morale* of our Citizen Army, and render it invincible.

With these, while it will cheerfully submit to the strict discipline and inexorable rules and hardships of war, it cannot fail to exhibit on every battle field, a self-reliance and invincibility, which a large individuality and self-control while in civil life, always give to the Citizen Soldier.

Unlike the hireling automatons which constitute the rank and file of Imperial armies, whose only aspiration is the approving smile of their Sovereign and Superiors, our rank and file are themselves the Sovereigns; and although submitting temporarily to the rigorous exactions of war, they sit in judgment daily upon the conduct of all Superiors, whether Civil or Military.

Finally, it is now manifest that all the stern realities of a mighty war are upon us, and the sooner we come to a full and perfect realization of the fact, and that the preservation "of the best Government the sun ever shone on" is the stake, the better. Superior fitness for the place, whether Civil or Military, can alone give claim at this time. All factitious and accidental distinctions must give place to *true* merit—to God's great men—whether found in the cabin, or manor-house. This the occasion and people demand.

Letter No. 2.—July 27, 1861.

SOME FACTS WHICH THE PROGRESS OF THE WAR HAS DEVELOPED.

Messrs. Editors:—It would be unreasonable to expect that a great army like ours, which has been constituted so suddenly out of civilians unacquainted with the Military art, should not disclose in its first actual service many deficiencies. The great and essential fact to be looked for at this early stage, is courage and endurance in the rank and file. If these qualities are wanting in the common soldier, we might despair of perfecting such an army as the great exigency requires.

The war so far has demonstrated that our rank and file possess these qualities in a very extraordinary degree; so great indeed, that when fired with the righteousness of our cause, and indignation towards ungrateful parricides, they can scarcely be controlled. In every battle they have shown themselves vastly superior to the enemy in all the essential qualities of good soldiers. And hitherto the enemy has studiously avoided all equal and open combat, but has sought to overcome by such cruelties and strategy as the rules of civilized warfare condemn. Our hardy soldiers have rushed upon and silenced their nests of masked batteries, concealed like coiled rattlesnakes among the woods and bushes, with a determined energy and courage hitherto unexampled. These certainly have proved themselves equal to the task of vindicating the government against all assailants.

But the mighty energies of the rank and file must have military science, skill and genius to guide and direct. Of these we already have, or can soon find, an abundance among such a vast army of brave and hardy soldiers. There are plenty of good Generals and Subordinate Officers. To Lieutenant General Scott the people look as their great Captain with the patriotism and skill to plan and direct, while junior officers should faithfully and vigorously execute. The people look to him as their Lieutenant General in this matter, and not to President or Congress; and to the people he will be held responsible. They will never consent that their Lieutenant General shall again defer his own judgment in this matter, to any other power whatever, upon pain of dismissal. All tried Military Skill and genius are now imperatively demanded for counsel, or action, or both. The veterans WOOL, ANDERSON, &c. are on every lip. They are needed to aid the Lieutenant General in selecting and qualifying competent Officers. There is plenty of material existing among the present rank and file, and citizens. We want only the master spirits to detect and bring it out. The tried genius and skill of foreigners, whose fidelity to our cause is beyond question, can be employed at this juncture with great advantages.

The circumstances under which our present army has been enlisted and organized, were not such as to secure the fittest men for Officers. It was thought by many that the war would be short, and only a pleasant pastime.

Hence many, and we have legions, desirous only of a little notoriety, and whose only claims consisted of a little money, political influ-

ence, or relationship to such as might have them, became the officers —to the great detriment of the army and country. But as the aspect of things have so much changed, and the stern realities of a great and bloody war are before them, and the searching ordeal recently established at Washington, these fancy officers will soon disappear, giving place to men that are made of "sterner stuff." For no incompetent man, unless a very fool, will wish to obtain a place in these times, when his unfitness will be made manifest to every soldier under him, and a great and earnest people struggling to uphold their dearest earthly object—whose censure and rebuke no man can withstand.

The face of public affairs, both political and military, has become too rough and tempestuous for any other than crafts of sound bottoms, deep draught, and steady keels, to venture out—all others are earnestly requested to keep near the shore until the storm subsides, when they can again enjoy their pastime.

THIS, the class last named, have been enjoying since the war closed "with a vengeance," to the great depletion of the public Treasury, and disgrace of the Nation.

UP to this time I had a very limited acquaintance with the People of the other sections of Western Virginia, having lived but about three years in that part of the State, and been absorbed in strictly private matters, confined to Cabell and adjoining Counties. I scarcely had a personal acquaintance in either of the four Counties that comprise the Pan Handle—a territory whose geographical and commercial relations closely ally it to Pennsylvania—and still there were many violent Secessionists and Rebel Sympathizers, especially in the city of Wheeling and principal towns. What these could have expected if the pretended Confederacy had been established, with themselves as part of it, I never could conceive—almost surrounded, as they were, by the

great Free States of Pennsylvania and Ohio. The same was true in a degree at least, with all Secessionists who owned land or Slaves along the Ohio River, as their Slaves must vanish, and their bottom-farms become battle-fields, a line of blood—facts not likely to appreciate their pecuniary value.

The Union men of these Pan Handle Counties, who were largely in the majority, early saw the predicament they would be placed in, if the Rebellion succeeded, and became aroused. What to do was the question—a most solemn and embarrassing one at that time—not as to *where* they were to look for aid, but the *manner, or mode of procedure.* I am informed the first consultation was had at the Court House in Wellsburg, Brooke County, where a large number of the citizens of Brooke and Hancock Counties assembled to hear the Report of their Delegate to the Richmond Convention, CAMPBELL TARR, Esq., who had barely escaped with his life from the city of Richmond. The Hon. JOHN S. CARLISLE, a Delegate from Harrison County, who had a similar escape, accompanied Mr. TARR to Wellsburg, and related, in his usually impressive manner, his experience and views, corroborating the earnest and faithful Report of Mr. TARR—both urging immediate preparation to resist. The result was, that a Committee was appointed, consisting of Messrs. CAMPBELL TARR, the late ADAM KUHN, JOSEPH APPLEGATE, and DAVID FLEMING, who were at the time among Brooke County's staunchest men, to proceed to Washington and procure arms and ammunition. This Committee at once proceeded to Washington, calling on Governor CURTIN at Harrisburg on their way, who expressed deep sympathy, and promised aid, if necessary. On arriving at Washington, they called on the late Hon. E. M. STANTON, then, or soon after, United States Attorney General, who was a native of the neighboring town of Steubenville, and the warm personal friend of members of the Committee. He at once introduced them to Mr. CAMERON, the Secretary of War, and requested that arms and ammunition be furnished. Upon Mr. CAMERON's hesitating as to his *legal* right, Mr. STANTON replied with the emphasis of his great war nature so conspicuous afterwards: "the law of *necessity* gives the right, let them have the arms and ammunition; we will look for the book law afterwards," and tendered his own name as security for their proper use: 2,000 minnie rifles with suitable ammunition were furnished, and the Committee returned with joyful, encouraged hearts, which they communicated to the Unionists at home, and at once prepared themselves

to resist at all hazards. Soon after, it was reported that Rebel Cavalry were on their way for the purpose of seizing these arms and ammunition, and robbing the Bank at that place, and the town of Wellsburg assumed the aspect of a military camp, bristling with bayonets in the hands of aroused and determined Unionists.

The Rebel Cavalry however did not make their appearance. They would have met a warm reception if they had, for in the town and vicinity there were at that time many who afterwards served with signal distinction and honor in the Union army—among them General I. H. DUVAL. The arms and ammunition with the exception of eighty rifles and proper accompaniments, were sent to Wheeling afterwards, for distribution.

The 14th of May following, there was a spontaneous gathering of thousands at Wheeling, from the Western and other parts of the State, who disapproved the action of the Convention at Richmond, and disposed to resist. They regularly organized at Washington Hall, choosing a Chairman and Secretary. I never saw a record of their proceedings, if any was preserved. I can only speak therefore, from what I recollect of seeing in the papers at the time, and statements of individuals who were present. The *proper mode to organize resistance* was the great question. The situation was anomalous under our system of Government at least, and without precedent, any further, than the DORR Rebellion case in Rhode Island afforded. In that case the Federal authorities at Washington assumed to decide which of two opposing Governments in the same State was legitimate and entitled to Federal protection; and the Supreme Court of the United States affirmed their right. The way to produce such a State Government as the Federal authorities would recognize and protect, was the question. On this question I am informed there was great diversity of opinion. I am informed by Col. J. D. NICHOLLS that in a private consultation by the citizens of Brooke County, who attended the meeting, viz: the late ADAM KUHN, JOSEPH GIST, CAMPBELL TARR, NATHANIEL WELLS, himself and DANIEL POLSLEY, late of Brooke, but then and now of Mason County—he made the following suggestion: "That since LETCHER and other State officers adhering to the pretended Secession Ordinance, had forfeited their powers, and the existing Constitution made no provision for such a case, the only way was to ask the People, the only source of power, to send delegates to a Convention with power to supply their places with loyal men." That the suggestion was

approved by the others present, and Mr. POLSLEY put it in shape and presented it to the meeting, and it was adopted with great unanimity; and in pursuance thereof, delegates were sent to the Convention that met in Wheeling the 11th of June, 1861.

This meeting appointed a General State Committee, with power to appoint sub-committees in all the Counties where practicable, and issued an able and stirring address, stating the facts and purpose, and urging the loyal people to send delegates to a Convention to be held at Wheeling, the 11th of June, 1861. Copies of this address with two boxes of the minnie rifles with ammunition, were afterwards sent to myself and Judge SAMUELS. We prevailed on ALBERT LAIDLEY, Esq., the delegate elect to the Legislature of Virginia, for Cabell County, and as such entitled to a seat in the Wheeling Convention, to attend the same, and furnished him $50—myself advancing $25. He went, but declined to take the oath required, and returned under pretense of obtaining further instruction, and finally, after refunding the money he had not expended, left for WISE'S camp at Charleston, and thence to the Richmond Legislature. It was reported, that while at Wheeling, he received a letter from relatives in Charleston, advising to this course. The proceedings of this Convention have become matter of history, and need not be repeated here. Its work, with the work of the Mass Meeting at Wheeling, strikingly illustrates the capacity of the American people in great emergencies; and forms a bright and instructive page in our Nation's history, at that eventful period.

There were delegates there, representing the Union people throughout the State, where not prevented by the rebel forces. The following are their names: Arthur I. Boreman, J. H. Shuttlesworth, Nathan H. Taft, Joseph Gist, W. I. Boreman, Chapman J. Stewart, Daniel D. Johnson, James A. Foley, George McC. Porter, J. H. Atkinson, W. L. Crawfoad, John S. Carlisle, Solomon S. Fleming, Lot Bowen, B. F. Shuttlesworth, Daniel Frost, J. F. Scott, A. Flesher, P. M. Hale, J. A. J. Lightburn, Richard Fast, F. Smith, Francis H. Peirpoint, John S. Barnes, A. F. Ritchie, James O. Watson, Remembrance Swan, E. H. Caldwell, Thomas Morris, Lewis Wetzel, Charles B. Waggoner, D. Polsley, Leroy Kramer, Joseph Snider, R. L. Berkshire, William Price, James Evans, D. B. Dorsey, Thomas H. Logan, Andrew Wilson, Daniel Lamb, J. W. Paxton, George Harrison, C. D. Hubbard, James W. Williamson, C. W. Smith, William H. Douglas, Charles Hooten, W. B. Zinn, W. B. Crane, John Howard,

H. Hagans, John J. Brown, S. Parsons, Samuel Crane, T. A. Roberts, L. E. Davidson, John S. Burdett, Samuel B. Todd, D. D. T. Farnsworth, William W. Brumfield, William H. Copley, James G. West, Sr., Reuben Martin, James P. Ferrell, Henry Newman, E. T. Graham, J. W. Moss, P. G. Van Winkle, H. S. Martin, James Titus Close, John Hawxhurst, Evan E. Mason, James Carskadon, O. D. Downey, George W. Broski, J. H. Trout, James J. Barrack, H. W. Crothers, John D. Nicholls, Campbell Tarr, John Love, Henry H. Withers, Henry C. Moore, Lewis Ruffner, Greenbury Slack, Dudley S. Montague, John Hall, William Radcliffe, David M. Myers, James Burley, Thomas Cather, Andrew Jackson, George Koonce, Blackwood Jackson, James A. Smith, Charles S. Lewis, and Ephraim B. Hall.

The Convention organized by choosing the Hon. ARTHUR I. BOREMAN, a delegate from Wood County, President, and G. L. CRANMER, Esq., of Ohio County, Secretary. All took an oath to "support the Federal Constitution and the laws made in pursuance thereof, anything in the Constitution and laws of any State to the contrary notwithstanding."

Among its first acts was to make with entire unanimity the Declaration of Rights printed in the West Virginia Code of 1869. From the first clause of which where is stated what was considered to be the legal and Constitutional ground for its proceedings, it would seem, the true legal principle was not apprehended. For they make the wrong and usurpation of the Richmond proceedings to consist in the fact, that the Legislature called the Richmond Convention without first taking the sense of the people, when neither the then existing Constitution of 1851, nor the practice theretofore in Virginia required a previous submission of the question to the people. They had only voted on the ratification or rejection of the final work of prior similar Conventions, convened by the Legislature. The Richmond proceedings had been in conformity with the Constitution and practice, in form at least; and LETCHER, still ostensibly the rightful Governor, had in legal form proclaimed that the Richmond proceedings had been ratified by a *majority* of the people of Virginia. This was probably true at the date of the Declaration, however it might have been at an earlier stage. So far then, there was no error in their *form* of procedure. It was the *palpable conflict* of their work with our system of National polity, including National and State Governments, that rendered its acts treasonable and void, and

the actors and all their adherents and supporters, abdicated and de-citizenized traitors—leaving the right to re-organize and officer the existing State Government anew, solely in the hands of the *loyal* people of Virginia—*though a minority.* The wrongs and usurpations subsequently charged in the Declaration, with the effects ascribed, would necessarily follow such a conflict of the work of the Richmond Convention with the National polity. The subsequent proceedings of the Wheeling Convention were substantially in harmony with this theory; still its grave error in this respect, in stating the legal and Constitutional principle on which its proceedings rested, gave rise, I think, to much misunderstanding and hesitancy as to the legitimacy of the Re-organization of the old, and formation of the New State, on the part of some of the Federal authorities, and the Press, afterwards.

This Convention re-organized the Government by declaring all offices held by adherents to the Richmond proceedings, vacant, and filled them with loyal citizens; convened at Wheeling a Legislature composed of like citizens, elected the May before, and ordering new elections where vacancies occurred—after modifying in one or two particulars, the then existing Constitution to meet the emergency; prescribed an oath to support the Federal Constitution and the Re-organized Government of Virginia, notwithstanding the proceedings at Richmond, which oath all its members took, and all other officers were required to take: and on the 25th of June adjourned to the 6th of August, 1861, subject to be re-convened meantime by the Governor and Council, if deemed necessary. Hons. FRANCIS H. PEIRPOINT was created Governor; DANIEL POLSLEY, Lieutenant Governor; JAMES S. WHEAT, Attorney General; PETER G. VAN WINKLE, DANIEL LAMB, JAMES W. PAXTON, W. A. HARRISON and WILLIAM LAZEAR composed the Governor's Council. The other Executive Officers were subsequently filled by L. A. HAGANS, Secretary of State; CAMPBELL TARR, Treasurer; SAMUEL CRANE, Auditor of Public Accounts, and H. J. SAMUELS, Adjutant General.

In the meantime the Re-organized Legislature had elected two United States Senators, the Hon. JOHN S. CARLISLE, hitherto one of the most zealous and efficient Unionists, and the Hon. WAITMAN T. WILLEY, who hitherto had been inactive, and his Unionism doubtful; as he was reported to have made a disloyal speech on his way home from the Richmond Convention, of which he was a member—exhorting the people to repel any invasion of Virginia's soil by the Yankees.

The United States Senate admitted these members, and other departments at Washington recognized the legitimacy of the Re-organized Government by acts equally unequivocal, as will appear in the sequel.

The Convention re-convened the 6th of August, and continued in session until the 25th of the same month, when it adjourned, subject to be re-convened by its President or the Governor, at any time prior to January 1, 1862. In all matters touching the Re-organization of the old State, there had been great unanimity; but when the members returned from their respective constituencies the 6th of August, they were cognizant at least, of the firm determination of their respective constituents to have a new State—a subject that had been introduced by Mr. FARNSWORTH from Upshur County, prior to the adjournment. This advance and determination on the part of their constituents troubled many of the delegates seriously, as it did those of a subsequent Convention, that framed the Constitution. Political aspirations, so common to Virginians, had become awakened, and many had enjoyed the sweets of the humbler offices under the mother State. It was then confidently expected that the Union forces would soon crush out the Rebellion in Virginia, and the Re-organized Government would be acquiesed in and accepted by their recent *persecutors*, throughout the State, with themselves at the head. Incomparably grander this would be than to stand at the head of a comparatively small State on the Western border of the glorious Old Dominion! Besides, it was calculated to wound Virginia State pride, and some shuddered at the thought of disturbing her territorial integrity. Visions and feelings like these had began to possess the minds of the delegates when they returned. Moreover, the move to form a new State at that juncture of our National convulsion and peril, and when the Re-organized Government had been barely recognized, would naturally look premature and unwise. Notwithstanding there was great diversity of opinion, the Convention passed an Ordinance by a vote of fifty to twenty-eight, authorizing the erection of a new State, to include thirty-nine *specified* contiguous Counties, lying this side the Alleghanies, and other Counties contiguous on certain prescribed conditions, provided the people thereof should at an election to be held on the — October following, express their wish to have a new State. The Ordinance also provided for an election of delegates at the same time, to meet at Wheeling the 26th of November following, and form a Constitution

in case the vote should be for a new State. The following are the yeas and nays on this question:

YEAS—Messrs. Berkshire, Brown, Burdett, Brumfield, Cather, Crawford, Carlisle, Crane of Preston, Crane of Randolph, Caldwell, Copley, Davidson, Douglas, Downey, Davis, Evans, Ferrell, Farnsworth, Foley, Fast, Fleming, Hale, Hagans, Howard, Jackson, Kramer, Lamb, Lewis, Love, Martin of Welzel, Myers, Price, Paxton, Parsons, Ruffner, Smith of Marion, Slack, Smith of Pleasants, Scott, Smith of Upshur, Swan, Taft, Vance, Van Winkle, West, Withers, Williamson, Wilson, Zinn.—50.

NAYS—Messrs. Boreman (President), Atkinson, Boreman, Barnes, Bowyer, Burley, Broski, Crothers, Close, Carskadon, Gist, Graham, Harrison, Hubbard, Hall of Marion, Hawxhurst, Johnson, Koonce, Mason, Montague, Nicholls, Polsley, Ritchie, Stewart, Tarr, Trout, Wetzel, Watson.—28.

Hon. JOHN S. CARLISLE, though he had become United States Senator, occupied his seat in the Convention during the adjourned Session, and zealously advocated, and voted for the New State; while his colleague, Mr. WILLEY, I am informed, denounced the measure as one of tripple treason—treason to the United States Government, LETCHER'S Government, and the Re-organized Government of Virginia.

About the time the Convention adjourned, viz: the 26th of August, the Hon. A. F. RITCHIE, a member from Marion County, who had voted in the negative, published the following opinion of United States Attorney Gen. BATES, which was widely copied and favorably commented on by the press:

OIPNION OF ATTORNEY GENERAL BATES.

"ATTORNEY GENERAL'S OFFICE, August 12, 1861.

Hon. A. F. Ritchie, Virginia Convention, Wheeling:

SIR.—Your letter of the 9th instant was received within the hour and as you ask an immediate answer, you of course, will not expect me to go elaborately into the subject.

I have thought a great deal upon the question of dividing the

State of Virginia into two States; and since I came here, as a member of the Government, I have conversed with a good many and corresponded with some of the good men of Western Virginia in regard to that matter. In all this intercourse, my constant and earnest effort has been to impress upon the minds of those gentlemen the vast importance—not to say necessity—in this terrible crisis of our national affairs, to abstain from the introduction of any new elements of revolution, to avoid, as far as possible, all new and original theories of government; but, on the contrary, in all the insurgent commonwealths to adhere, as closely as circumstances will allow, to the old constitutional standard of principle, and to the traditional habits and thoughts of the people. And I still think that course is dictated by the plainest teachings of prudence.

The formation of a new State out of Western Virginia is an original, independent act of *revolution*. I do not deny the power of revolution (I do not call it right, for it is never prescribed, it exists in force only, and has and can have no law but the will of the revolutionists. Any attempt to carry it out involves a plain breach of *both the Constitutions*—of Virginia and of the Nation. And hence it is plain that you cannot take such a course without weakening, if not destroying your claims upon the sympathy and support of the General Government, and without disconcerting the plan already adopted by both Virginia and the General Government for the re-organization of the revolted States and the restoration of the integrity of the Union.

That plan I understand to be this: When a State, by its perverted functionaries, has declared itself out of the Union, we avail ourselves of all the sound and loyal elements of the States—all who own allegiance to and claim protection of the Constitution—to form a State Government as nearly as may be upon the former model, and claiming to be the very State which has been in part overthrown by the successful rebellion. In this way we establish a Constitutional nucleus, around which all the shattered elements of the Commonwealth may meet and combine, and thus restore the old State in its original integrity.

This I verily thought was the plan adopted at Wheeling, and recognized and acted upon by the General Government here. Your Convention annulled the revolutionary proceedings at Richmond, both in the Convention and the General Assembly, and your new Governor formally demanded of the President the fulfillment of the

Constitutional guaranty in favor of Virginia—Virginia as known to our fathers. The President admitted the obligation, and promised his best efforts to fulfill it. And the Senate admits your Senators, not as representing a new and nameless State, now for the first time heard of in our history, but as representing "the good old Commonwealth."

Must all this be undone, and a new and hazardous experiment be ventured upon, at the moment when dangers and difficulties are thickening around us? I hope not—for the sake of the Nation and the State I hope not. I had rejoiced in the movement in Western Virginia, as a legal, Constitutional and safe refuge from revolution and anarchy; as at once an example and fit instrument for the restoration of all the revolted States.

I have not time now to discuss the subject in its various bearings. What I have written is written with a running pen, and will need your charitable criticism.

If I had time to think, I could give persuasive reasons for declining the attempt to create a new State at this perilous time. At another time I might be willing to go fully into the question, but now I can say no more.

Most respectfully, your obedient servant.

EDWARD BATES."

MY reply through the Wheeling *Intelligencer* and New York *Evening Post*, to the letter of Attorney General BATES and "Tripple Treason."

[LETTER NO. I.]

THE NEW STATE OF *KANAWHA, AND ATTORNEY GENERAL BATES' LETTER TO MR. RITCHIE.

GENTLEMEN:—We have carefully read your remarks, as also the letter of the Attorney General to Mr. RITCHIE, the 12th instant, touching the subject of the new State, and must say, that we differ with you, both as to the Constitutionality of the proposed measure, as well as its expediency *at this time*. We affirm that the measure

*Afterwards changed to West Virginia.

conforms in letter and spirit to both Federal and State Constitutions. The Attorney General admits in his letter, he had scarcely any time to investigate the subject, and that his views were only *first impressions.*

The fourteenth section of the Bill of Rights adopted by the People of Virginia, the 12th of June, 1776, is as follows: "That the people have a right to uniform Government; and therefore that no Government separate from, or independent of the Government of Virginia, ought to be erected or established within the limits thereof."

This clause is all there is in the Bill of Rights, or Constitution of Virginia, directly bearing upon the subject; and taken in its broad and literal sense would seem to prohibit the erection of any new State within its *then* existing boundaries, which at that time included all the North-western Territory, out of which the North-western States have since been erected, and Kentucky, which was erected into a State about 1792. Besides, by the adoption of the Federal Constitution by the People of Virginia, in Convention the 26th of June, 1788, they thereby erected the Federal Government to the extent of the powers granted, within and over its then existing territory. The People of Virginia by their ratification of the Federal Constitution, adopted with the rest of that instrument, the third Section of the seventh Article, which reads thus: "New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any other State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress." Section second, Article sixth, of the Federal Constitution reads thus: "This Constitution and the laws of the United States, which shall be made in pursuance thereof, Treaties, &c., shall be the *Supreme Law of the Land.*"

However exclusive and indivisable therefore, the good people of Virginia in 1776, intended to make their then existing Government and Territory, their adoption of the Federal Constitution in 1788, as the Supreme Law of the Land, and the erection of new States afterward in pursuance thereof, clearly modified and restricted the original clause in their Bill of Rights. Nor have they by any alteration of their State Constitution since increased the pre-requisites for forming or erecting a new State.

To the Federal Constitution therefore, all *loyal* citizens must look

for the requisite steps to be taken to form a new State out of an old one; and this requires the consent of the State concerned, and of the Congress.

The only remaining question touching the legitimacy of the measure then, is this—Is the Legislature of the re-organized Government at Wheeling the *Constitutional* Legislature of the State of Virginia? If so, then its consent satisfies the letter and spirit of the Federal Constitution.

The re-organization of the Government has proceeded on the ground that all previous officers, adhering to the so-called Confederate States, have violated their oaths both to the Federal and State Governments, committed Treason against both, and forfeited their powers, which they held only in trust for and which immediately reverted to the People, and their seats became vacant, agreeably to Sec. 2d, Virginia Bill of Rights, namely, "That all power is vested in, and consequently derived from the People: That Magistrates are their *Trustees and Servants*, and at all times amenable to them." The *disloyal* portion of their constituents being "*participes criminis*" and often equally guilty, cannot take advantage of such forfeiture, as it would be "taking advantage of their own wrong," which is inadmissable in the forum of conscience, or law. The *loyal* portion alone can take advantage of the forfeiture and re-organize the Government; and to these alone does the legitimate Government belong.

The call for the Convention at Wheeling was addressed to *all* loyal citizens throughout the State, and it must be accounted their own fault or misfortune if they were not represented. The election of State Officers was equally open and general, and it was the like fault or misfortune if all loyal citizens were not represented in the Legislature. If the qualified voters of any County or Senatorial District neglect or refuse to send delegates to the Legislature, there is no power to compel them. A majority of those duly elected constitute a quorum for doing business, and the Federal Constitution requires no increased majority to give the consent for erecting a new State.

The Legislature at Wheeling then was *the Constitutional* Legislature of Virginia, and as such was fully competent to pass laws legally binding on the *whole* State. As competent to consent to the erection of a new State, within the meaning of the Federal Constitution, as to elect Senators to the United States Senate, or to accept the State's quota of the surplus Revenue, and other acts which the Fed-

eral Government has recognized and acted upon, in the most solemn and unequivocal manner. And in fact, the Federal Government would be estopped in a Court of Law or Equity, to impeach the Legislative action, which its highest law officer in the letter before mentioned states, would be a violation of both State and Federal Constitutions.

The distinction taken by Mr. POLSLEY in his opposition to the measure, that although the Government at Wheeling was the Government *de jure*, it could not be considered so *de facto* throughout the State, as the Eastern portion was not represented. There can be no ground for this distinction. For if it is the Government *de jure* as Mr. P. admits it to be, then it is all the Federal Constitution requires to give the necessary consent. And if not the Government *de facto*, we should like to have Mr. POLSLEY fix the number of Counties in the East or other portions of the State, short of the whole, he would require to be represented, in order to raise it to that dignity. If the reply be a majority of the *loyal* voters of Virginia, we answer, that majority we already have.

Above all, when we consider the deep gulf of Revolution and Ruin the rebels have plunged the State into, regardless of our warnings and entreaties, as well as Constitutions and Laws, both human and divine, the great law of self-preservation would of itself justify almost any measure to rescue and save *True Union men*.

And whoever would in these times, interpose exception to the *manner* the seats of rebel officers are declared vacant, or others of a like technical character, would indict and punish the loyal passengers of a ship for *cutting*, instead of *untying*, the lashings of the life boat, whilst the officers and crew, having turned pirates, and in mad revelry, were steering the ship to the certain destruction of all on board.

We shall speak of the *expediency* of the measure in our next.

CABELL COUNTY, W. VA., August 29, 1861.

[LETTER NO. 2.]

THE NEW STATE OF KANAWHA—THE EXPEDIENCY OF ITS ERECTION AT THIS TIME.

GENTLEMEN:—We endeavored to show in a former number that there existed no constitutional objection to the erection of the new State *now*. We propose in this number to show the expediency and imperative necessity of doing it at once, or as soon as practicable.

The radical and irreconcilable difference, which has for a long time existed between the people East and West of the Alleghanies, in their geographical position, Commercial necessities, social habits and relations, as well as National affinities, is generally known and admitted. This dividing line in their moral and social condition has become as fixed and permanent, as the Alleghanies themselves in the physical features of the State. And for a long time past upon issues, Moral, Religious and Political—whilst the East has always gravitated towards the "peculiar institution" now represented by the so-called Southern Confederacy; the West has as uniformly gravitated towards the Free States now represented by an unshaken adherence to the Federal Union. All the recent votes upon the revolutionary and rebellious measures, have only served to show with more clearness the depth and prominence of the antagonism, which exists between the two sections of the State.

The recent campaign of General WISE, who was selected to subdue and crush out the Union sentiment of Western Virginia, by the prestige of his name and persuasive eloquence, rather than by arms, has been forced to return without any success—showing thereby that the Union men have only bent, not broken by the shock—giving thereby fresh proof of their fidelity to the Union; whilst the chagrin, mortification and sectional hate of this redoubtable General marked his retreat with indiscriminate plunder and devastation. The East, which has always held the power, has manifested the strength of opposition on her part, by perpetuating a system of unjust and oppressive Legislation towards the West in unequal taxation, more odious and more unjust, than that which separated the Colonies from Great Britain. The East have with great unanimity exerted every nerve to throw the entire State into the vortex of Secession, and to destroy the Government of WASHINGTON, and the glory and

prosperity of their Country; whilst the West have with equal unanimity and vigor labored to preserve both in their integrity and health. The present war, devastation, bankruptcy and ruin, which now spread over the entire East, belong exclusively to the madness and folly of its own people, aided by a few deluded sympathizers in the West. The great mass of the people in the West are guiltless, and have seasonably and at all times, warned and entreated their brethren of the East to desist. But it has been in vain.

Would not the policy that shall longer bind the destinies of the young and loyal West to the self-immolated and disloyal East, equal in barbarity and horror that which binds the living Hindoo widow to the corpse of her deceased husband? But it is useless to adduce further reasons to show that the West *merits* immediate and eternal separation from the East. This fact must be manifest to all; and if separation is to be longer deferred, it must be for causes disconnected with the *real merits* and *demerits* of the two sections; and the only remaining inquiry is, are there really any such existing? We think not.

It has been suggested that the Re-organized Government forms a nucleus around which all the scattered Union fragments of the State can be gathered, and a reconstruction effected, and that the erection of a new State *now*, would destroy this nucleus, as it would absorb the Re-organized Government entirely. We do not understand that such would be the legal result. The erection of the new Government would only absorb or displace the present Re-organized Government to the extent of the new State. Beyond that it would still exist in all its vigor; and the present Governor and other officers having general jurisdiction over the State, would still continue to hold their powers outside of the boundaries of the new State. It would become necessary for them to remove their residence beyond the new State, or to resign their present seats and take the chance of an election under the new Constitution. In either case, the Re-organized Government would still remain at all points outside the boundaries of the new State, around which the scattered Union elements of the old State could at any time rally.

It has also been objected, that the Federal Government by giving its consent to the erection of the new State at this time, would thereby give its sanction to the monstrous Secession heresy, with which it is now battling. This is a mistake, arising from a supposed resemblance between the two cases, when in fact—if we are right in our

Constitutional views of the matter, not the remotest resemblance exists. For whilst the erection of a new State will conform in all respects to the requirements of both State and Federal Constitutions, Secession is in direct contravention of both. And to pretend that the separation and erection into a new State, of a people that have always remained loyal, as well to their State as Federal Government, against all the traitorous and revolutionary assaults of the enemies to both—shall stand in no better plight than these very enemies—would be monstrous indeed! The one is law, order, and *tried* loyalty, cutting itself loose by Constitutional means from Revolution, Anarchy and Treason—whilst the other is an attempt by Unconstitutional and Revolutionary means, to drag us with themselves into certain ruin.

It has also been objected that the present Congress could not consent to the erection and admission of the new State, in case the people should elect to retain the Slave feature, without violating the Chicago Platform! If we recollect rightly that Platform only forbids the *extension* of Slavery or Slave Territory. *The proposed measure will extend neither.* And the present Slave interest within the limits of the proposed State—being only about one slave to thirty-three whites, can exert little, if any, influence in the choice of the two additional United States Senators, who would increase, instead of diminishing, the Free States' power in the United States Senate. We do not see therefore as it would infringe the Chicago Platform. But suppose it should, what weight has that platform in *times like the present!* Not much, we trust.

There are true loyal men within the boundaries of the new State, who own Slaves and their property ought not to be sacrificed without adequate compensation. And while we feel that the present times require of the Government an exhibition of a mighty and terrible power, that shall make traitors quake, they also require in a corresponding degree, the exhibition of a lofty sense of justice.

But what shall we lose by postponing the measure until the whole State shall be brought to acknowledge the Re-organized Government? Why, as soon as that is done, all the hostile Secession element of the East—rendered more hostile by defeat—will again meet us in the General Assembly, ready to co-operate with the Traitors that live amongst us, and together form a controlling majority. The Federal arm will then have been withdrawn. It will possess no Constitutional power to interfere further. Think a Legislature so con-

stituted would consent to let the cis-Alleghany people go? Would they not rather hold us as PHARAOH did the Israelites, in order to harrass and oppress, as he did them? They will tax us to replenish a treasury their own folly and madness have emptied; to rebuild public structures their own traitorous hands have demolished; and to pay debts their parricidal war has created. They would require inflictions equal to the plagues of Egypt before they would let us go; and Western Virginia would be forever doomed.

But on the contrary, let the new State be created *now*; let Congress when it convenes admit her to the immortal Sisterhood, and she will at once be able to take good care of such traitors as reside among us, and spring forth into "newness of life with joy and freedom in her wings."

CABELL COUNTY, W. VA.; September 7, 1861.

AT the election held on the Fourth Thursday of October following, the people of the several Counties named in the Ordinance, accepted the proposition to erect themselves into a new State, by a vote of 18,408 in favor, to 781 against; and at the same time elected delegates to form a Constitution. The writer had the honor to be elected a delegate from Cabell County.

Of course this presumptuous move on the part of the "poor whites" the chivalry a few months before held under military rule, reached them through the "grape vine telegraph" in their Eldorado, and incensed them, together with all Rebeldom, very much. Various efforts were made to get back to their *quondam* homes, and put a stop to such audacious Treason; but in general they found too many loyal bayonets in the way. They have not, I think, forgiven the "poor whites" to this day, for so behaving, while they themselves were making so great sacrifice to regain the "lost rights" of *all*, in the land of "Dixie."

On the evening of the 10th of November, however, a regiment of Rebel Cavalry, under command of Cols. CLARKSON and JENKINS, made a raid upon the town of Guyandotte, captured a small Union force stationed there under the command of Major WHALEY, and retreated next day at the approach of the Fifth Virginia Infantry, then stationed at Ceredo, under the command of the brave Colonel ZEIGLER, taking with them to Richmond, not only the Union soldiers,

but several citizens, whose only offence was their Union sentiments—among these several aged and most respected citizens, some of whom perished in their imprisonment, rather than acknowledge themselves in error. WILLIAM HINCHMAN, Esq., of Cabell, and DANIEL WITCHER, of Wayne County, uncle of General JOHN H. WITCHER, were illustrious examples. Colonel ZEIGLER, justly incensed at this cruel and unmilitary conduct, invited and aided by the local rebel element, burned the town on the 11th of November—some thought, without sufficient cause. I never could think so, although about one thousand dollars worth of my property was destroyed, for which I have received no compensation. It taught the Rebel marauders, and their stay-at-home sympathizing and aiding friends a salutary lesson—not disregarded anywhere along the border, afterwards.

The Convention for framing a Constitution, met at Wheeling, the 26th of November, composed of the following gentlemen, who appeared on that day, or subsequently, and took their seats:

Robert Irvine, R. W. Lauck, Stephen M. Hansley, Benjamin L. Stephenson, Thomas W. Harrison, John M. Powell, Dudley S. Montague, Richard L. Brooks, A. J. Wilson, G. F. Taylor, W. W. Brumfield, Josiah Simmons, Joseph Hubbs, William W. Warder, H. D. Chapman, John Hall, James Hervey, Robert Hagar, W. T. Willey, Henry Dering, P. G. Van Winkle, W. E. Stevenson, E. B. Hall, Hiram Haymond, J. W. Paxton, Daniel Lamb, G. Battelle, Joseph S. Pomeroy, Abraham D. Soper, James W. Parsons, Chapman J. Stewart, Granville Parker, Emmet J. O'Brien, Harmon Sinsel, John J. Brown, John A. Dille, E. S. Mahon, Benjamin F. Stewart, T. R. Carskadon, George Sheets, E. H. Caldwell, T. H. Trainer, Abijah Dolly, Jas. H. Brown, Lewis Ruffner, James Cassady, William Walker, Job Robinson, Benjamin H. Smith, John R. McCutchen, J. P. Hoback, Richard M. Cooke, E. W. Ryan.

The Hon. JOHN HALL, delegate from Mason County, was chosen President, and the late ELLERY R. HALL, Esq., of Taylor, was chosen Secretary. The main features of its work have now become History; still the interior workings are but partially known. The task of forming a Constitution that should secure the approval of the three parties required—our own People, the Legislature of the Re-organized Government of Virginia, and Congress, was great and difficult indeed, at that period of National Convulsion; especially, after the

United States Attorney General, the highest law officer in the Government, had pronounced the measure *revolutionary*, and "without warrant in either National or State Constitution." The task of the preceding Convention, though requiring eminent courage and patriotism, was simple and easy compared with this. It soon appeared that a considerable portion of the members, especially those that had enjoyed office under the old regime, wished the task off their hands. It was their heroic and determined constituences behind, that held them to the work. The brave and patriotic VAN WINKLE, early accused some of "hankering after the flesh pots of Egypt"—and his courage subsequently failed.

A Special Committee was early appointed, for the purpose of determining suitable boundaries for the New State. This Committee reported, and recommended a change of boundaries, so as to include the entire Shenandoah Valley to the top of the Blue Ridge. The people of that Valley were as intensely pro-slavery and rebellious, as any section of the State; and of course, if the Report had been adopted, must have ended all hope of a New State. The report was warmly discussed for about a week. Among others, the writer submitted the following remarks:

TOUCHING THE POWERS OF THE CONVENTION—HAS THIS CONVENTION THE POWER TO CHANGE THE BOUNDARIES?

It is a familiar principle of Law and Equity that when a thing is to be divided, or existing sub-divisions changed, all parties interested must be represented.

If three persons are the joint owners of a field, all must be represented and assent in order to make a valid division.

If after the division is made and the bounds fixed, one should attempt to change these bounds, without the consent of the other two, it would be an act which Human and Divine law condemn.

If in making the Division, however, two of the joint owners should undertake to impose on the portion allotted to the third, a particular *name*, as "White Acre," or "Black Acre," or to prescribe the manner he

should cultivate his portion, these would be restrictions inconsistent with his sole ownership and absolute right to use, and therefore not binding. Such, in principle, I take to be the case now before the Convention.

In the State of Virginia, the subject to be divided, all the loyal People of the State are the parties interested; and these People either through a Convention or Legislature, which constitutionally represents them *all*, can alone make a division so far as the State is concerned.

The Convention that convened at Wheeling the 11th of June last constitutionally represented the loyal People of the *whole* State. By the Treason of her officers, LETCHER and Company abdicated, and their powers became forfeited and returned to the People, the Source of all power. As the *disloyal* portion were confederate with the Traitor officers, *participes criminis*, and equally guilty, they could not take advantage of the forfeiture, as it would be "taking advantage of their own wrong."

The *loyal* People of the State could alone take advantage of the forfeiture, and re-organize the Government. The *call* for the Convention was general to *all loyal* citizens throughout the State, and it was their fault or misfortune if all such were not represented. If a County or Senatorial District refuse or neglect to send a Delegate or Senator to the General Assembly, there is no power to compel them to do it. Those elected and qualifying constitute a Constitutional Legislature, whose Acts bind all.

Such were the Convention and Legislature which met last Summer at Wheeling, and the Legislature now in session.

Now such a Convention or Legislature with consent of Congress can make any division they choose; and so far as the State is concerned are like the three men that jointly owned the field.

That Convention did authorize a division including the thirty-nine Counties absolutely, fixing the boundaries; and by the third Section of the Ordinance authorized other Counties to come in on *certain conditions*, which conditions have not been complied with except by the Counties of Hardy and Hampshire, whose Delegates have been admitted to this Convention. The same Section also authorized the thirty-nine Counties and such others as should comply with the conditions prescribed, to choose Delegates to meet in Convention and form "a Constitution for the Government of the proposed new State"; which Convention representing the forty-one Counties, we are.

Now can this Convention of ours, which represents but a *part* of the loyal People, move or alter the boundaries which the whole loyal People, the owners of the thing to be divided, have fixed? It is in principle, the third man altering the bounds which the three have fixed, without the consent of the other two. The *peculiar structure* of the new State and its name, this Convention has full control over, for these belong exclusively to our constituents; and in these the other loyal People of the State have no interest whatever; but in the boundaries they have a direct and most vital interest. Another Convention representing the *whole* loyal People of the State, or the present Legislature, which also represents *all*, can change the boundaries.

The gentleman from Wood inquired yesterday, if force had made it impossible for certain Counties to comply with the conditions, whether that fact would not waive the conditions, and authorize this Convention to admit the proposed additional Counties. I answer emphatically, No. It would not enlarge the powers of the present Convention. The Convention of last Summer that imposed these conditions and which represented the whole loyal People of Virginia, or some other body, possessing equally extensive powers, can waive the conditions and admit them.

It is competent and proper, I submit, for this Convention to agree on what we think our constituents need, and *recommend* the same to the proper power. The present Legislature or a Convention of the whole loyal People of Virginia has that power. What this Convention does, in this regard, can only be *recommendatory*.

Some gentlemen have suggested that as the whole work of re-organizing the old, and forming the new State, is Revolutionary, this Convention can do what it pleases, even to the moving of a neighbor's landmarks.

I deny the premises in toto. The re-organization of the old and our proceedings thus far in forming the new State, are in all respects Constitutional and Legitimate. When the old Government by the Treason of its officers abdicated, its powers, being incapable of annihilation, returned to the People, the source from which such powers were derived; and it became the right and duty of the *loyal* portion thereof to re-organize and re-officer, with loyal men, the Government. It is LETCHER and Company's train, locomotive, tender, passenger cars and all, that lie piled in ruins down the bank—not ours. Ours is on the *Constitutional* track, with Steam up, with Engineers,

Firemen, Conductors, and Brakemen, all equal to the emergency and at their posts, and we must go through.

THE friends succeeded in limiting the boundary to the summit of the Alleghanies, until they struck the influence of the Baltimore & Ohio Railroad, which, for the purpose of getting its entire line out of Old Virginia, created what is known as the "Eastern Pan Handle."

I also had the honor to submit to the Convention some remarks on other subjects, among them the following:

CAN TREASON BE COMMITTED AGAINST A STATE UNDER OUR SYSTEM OF GOVERNMENT?

To determine this question we should look to the origin of our System, the Source of power, and distribution which the People have made of that power.

Previous to the separation of the thirteen Colonies from Great Britain by the establishment of their Independence, these Colonies owed allegiance to the British Crown. By that Independence this allegiance was dissolved, and the Sovereign Power became vested in the people of the several Colonies. Each of these Colonies formed for itself a State Government—Virginia hers in 1776; and the other Colonies soon after. These thirteen Peoples became then thirteen Independent Governments. In 1777 and 1778, during the war, the Legislatures of these thirteen Independent State Governments entered into a league or compact called "Articles of Confederation." The powers of this Confederation were vested in a Congress solely, composed of Delegates elected by the Legislatures of the States. There was no Executive, nor Judicial Departments then. No President, Federal Courts, nor Marshals then. The Congress could enact laws, but had no co-ordinate branches to interpret or carry its laws into execution. It could only *recommend* to the thirteen State Governments to carry its laws into effect. The State Governments, as a general thing, did this, while pressed by the arms of Great Britain. But when this outside pressure was removed by the peace of 1783, they ceased to comply with the requests of this Congress. No money could be raised to pay the debt created by the war, or to pay current

expenses. Its laws were set at defiance. Rivalries and disputes sprung up between the several States, in relation to Commerce, imposts and the like, and the whole fruits of the great struggle were threatened with immediate ruin.

Amid these stern necessities it was, in 1787, the delegates, chosen generally, I think, by the Legislatures of the several States, with General WASHINGTON at their head—met in Philadelphia, and drafted our Federal Constitution. It begins: "We, the *People* of the United States, in order to form a more perfect Union," &c.

Article Six reads thus: "This Constitution and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or that shall be made under the authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the contrary notwithstanding."

Article Nine (Amendments) thus: "The enumeration in the Constitution of certain rights shall not be construed to deny, or disparage others retained by the people."

Article Ten (Amendments) thus: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Article Four, Section Three, provides: "That new States may be admitted by Congress into the Union," &c.

Section Four: "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."

This Constitution was submitted to the people, (convened through their delegates in each State) who ratified the same, and thereby became consolidated into one people and Government, to the extent of the powers granted in the Constitution, *but no farther.* The powers reserved to the States respectively, or people, remained in the respective States, and in the people, the same as before the adoption of the United States Constitution. Before the adoption of the latter, each State was Sovereign and Supreme, and the adoption of that instrument by the people, only abridged the State Sovereignty to the extent of the Sovereignty so transferred to the Federal Government by the Federal Constitution.

Now that *residuum* of Sovereignty which remained in the States, after the people had resumed sufficient with which to construct the Federal Government, is the Sovereign power to which the people owe an allegiance, separate and distinct from their allegiance to the Federal Government; and against this residuum of State Sovereignty, Treason may be committed. The State is as Supreme outside the bounds of the Federal powers as it ever was. As seen through the Federal Government, it is true, the people of the thirty-four States, are but *one* people, making one great Nation, and the powers conferred on the Federal Government were with this view. It has the exclusive management of our foreign relations, with the outside world, and with such internal interests as are general, and require uniformity: as the Postal department, and Commerce. Co-extensive with the Constitution in the exercise of its delegated powers, it is Supreme; and if the due exercise of these powers is obstructed anywhere, in any State, it has the unquestionable right to march its armies and remove the obstruction; and this is no invasion of the rights of the States. It is an exercise of its Constitutional rights only. But if it transcends the powers granted, it becomes invasion and aggression upon the rights reserved to the States and people.

To the State and people are reserved all powers of a local nature, to be exercised as the people and peculiar wants of each State may require. Here, the rights of persons and of property are mainly defined, enforced, and protected, with the modes of acquiring and disposing of property. In these local matters the State is Sovereign and Supreme. If a murder should be committed in the County of Ohio to-day, the Federal Government would have no jurisdiction in the case, no more than the Queen's Bench of England. The indictment would conclude against the peace and dignity of the State of Virginia. If convicted and sentenced to be executed, and ten, twenty or a hundred men, citizens owing allegiance to the State of Virginia—should organize and arm themselves for the purpose of rescuing the culprit, it would be levying war against the lawful authority of the State, and treason against the same. Resistance to lawful authority is rebellion. But it requires organized and armed resistance to lawful authority, or an organizing and arming with intent to such resistance, to constitute levying of war within the meaning of the Constitution. 'Tis not necessary the armed conspirators should contemplate the destruction of the entire Government. For their example if carried out, would soon destroy it by piece-meal.

If upon application from the proper State authority the Federal Government should interpose to assist the State Government, and should meet with this organized and armed resistance, it would then become treason against both Governments; as it would be an organized and armed resistance to the lawful authority of both. Whether in such case that against the State would become merged in that against the United States, is not material here.

We are citizens of, and owing allegiance to two Governments, the Federal and State. Each equally original and springing from, and resting upon, the people. Each is self-executing and supreme within the scope of powers granted. The constituency of the Federal Government are the citizens of the thirty-four States. The constituency of the State Government are the citizens of the State. The Federal Constitution is the Supreme Law of the Land; and wherever there is a conflict the State must yield to the Federal power. To decide the questions of conflict that may arise is the province of the Supreme Court of the United States, which represents *all* the citizens of the United States; and this is the key-stone of the arch, without which the whole must sink into anarchy. It is a system that seems to have been generated and produced by the circumstances that surrounded and influenced the great Founders, who were fit instruments in a Divine hand.

I was surprised at the widely different opinions entertained by members in relation to the structure of our National polity. The appalling results at the time of extreme State Rights doctrine had impelled some of the ablest minds in the Convention to an opposite extreme:—absorption of all State Sovereignty in the National. Hence, I think, my remarks were of use then, though they may appear trite truisms now. Several of the ablest members strenuously contended that a State Government could possess no sovereign power, against which treason could be committed.

ON THE SIZE OF THE HOUSE OF DELEGATES, AND MODE OF APPORTIONING THEM AMONG THE SEVERAL COUNTIES AND DELEGATE DISTRICTS.

THE proposition I understand is, to substitute fifty-four Delegates in place of forty-six, as reported by the Committee the 17th of December. My purpose has been to adhere to forty-six, as the number giving in the aggregate the smallest amount of *unrepresented* fractions—and these most equally and equitably distributed.

My vote on Saturday, in favor of the amendment to the substitute proposed by the gentleman from Doddridge, to give the additional number if any increase should be made, to the small, instead of the large Counties, as being the most just. If the great principle we have adopted, with entire unanimity, was to be departed from, my sympathy would give to the weak rather than to the strong—not that I for a moment intended to be understood as favoring any departure at all. The conduct of gentlemen since, on both sides, had inspired a hope that "log rolling" was to be abandoned, and principle adhered to—hence, yesterday, upon a motion for reconsideration, I voted to reject that amendment, which now brings us to the main question, the substitute proposed.

Now, what will be the result if eight delegates be added, and distributed according to our adopted principle and method? Will the proposed increase secure a more desirable and efficient legislative body? Will it diminish the aggregate of unrepresented fractions? Will it more equally and equitably compensate for the unrepresented fractions? If all, or either of these results are to be attained, then adherence to principle will warrant it. But if neither is to be attained by the change, then an adherence to principle as clearly forbids it.

All agree that forty-six will make a House sufficiently large, and that fifty-four, with a corresponding representation from the seven Counties that may elect to become part of the new State, will make the House too large. There is to be no improvement, then, in the *size* of the House to warrant the change.

Will it diminish the aggregate of unrepresented fractions? Fifty-four gives a ratio or divisor of 5,637, instead of 6,618, and produces thirty-eight, instead of twenty-five delegates, as by the Report; and

an aggregate of fractions of 90,226, while the Report gives 138,083. But the material question is, which divisor or ratio and distribution according to the principle which we have adopted, will leave the smallest aggregate of *unrepresented* fractions. The 138,083 fractions by the Report, includes the sixteen fractions to which stars are annexed, also the five having a cross attached, making twenty-one of the thirty-seven Counties and Districts, to which Delegates are assigned; and these twenty-one Districts and Counties are represented by an excess equalling the *unrepresented* fractions of the remaining sixteen Counties and Delegate Districts, which have neither stars nor crosses attached, and reduces the aggregate of unrepresented fractions in these last named sixteen Counties and Districts to 20,649. If we give an additional Delegate to Greenbrier and Monroe, as we should do, as they have the largest unrepresented fractions—it reduces the unrepresented fractions to 13,852—that being all the persons in all the Counties that will be unrepresented according to the Report of the Committee.

Now, how will it be with the 90,226 aggregate fractions produced by the fifty-four, as a ratio? It will be seen that only eight of the Counties and Districts fall below the divisor or ratio, namely, Boone, Brooke, Doddridge, Hancock, Logan, Pocahontas, Roane and Wirt, each of which has a Delegate assigned to it, though their aggregate population is only 37,335, and consequently represented by an excess of 7,761. Substract this 37,335 from the 90,226, the aforesaid aggregate fractions of the fifty-four ratio, and there remains 52,891 unrepresented fractions in the twenty-nine Districts and Counties, which are entitled to, and allotted one or more delegates. There are eight delegates to be allotted, and they must be distributed as follows: *First*—to Ohio, for the substitute's fraction of 5,025, (but by the Report 2,342,) one—making to that County four delegates. *Second*—to Greenbrier, for the substitute's fraction of 4,862 (by Report 3,881) one—making two to that County. *Third*—to Monroe, for the substitute's fraction of 3,887 (by Report 2,908) one—making two to that County. *Fourth*—to Mason, for the substitute's fraction of 3,115 (by Report 2,134) one—making two to that County. *Fifth*—to Barbour, for the substitute's fraction of 3,092 (by Report 2,111) one—making two to that County. *Sixth*—to Jackson, for the substitute's fraction of 2,583 (by Report 1,622) one—making two to that County. *Seventh*—to Kanawha, for the substitute's fraction of 2,513 (by Report 551) one—making three delegates for that

County. *Eighth*—to the District of Wood and Pleasants, for substitute's fraction of 2,443 (by Report 481) one—making three to that District.

This will be the distribution, the principle and method we have adopted, will require, and the aggregate fractions to which they will be allotted, amount to 27,722—17,294 less than the full number, namely 45,096—and 27,722 substracted from the 52,991 of remaining fractions as before stated, leaves 25,289 *unrepresented* fractions, as against 13,852 by the Report. It is clear, then, that the change proposed, will largely increase the aggregate of *unrepresented* fractions.

Now the next question is, who is to lose by this? It is said that Cabell County, which I have the honor to represent, will not, for she is entitled to one delegate in either case. I answer, that by the Report, Cabell will enjoy *one forty-sixth part of the power of the House of Delegates; but by the proposed substitute she will have but a fifty-fourth part of that power.* And wherever there is a gain by an excess of representation, there must be somewhere else, a corresponding loss in *unrepresented* fractions. By the substitute the unrepresented fraction of Cabell County is increased from 1,073 to 2,054—loss, 981 Lewis County, from 1,118 to 2,099; Taylor County, from 682 to 1,663; Upshur, from 446 to 1,427; Wetzel, from 93 to 1,054; Wayne, changed from 14 minus to 967 excess; Tyler, from 130 minus, to 841 excess; Ritchie, from 195 to 1,172; Putnam, from 910 minus, to 71 excess; Preston, from 53 minus to 1,909 excess; Monongahela, from 329 minus to 1,732 excess; Mercer, from 190 minus to 791 excess; Marshall, from 580 minus, to 1,662 excess; Marion, from 180 minus to 1,382 excess; Harrison, from 51 minus to 1,913 excess; First Delegate District, Calhoun and Gilmer, from 441 minus, to 544 excess; Second District, Clay and Braxton, from 28, to 1009 excess; Fourth District, McDowell, Raleigh and Wyoming, from 1005, to 1,996; Fifth District, Tucker aud Randolph, from 429 minus, to 522 excess, Sixth District, Webster and Nicholas, from 596 minus, to 384 excess.

Such is to be the result of the change proposed. And have the gentlemen, whose Counties, nine in number, are to be the exclusive gainers, the effrontery to ask those, representing the remaining thirty-five, which are to sustain such loss to vote for the substitute. For their own sakes, and the character of this body, I trust not. Can the gentlemen from Kanawha, whose County has 13,787 population,

and only 6,096 more than Cabell, expect me to vote for a proposition, that gives their County *three* delegates, while Cabell has but *one?* I trust not.

Gentlemen seem to forget the high purpose, for which we were sent here. We have been sent here to frame a Constitution, containing general and just principles, which are to govern Legislatures, and the other co-ordinate branches of the Government in future time—not to try our hands at that contemptible, petty "log rolling," which has disgraced and ruined the mother State! The fifth fundamental principle which we have unanimously adopted, reads thus: "Every citizen of the State shall be entitled to equal Representation in the Government, and in all apportionments of Representation, equality of numbers in those entitled thereto, shall be preserved as far as possible." Nor have we been content to enunciate this great principle of equal Representation as a guide to future Legislatures, and leave it to their discretion to apply, as successive decades shall roll round with all the changes that will occur, but in the sixth section of the Legislative Report, which we have unanimously adopted, we have prescribed an exact method, with minute details, by which all future Legislatures shall preserve this equality of Representation. Thus we have preached and theorized for others to practice by. But it devolves upon us now to put our preaching and theory into practice; and suppose in our practice, we adopt the substitute proposed, with all its flagrant violations of these principles, and gross injustice—what will those who come after think of us? May they not reasonably conclude that the madness, which seems to rule the minds of men at the present day, extended alike to Constitution *makers*, and Constitution *breakers!* And what will our present constituents, to whose decisions we have to submit our important work say? Are not they the descendants of men, who "pledged their lives, fortunes, and sacred honor," for the maintenance of just Principles? and are not they themselves at this very hour hazarding everything for upholding the great principles so established by the Fathers, and many baring their bosoms to the storms of a most relentless Civil War? Present to them for their approval such mental, nay moral apostacy, as the adoption of the substitute contemplates, and they will reject it with scorn and indignation.

Let us be rational and honest, and reject this substitute, and adopt one that shall give to the Counties of Greenbrier and Monroe conjointly, they having the largest unrepresented fractions, and having

never been represented in this Convention, an additional member, making forty-seven in all, unless the seven conditional Counties, or some of them, elect to come in.

THE substitute was rejected, and the Report of the Committee modified in the manner proposed, was adopted. [See Journal of Convention, 2d and 3d Reports of the Committee on the Legislative Department.]

ON THE QUESTION OF ALLOWING THE LEGISLATURE TO GIVE THE STATE'S AID TO WORKS OF INTERNAL IMPROVEMENTS.

This is an important question. Is it better for the Convention to prohibit for all coming time, the aid of the State to Works of Internal Improvements, however general they may be in their beneficial results to the State, or permit the Legislature, under proper restrictions, to extend its aid from time to time to such Works as its wisdom shall deem to be of general State concern. As the National Government confines its aid to Works of National concern only, so a State ought to extend its aid to such works only as concern the whole State, and where individual capital and enterprise are inadequate. When any State descends from matters that are of general State concern, to works that are merely private and local in their nature, it becomes the sport and victim of individual and local competition, to "log rolling," and indiscriminate plunder. This has been the peculiar misfortune of Virginia.

WASHINGTON, and his cotemporaries, stood upon high State policy, when in 1790 they projected the great work of connecting the James with the Ohio river. But they passed away, and their successors went to "log rolling," and have continued it until a debt of $35,000,000 to $40,000,000 has been created, and instead of any system of Public Works, only partial disconnected lines are scattered over the Eastern portion—"beginning," as Governor WISE said in 1854, "everywhere, and ending nowhere."

DE WITT CLINTON, in about 1817, projected the great work of the Erie Canal, connecting the Hudson River with the great Lakes, and the inexhaustible West—which he adhered to amidst persecution and obliquy, until the great work was completed in 1825, and his name made immortal.

All of Western New York was then a wilderness, but now the richest, and most populous section of the country, with its fertile fields and flourishing towns and cities. The State then numbering about 1,200,000, which in 1860 numbered nearly 4,000,000. The city of New York, then numbering about 250,000, in 1860, numbered rising one million—more white population than the entire State of Virginia. The States of Massachusetts, Pennsylvania, Maryland, Ohio, Indiana and Illinois, followed her example—with less marked, but extraordinary success. Most of their canals, except the Erie, have been superseded by Railroads; but those States owe mainly their present greatness to their early perfected systems of Internal Improvements.

Now, where would these great States have been if their Constitutions had contained the prohibitory clause now proposed to be inserted in ours? They would still have been, to a great extent, like Western Virginia—a wilderness!

Western Virginia has received but little benefit from the "log rolling" business of the State. She has helped the East to roll their logs, but has received little assistance in rolling her own. The meagre improvements of the Kanawha, Coal, and Guyandotte rivers, and the half million expended on the west end of the Covington and Ohio Railroad—now in a state of decay—with here and there a mud turnpike, are all she can show for the forty million of debt.

Western Virginia is rich beyond measure, in variety and fertility of soil, boundless forests of valuable timber, and inexhaustible mineral wealth. But these are to be developed, and brought into use. Individual capital, aided by the State, and the sinews of free and earnest men can alone accomplish it.

I do not believe in the policy of the State becoming a stockholder in any Company, but in her endorsing or guaranteeing Company's bonds where absolutely necessary, and where it shall be demonstrated to be safe to do so, taking a lien on the whole work for security. There need be no risk whatever; and we should commit this power to the wisdom and sound discretion of future Legislatures.

Our new State, it is true, will require no long lines of Improvements to connect her with markets. The Ohio River, and Baltimore & Ohio Railroad open to her the best markets of the country; and the same liberal and enterprising Company stands ready to do more. It is her beautiful rivers that require to be improved; her almost ainccessible interior, filled with every variety of wealth, now locked up and valueless, must be furnished with suitable outlets, which will impart to the Agricultural and every other great interest, a quickening spirit. It has not the individual capital and enterprise to do it. The State can aid without incurring any risk, in the manner I propose. The Legislature of Virginia, it is to be remembered, has been controlled the last forty years by men whose policy has at length culminated in treason and attempted parricide. The legislation of Virginia, therefore, on this subject, under such guidance, should not be taken as an earnest for what future legislation of the new State is to be, controlled, as we may hope it will be, by honest and earnest men, chastened and made wise and prudent by the solemn lessons of the past. It is the *abuse*, not the legitimate use, of the power, that has produced the evil. Commit it, then, with unshaken confidence in the virtue and intelligence of the people, into the hands of their future representatives. Let the genius of the new State remain unshackled; and disenthrolled of a slave oligarchy, and clothed in the new, easy, and well-fitting garment we are preparing for her, and she will normally and rapidly develope, and at no distant day stand forth, in her indigenous beauty and strength.

ON A PROPOSITION TO INSERT THIS CLAUSE OF THE VIRGINIA CONSTITUTION: "NO MINISTER OF THE GOSPEL OR PRIEST, OF ANY RELIGIOUS DENOMINATION, NOR SALARIED OFFICER OF ANY BANKING CORPORATION, OR COMPANY, SHALL BE CAPABLE OF BEING ELECTED TO EITHER HOUSE OF THE LEGISLATURE."

Why should not these classes of our fellow-citizens, who bear equally the burden of Government, in the form of taxes, &c., and enjoy no peculiar privilege or emolument from it, be denied the

honor and profit of a seat in the Legislature, whenever their fellow-citizens chose to give it? There is no inherent incompatibility in either case, that should not be left to the citizens to determine, whether candidates, or voters. These classes equally with farmers, mechanics and merchants, the Government leaves to support themselves and families—to earn their livelihood as best they can. And for examples of their competency, faithfulness and patriotism in deliberative bodies, I need only refer to the Chairman of the Legislative Committee, Mr. LAMB, the Cashier of one of our principal Banks, who, we all feel, is the JAMES MADISON of this body; and the Clergymen, representing the principal religious sects, who are also conspicuous, faithful and useful members.

THE proposition was rejected.

I ALSO PREPARED THE FOLLOWING REMARKS ON THE QUESTION OF GRADUAL EMANCIPATION OF SLAVERY, AND ITS SUBMISSION BY A SEPARATE POLL TO THE PEOPLE—TO BE SUBMITTED WHEN IT CAME UP. THE SEQUEL SHOWS HOW THE QUESTION WAS DISPOSED OF.

Is it best to ignore, insert unconditionally, or insert as the resolution offered by the gentleman from Ohio, Mr. BATTELLE, proposes, and refer the question to our constituents? Though we are only the devisers and draftsmen of provisions that can have no life until ratified by the people, the Legislature of the Re-organized Government, and Congress, yet we give the substance and form, which neither party has power to alter or change. They can only accept, or reject, though the last two may accept absolutely, or with specified conditions annexed, to be approved afterwards by the people. Hence the delicacy and responsibility of our task. If we omit a right provision, or insert a wrong one, and the Constitution shall be rejected by either of the three parties, the new State fails, and the

blame falls on us; and the new State becomes, after so much labor, so much expense, so much talk, and so much hope—a stupendous abortion, a disgraceful humbug, without a parallel—and its projectors and conductors, including ourselves, Sir, will become objects of universal derision. West Virginia will have again to bend her neck to the iron yoke of the slave oligarchy of East Virginia, (as they will have two votes to our one) to be held with tightened chains and multiplied burdens, to drag out a famishing and miserable existence.

But gentlemen say ignore—that is, be entirely silent upon the subject. This will be a "negative pregnant." I ask, them, how Congress, whose approval we must have, and the outside world, whose emigration and capital we must also have, will interpret this silence? I answer, they will say the people of West Virginia are unanimously pro-slavery. They can, and will give no other, for it is the only natural and legitimate interpretation at this time.

Now, does any member believe that Congress, both Houses of which, have such large republican majorities, whose chart and compass are the Chicago platform—"no extension of slave territory, and no increase of slave power in the Senate, or Electoral College," who believe slavery to be the prime cause of the present rebellion that has prostrated all business, caused to be raised an army of 700,000 men, now costing from one to two million dollars per day—a rebellion that shakes, not only this country, but the civilized world—are going at this time, voluntarily, and as a mere act of grace, to enlarge a power, both in Congress, and the Electoral College, that is so prolific of evil, by giving the Old Dominion,—the acknowledged mother and guardian of the slave power—two additional slave Senators, and Presidential electors, and at the same time establish a precedent for multiplying the same power *ad infinitum!* If personally disposed, they dare not thus abjure all antecedents, apostatize all political principle, and betray all confidence! We must insert in the Constitution some certain, though gradual extinction of slavery to secure success.

But gentlemen say they shall be able to satisfy Congress that it will soon die out of itself. Congress will reply: then why don't you say so in the bond! They will say—point us to any State where it has died out of its own accord, and without positive enactment. They will point to Delaware, with only 2,289 slaves in 1850, and about the same now—and what is her *status!* Our forty-four Counties had in 1850, 11,320 slaves, and in 1860, 10,347, decrease, 973;

but Greenbrier had increased 631. And when gentlemen say our Senators will be practically free State men, Congress will point to SALSBURY and BAYARD, of Delaware, and perhaps to our own Virginia Senators. But I dare not ask the indulgence of this body longer, on a proposition so self-evident.

But what will it do for the new State, besides securing its timely deliverance and independent existence? Will it harm any body? Not one. About one-third of the slaves are already gone; about two-thirds of what remain are the property of rebels, and will be confiscated; not more than two thousand remain the property of loyal men. I would not vote for the measure if it was to deprive any loyal citizen of his property without due compensation. I would impose a tax on the realty and personalty of the State, and compensate the owners. This body, and its constituents, have no limit in the exercise of power to secure the greatest good to the greatest number, except the Federal Constitution, and ordinance of the Wheeling Convention, the 20th of August last. This provision interferes with no present vested right. "*Partus sequitur ventrem*," does not apply. Children begotten and born eighteen years hence, no person can have a vested right in. The 9th Section of said Ordinance, protects only "private rights and interest in land." Massachusetts, Connecticut, Rhode Island, New York, New Jersey and Pennsylvania, have all done it. All political parties concede the right to a people, when forming their organic law, to establish or abolish slavery. The dispute has been as to the power of Territorial Legislatures. No man is to lose. All slaves now in being, and all born for eighteen years, are to be sacredly protected as long as they live. No man wants slaves to be imported.

But what shall we gain besides a deliverance from such bondage, with an independent and happy existence? I answer, the *status* of a *Free*, in the place of a *Slave* State in the eyes of the whole outside world, and capital and people will immediately flow in, and the advance in value of our now comparatively valueless lands, will compensate many fold any sacrifice the riddance of slavery shall occasion. Neither the Anglo Saxon, nor Celtic race will settle in a State while it bears the semblance of Slavery.

Let us, then, submit the question, by a separate poll to our constituents, from whose eyes the rebellion has already shaken the scales, and broken forever, I trust, the spell of corrupt men, which has so long controlled their minds, and manacled their energies.

They are already far in advance of us. They are ready to subordinate everything to establish the new State. And woe be to that member, who, preferring a delusive silence, shall, by his vote, contribute to withhold from his constituents and masters, a question on which their all depends, and the affirmative of which they stand ready to approve by an overwhelming vote.

I have seen much of the institution of African Slavery. I do not regard it a sin *per se.* It may be the normal condition of that race. Climate and soil, in many sections, may necessitate it. I have viewed the subject in the light of expediency, merely, in regard to West Virginia, whose every hope of future prosperity and happiness, demands its gradual, though certain extinction, within her borders.

ALL parties were disposed to postpone the exciting subject until the other important provisions were settled; and still each party expected it to come up, and were silently preparing their forces to meet it. The opposition professed to receive frequently letters from Washington, stating it was the wish of Congress, the President and Cabinet, that the subject should be ignored in our Constitution. The friends distrusting their statements, addressed letters to leading Republicans in both Houses of Congress, who affirmed, emphatically, we should have no chance for admission, unless a gradual emancipation clause was inserted. The members, whose personal feelings were opposed to a new State in any form, having failed in their previous attempts to defeat, without forfeiting the confidence of their constituents, counted, confidently, I think, on this subject to accomplish the end. A few days before the time fixed for adjournment, Mr. BATTELLE, a delegate from Ohio County, offered the following resolutions, making a few pertinent remarks:

"1. *Resolved,* That at the same time when this Constitution is submitted to the qualified voters of the proposed new State, to be voted for or against, an additional Section to Article —; in the words following:

"No slave shall be brought, or free person of color come into this State for permanent residence after this Constitution goes into operation; and all children born of slave mothers after the year eighteen hundred and seventy, shall be free; the males at the age of twenty-eight, and the females at the age of eighteen; and the children of such females shall be free at birth.

"Shall be separately submitted to the qualified voters of the new State for their adoption or rejection; and if a majority of the votes cast for and against said additional section, are in favor of its adoption, shall be made a part of Article —, of this Constitution, and not otherwise.

"2. *Resolved*, That the Committee on the Schedule be, and they are hereby instructed to report the necessary provisions for carrying the foregoing resolutions iuto effect.

"Mr. SINSEL moved to lay the resolutions on the table, and make them the order of the day for to-morrow, at 10 o'clock in the morning.

"Mr. HALL, of Marion, moved to lay the resolutions on the table without day; and upon this question the yeas and nays were demanded, and the demand being sustained, the motion was adopted—yeas, 24; nays, 23." Two of the friends being absent.

YEAS—Messrs. John Hall (President), Brown of Kanawha, Brumfield, Chapman, Carskadon, Dering, Dolly, Hall of Marion, Haymond, Harrison, Hubbs, Irvine, Lamb, Montague, McCutchen, Robinson, Ruffner, Sinsel, Stephenson of Clay, Stuart of Doddridge, Sheets, Smith, Van Winkle, Warder—24.

NAYS—Messrs. Brown of Preston, Brooks, Battelle, Caldwell, Dille, Hervey, Hagar, Hoback, Lauck, Mahon, O'Brien, Parsons, Powell, Parker, Paxton, Pomeroy, Ryan, Simmons, Stevenson of Wood, Stewart of Wirt, Soper, Trainer, Wilson—23.

The Convention soon after adjourned. The opposition became alarmed at the strength of the friends, as shown by this vote, and that night were hard at work—with what success appeared the next morning. The friends met that evening, arranged to have all present at the opening next morning, and felt confident of their power to take up the resolutions and pass them.

Soon after the meeting of the Convention, next morning, Mr. DILLE, a delegate from Preston County, reckoned theretofore a staunch friend, and was present at the meeting of the friends the evening before, rose, and after making some sentimental, and gratulatory remarks, said he was happy to announce that the exciting question, in relation to Slavery, had been compromised! and proceeded to relate what the compromise was. The opposition responded with "honeyed commendation," and in this, to my painful confusion and surprise, Mr. BATTELLE, who had offered the resolutions, appeared to acquiesce, or became bewildered, as he put forth none of

his acknowledged powers, in support of his resolutions, and moved that what Mr. DILLE had proposed as a compromise, after its adoption, be referred to the Committee on Revision, to be inserted in its proper place, in the Constitution. The friends had regarded him as among its ablest supporters, having always acted as such, and about that time had published and widely circulated a pamphlet in favor of gradual emancipation. Many others theretofore acting with us, joined the stampede, openly approving or silently acquiescing in Mr. DILLE's proposition. I saw at a glance that all hope was at an end in that body. I expressed my dissent to any compromise, and firm conviction it would not satisfy Congress. The first branch of the resolution was passed, with but one dissenting vote—Mr. BRUMFIELD regarded it as too hostile to the "peculiar institution." I voted for it, believing it would do no harm as the measure stood, and if, perchance, revived, would prevent the importation of slaves, and shut out no free negroes, as none would wish to come. Besides, it is my nature, under *such circumstances*, to gratify as many of my fellow-citizens as possible. Soon after I withdrew from the Convention, resolved to have an expression of the people upon the subject at the time the Constitution was voted on, though in an *informal* manner.

I discovered on that occasion, as I had never before, the mysterious and over-powering influence "the peculiar institution" had on men otherwise sane and reliable. Why, when Mr. BATTELLE submitted his resolutions, a kind of tremor—a holy horror, was visible throughout the house!

ON my way home, on the steamboat, I drew up the following form of instructions to Delegates in the Convention, and members of the Legislature, went to Ironton, Ohio, and got a sufficient quantity printed, and sent them to reliable persons in all the Counties, interested in the matter, explaining the necessity, and suggesting that separate polls be opened at all the voting precincts when the Constitution was voted on, and also at the military camps.

INSTRUCTIONS.

To our Senators, and Delegates to the Convention and Legislature, upon the question of Gradual Emancipation, viz:

"All children born of slave mothers in this State, after the Constitution goes into operation, shall be free, males at the age of twenty-eight years, and females at the age of eighteen years, and the children of such females to be free at birth."

The Senators and Delegates are authorized and instructed to make the foregoing provision a part of the Constitution, if the speedy admission of the new State into the Union shall require it.

About the same time I issued the following Circular to my constituents:

TO THE LOYAL PEOPLE OF CABELL COUNTY, VA.

Fellow-Citizens: The Convention in which I had the honor to represent you, having closed its principal labors, I propose to give you an account of my stewardship. It would have been agreeable to have met you in person and delivered it, if circumstances would allow; but as things are at the present time in our County, I hope the mode I have adopted will not be unacceptable.

Although my residence among you has been comparatively short, our relations and intercourse have been of a character to give pretty thorough knowledge of each other, and the common hopes and interests that should animate us all; and I can say with truth, that with few exceptions, this intercourse has been kind, courteous and agreeable.

But when the political storm burst upon our heads, nearly a year ago—like a thunderbolt from a clear sky—what a change took place! Kind and obliging neighbors and friends found themselves, all at once, entirely estranged and deadly enemies—thirsting for each other's

blood! In the place of the warm and cheerful benevolence we had been wont to meet in the countenances of friends, there radiated a condensed, cold and malignant venom, which benumbed the heart and congealed all sympathy. The moral and social sun hid his face behind thick clouds, and the desolation and suffering that have ensued since, *all* have felt, and *they* can describe.

The occasion does not call upon me to arraign the motives or censure the conduct of any of my former friends and fellow-citizens, who in my judgment have been so fatally misled, and to whom the seasonable warning of a friend was not wanting—nor to extol the merits of such as have proven loyal and true amidst all trials, to the old flag and the best Government in the world. The merits and demerits of both parties belong to the lawful authorities and future history to decide.

The bolt had struck, the tornado had passed, and nothing but desolation and suffering lay in the track, when the Convention was called upon to save what it could from the wreck. It labored with zeal and a sincere desire to rescue and make safe the great interests of the people of West Virginia, and the Constitution proposed for your ratification is the result of its labors.

It is not perfect; time and experience will disclose defects, for the correction of which the instrument itself provides a plain and easy method.

JOHN LETCHER and Company abjured and set at naught, *without cause*, their solemn oaths to support the Constitution of the United States, *which is the Supreme Law of the Land;* attempted to transfer the State to the so-called Southern Confederacy, and thereby abdicated the Government of Virginia, and the powers thereof being incapable of annihilation, returned to the people—the source from which all power is derived. But as the *disloyal* portion, who adhered to LETCHER and Company, were *participes criminis*, equally guilty, they could not take advantage of the forfeiture, as it would be taking "advantage of their own wrong," which the law of the civilized world forbids.

The *loyal* portion only could take advantage of the forfeiture, and restore and re-organize the Government of Virginia. This the loyal people did by their delegates who assembled in Convention at Wheeling, on the 11th day of June last. This Convention, *constitutionally* and *legally* represented *the whole loyal people* of Virginia,

who were the owners of the subject matter proposed to be divided, and that Convention gave its consent to the division, and ordered the present Convention to form a Constitution for the proposed new State.

There can be no question, therefore, as to the *legitimacy* of the measure.

Nor is the *expediency* of the measure at this time less clear. Eastern Virginia has, or must soon become, a heap of bankruptcy and ruin, which her own folly and wickedness will have produced. She had not the slightest claim or right to drag West Virginia down to ruin with herself. The West had long been the object of unmerited oppression and plunder; and it became the imperative duty of the West to cut loose and save herself if possible. It would have been an act of sheer madness not to have done so. For more than thirty years, it has been conceded by all, that the people West of the Alleghanies had no commercial or business connection, nor congeniality, with the people east of that natural barrier. The whole interests of the West are with the Ohio River, into which all its rivers flow, and with the great States and cities which lie upon that river. Why, then, continue longer this unnatural connection with the self-ruined and immolated people of the East, who will have no ability or disposition to help us, but only the power and will to demand *and take by force*, all we possess?—for they can *out vote us*, and oblige us to help pay the immense State debt their treason has created; and much of which they will hold, and at some future time, will "log roll" and cajole our representatives, as in time past, to help pay.

It was the opinion of a very large majority of the Convention, that the true interests and future well-being of West Virginia required a Constitution and form of Government resembling, in its main features at least, the Governments of those great States which have grown up as if by magic at the North and West of us, that the name and repulsive phantom of the little remnant of slavery should be gotten rid of as soon as practicable, without the sacrifice of rights of *loyal* men, and induce capital and free labor to flow in from abroad, as the only means of developing the wealth of the new State. You will find the Constitution is framed to meet and foster the great interests of the masses—the *many*, and not *a favored few*; and that there are to be no superfluous and sinecure officers—none but what are absolutely needed, and these paid no more than a reasonable compensation, and held at all times strictly accountable to the people.

It will be among the most economical State Governments in the country. Nor can the State squander the peoples' money by entering into private schemes of speculation and "log-rolling," which had brought upon the old State, prior to the rebellion, a debt of about forty million dollars, without any adequate return.

A liberal system of free schools is provided, which are to be open and accessible to all children, the rich and poor alike, and *free of charge.* I know this will gladden the hearts of the parents living along the creeks, the generous hospitality of whose cabins I have often shared, and noticed with interest the embryo genius and native talent of their *unschooled* children. The hopes of these parents will no longer be blighted. The faculties with which God endows their children, however humble, the free school will quicken and bring out, to elevate and bless the children, and repay with joy and just pride the parents, and add glory and strength to our country.

The new Constitution makes a radical change in the County organization. The County Court is abolished. There will be *four* terms of the Circuit Court a year. The Counties are to be divided into Townships, to contain not less than 400 inhabitants each. Each Township is to choose a Supervisor, Clerk, Surveyor of Roads, one Justice of the Peace, and one Constable, and when the Township contains 1200 inhabitants, or more, they may choose two Justices and two Constables. The Justice will have jurisdiction in civil cases to the amount of $100, and either party can demand a jury of six men.

These Townships will constitute so many separate communities, who will meet in town-meetings and discuss and transact their business. They will constitute the peoples' primary school in politics, and the great science of *self-government.* Somewhere near the centre, or at the most accessible point of each Township, should be ordinarily a School-house, Town-house, Store, and center of business.

The people will transact their business at this center, instead of going to the County seat. Our County will admit of seven or eight Townships. The Supervisors of the several Townships of the County constitute the County Board, which has charge of the affairs of the County. With the Constitution in your hands, you can run out the details and make the figures. If properly managed, the system cannot fail to distribute and equalize political and social power, and make every man a *freeman*, and every freeman, *a freeman indeed.* All will depend upon our own management.

By referring to the Article on Taxation and Finance, you will find that a very important change has been made. By the new Constitution, all taxes are to be "*uniform and equal*" on all property according to its value. Your negro and my horse are both taxed according to their market value. By the law of Virginia, your slave, though worth $1,800, can be taxed for only $300; and if the slave be twelve years of age, or under, and worth $600 or $700, he is not taxed at all; while my yearling calf, colt, lamb, axe, plough, and every other species of property, are taxed to their full value. Every species of industry, earnings and income are taxed by the law of Virginia. No citizen can open a store for the convenience of his neighborhood, or act as commission merchant to sell his neighbor's produce, without first obtaining a license and paying from $10 to $100. The daily earnings of clerks, engineers, and even day laborers—all of which go as fast as earned to support their families—are, or are liable to be, taxed under the head of Income Tax, to replenish the Treasury at Richmond; while not less than *two hundred million dollars worth of slave property*, owned mostly in Eastern Virginia, *has never been taxed at all.* What unparalleled injustice! Nothing in the past or present, in any country, equals it—*and all in favor of slave-owners!* Who have been your leading men, and represented your interests at Richmond in times past, and tamely submitted *your necks* to such unjust and disgraceful burdens? Some of these leaders still remain among you—but "by their fruits ye shall know them." All this iniquity the new Constitution cuts up, root and branch. All property is to be taxed according to its market value, and the skill, energy and sinews of freemen are left untaxed.

There is one other subject to which it is my duty to call your attention. I shall approach it with the same freedom and boldness as any other subject which I think may lie in the way of the ultimate success of the new State in Congress. My antecedents and political opinions I have frankly avowed, and most, if not all of you, know what they are. I was raised amid the free institutions of the North, but have spent the last fourteen years amidst the "peculiar institution," and have probably seen and had as much to do with that institution as any other man in West Virginia, and am qualified to judge of its benefits and evils. I do not believe the relation of master and servant necessarily implies a sin, but in many cases it is a positive blessing to the black race. It is the white race that suffers from the contact, as a general thing. I believe that we have in some parts of

our country, climate, soil and productions that necessitate this species of labor; but none of these exist in West Virginia any more than in Ohio and Pennsylvania. I went to the Convention resolved to look at this subject as at any other, in the light of expediency only, and to subordinate this as any other, when necessary in my judgment to obtain the great object in view—the establishment of the new State, and secure the greatest good to the greatest number of my constituents.

By the census of 1860, there were in the forty-four Counties comprising the new State, only 10,147 slaves, and 336,107 whites—about three per cent., or three slaves to one hundred whites. Probably one-third of these have disappeared since the rebellion commenced, and two-thirds of the remainder belong to rebels and are liable to confiscation—leaving at present about 2,000, the property of loyal men. And while I regard this property of loyal men as sacred and inviolable as any other, I consider the interest too inconsiderable to be permitted to stand in the way of a speedy admission by Congress of the new State and its future well-being; and if its removal requires, I stand ready for myself and the Companies I represent, to levy a tax to remunerate loyal owners.

It became apparent to my mind more than a month ago, that Congress would not admit the new State if the Constitution was simply silent on the subject; but that it would require some positive declaration to secure admission, as Congress would never consent to make *two slave* States out of the Old Dominion, and increase the slave power in the Senate by adding two slave Senators. Besides, it would be setting a precedent that would oblige Congress to consent to the division of other slave States, and so increase the slave power in the Senate *ad infinitum*.

I wrote to several conservative members of Congress for their opinion, which was adverse to admission unless some positive declaration of a gradual emancipation was made in the Constitution. I felt all along the vital importance of getting admitted by Congress at the present session. The establishment of our new State requires the consent of our Legislature, and also of Congress. As soon as the rebellion shall be crushed in East Virginia, they may send in their Delegates to the Wheeling Legislature and secure a majority adverse to letting us go. I brought these facts to the notice of the members, and urged the imperative necessity of making some posi-

tive declaration upon the subject. I found many viewed the necessity as I did, but shrunk from taking the responsibility of acting before consulting their constituents. I then proposed to submit the substance of the provisions, proposed by Mr. BATTELLE, first, "That no slave shall be brought, or free person of color come, into this State for permanent residence," and second, "That all children born of slave mothers in this State after 1870, shall be free, males at the age of twenty-eight, females at the age of eighteen, and all children born of such females to be free at birth," by a separate poll to the vote of our constituents, at the same time the Constitution was voted on; and if a majority of those voting on the question said so, these provisions should become parts of the Constitution, otherwise not. But a timidity in some, and honest, I presume, but inscrutable policy in others, refused to submit the question to the people, assigning as a reason that it was not safe to trust the people with the subject in these exciting times. After much talk about mutual concession, and considerable labor to give it the dignity of a compromise, to which I dissented, it was voted with but one dissenting vote, to put the first clause in the Constitution. I voted for inserting the first provision as likely to do some good, and expressed my decided belief that this would not be sufficient to secure an admission by Congress. I entertain the same opinion now. The Convention is not dissolved, but will be called together again if found necessary. When you vote upon the Constitution the first Thursday in April, you will do well to instruct your Delegates, both in the Convention and Legislature, and our Senator, to insert the second provision, or some other, if found necessary, to secure the consent and admission by Congress at its present session. The people of the other Counties intend to take this course, and if you view the matter in the light that I do, you will not hesitate to do it.

The only hope of the new State, on which so much depends, now rests with the loyal people. Their prompt, firm and independent action will save it. I was satisfied that some of the members of the Convention would not, if they could. Such do not realize the great change that the present rebellion is daily working. They forget that treason has destroyed all that was great, good, and valuable, in old Virginia. They do not appreciate that the rebellion is shaking the scales from the peoples' eyes, and has already broken the spell of corrupt men which has so long controlled the minds and manacled the energies of the masses; otherwise they would not have withheld

this question from their constituents. The responsibility of so unwise a course rests with them.

Your friend and fellow-citizen,

MARCH 4, 1862. G. PARKER.

THE Ironton journal that printed the Circular inserted it in its paper I think; and my impression is, I enclosed a copy to the Wheeling *Intelligencer*. The Editor of the latter journal was so kind as to give it the following notice, which appeared in his Daily the 24th of March, 1862:

"THE MISTAKE OF THE CONVENTION—WHEREIN THE REMEDY LIES.

"GRANVILLE PARKER, member of the Convention from Cabell County, has issued an address to his constituents from which we extract the following:

'I wrote to several conservative members of Congress for their opinion, which was adverse to admission unless some positive declaration of a gradual emancipation was made in the Constitution. I felt all along the vital importance of getting admitted by Congress at the present session. The establishment of our new State requires the consent of our Legislature, and also of Congress. As soon as the rebellion shall be crushed in East Virginia, they may send in their Delegates to the Wheeling Legislature and secure a majority adverse to letting us go. I brought these facts to the notice of the members, and urged the imperative necessity of making some positive declaration upon the subject. I found many viewed the necessity as I did, but shrunk from taking the responsibility of acting before consulting their constituents.

'I then proposed to submit the substance of the provisions, proposed by Mr. BATTELLE, first, "That no slave shall be brought or free person of color come into this State for permanent residence," and second, "That all children born of slave mothers in this State after 1870, shall be free, males at the age of 28, females at the age of 18, and all children born of such females to be free at birth," by a separate poll to the vote of our constituents, at the same time the Constitution was voted on; and if a majority of those voting on the question said so, these provisions should become parts of the Constitution, otherwise

not. But a timidity, in some, and honest, I presume, but inscrutable policy in others, refused to submit the question to the people, assigning as a reason that it was not safe to trust the people with the subject in these exciting times. After much talk about mutual concession, and considerable labor to give it the dignity of a compromise, to which I dissented, it was voted with but one dissenting vote, to put the first clause in the Constitution. I voted for inserting the first provision as likely to do some good, and expressed my decided belief that this would not be sufficient to secure an admission by Congress. I entertain the same opinion now.

'The Convention is not dissolved, but will be called together again if found necessary. When you vote upon the Constitution the first Thursday in April, you will do well to instruct your Delegates, both in the Convention and Legislature, and our Senator, to insert the second provision, or some other, if found necessary, to secure the consent and admission by Congress at its present session. The people of the other counties intend to take this course, and if you view the matter in the light that I do, you will not hesitate to do it.

'The only hope of the new State, on which so much depends, now rests with the loyal people. Their prompt, firm and independent action will save it. I was satisfied that some of the members of the Convention would not, if they could. Such do not realize the great change that the present rebellion is daily working. They forget that treason has destroyed all that was great, good and valuable in Old Virginia. They do not appreciate that this rebellion is shaking the scales from the peoples' eyes, and has already broken the spell of corrupt men which has so long controlled the minds and manacled the energies of the masses; otherwise they would not have withheld this question from their constituents. The responsibility of so unwise a course rests with them."

[Letter to Wheeling Intelligencer, March 17, 1862.]

WHAT POWERS WILL THE LEGISLATURE HAVE OVER THE NEW STATE WHEN IT CONVENES?

Editors Intelligencer:

This question, in the present posture of things, has become one of vital importance to the success of the new State. Our experience

with men has taught us when their acts and professions differ, to take the former as the surer index of their *real* intentions. This rule constrains us to believe that many members of the Convention, notwithstanding their talk, do not desire a new State; but prefer that the Old Dominion remain as it is. Others desire a new State, provided it shall extend to the Blue Ridge and embrace about 60,000 slaves; enough to secure the perpetuity of this institution in its former vigor. Nor are we alone in this conclusion; the public generally concur with us.

It is the right of the people that all representative men should be "unmasked," cost what it may. The times are too eventful and severe to indulge in *play-acting;* and individuals, however high they may have stood heretofore must expect to fall, if they are not what they profess, and stand in the way of the people, who are about to take the reins into their own hands. And the saddest of all is that a majority of the five special Commissioners to whom the Convention intrusted so much, is believed to be of this class. With the loyal people then, the success of the new State rests. If they have nerve and courage enough to carry the measure through in spite of their former leaders we shall have a new State, and that a free one—otherwise, not. It was in this connection that we proposed in a former number the necessity of the people giving to their Senators and Delegates, both to the Convention and Legislature, explicit instructions which will at once test the sincerity of the Representatives; and whoever objects or opposes such instructions being given, or refuses to obey them afterwards, the people may safely set down as among the class we have indicated. We speak thus plainly, because the occasion and the greatness of the stake demand it.

Whatever difference of opinion may have formerly existed, we take it now to be conceded by all that the Convention, which assembled at Wheeling on the 11th of June last, and the Legislature that was assembled, *by its order*, at the same place on the 1st of July following, represented, legally and constitutionally, *all* the loyal people of the State of Virginia, the subject matter proposed to be divided; and that the Convention which assembled at Wheeling on the 26th of November last, represented constitutionally and legally only a *portion of that whole*—that is, the loyal people residing within the original thirty-nine Counties which were included absolutely in the proposed new State, and the Counties of Hampshire and Hardy, which had complied with the conditions prescribed by

the ordinance of the first named Convention, passed the 20th of August last—making forty-one Counties. That ordinance ordered the last named Convention, and prescribed specifically its powers and duties, viz: "To form a Constitution for the government of the proposed new State"—that is, for the forty-one Counties, and no more. By this ordinance the last named Convention was absolutely bound. It had no power, of itself, to extend the bounds one inch beyond the forty-one Counties. All that has been done by that Convention in relation to including the Counties of McDowell, Mercer, Monroe, Greenbrier and Pocahontas, absolutely; or Pendleton, Hardy, Hampshire, Morgan, Berkeley, Jefferson and Frederick, conditionally, (for Hardy and Hampshire elected to take this position,) is nothing more than an expression of the wish of the Convention to the Legislature, and has no other force. The Legislature represents in a subordinate capacity, the loyal people of all Virginia; and the question arises can this Legislature change the boundaries?

There is serious doubt in our minds whether any body short of a Convention representing the whole people of Virginia, in their sovereign capacity, has the power to change them under the present order of things. It is true that the 3d Sec. of the 7th Art. of the U. S. Constitution requires only the consent of the Legislature of the State proposed to be divided, and of Congress, in order to erect a new State within the bounds of an old one. Yet, as the Convention which assembled on the 11th of June last represented all the loyal people of Virginia, in whom was vested the sovereign power, and representing the people in their sovereign capacity, restored and reorganized the Government by causing to be convened on the 1st of July a Legislature; and at the same session, and in the exercise of the same sovereign power, passed the ordinance of the 20th of August last, consenting to a division, and establishing the boundaries, without delegating to that Legislature any power to change them—is it competent for the Legislature, whose powers must be taken to be subordinate to the powers of such a Convention, now to change them? Certainly not, unless the powers of the Legislature are superior to or co-ordinate with the powers of such a Convention, unless the creature's, are superior to, or co-ordinate with, the powers of the creator, which cannot be. Nor can the fact that the Federal Constitution (though the supreme law of the land within the scope of its powers) makes the consent of the Legislature sufficient to such a new State within the bounds of the old one, change the *relative* powers of the

two bodies, at least so far as the people of Virginia and the fixing of the boundaries are concerned. As to these, the people have spoken in their sovereign capacity, and the Legislature and all other inferiors must obey. In order, however, to conform to the letter of the Constitution, and especially to the requirements of the 8th Section of the Ordinance passed on the 20th of August last, the Legislature should be convened, and give its consent to said division, conformably to the bounds fixed by said ordinance, excluding, however, the counties of Hardy and Hampshire, agreeably to their express election.

The counties of McDowell, Mercer, Greenbrier, Monroe and Pocahontas lie on this side of the ridge of the Alleghanies, and there exists a commercial and military necessity for including them within the new State; and upon this ground, and as then advised, we advocated and voted for recommending to the Legislature to include them, which it should do, if it concludes it has the power. But we opposed by advocacy and vote, any recommendation to the Legislature to include the other seven Counties, which lie on the other side of the Alleghanies, that natural barrier: First, because *they lie on the other side* of that natural boundary, and have little or no commercial or business connection with us; second, because their inclusion would more than double the number of slaves, include a people whose interests and feelings are not homogenous with our own, and who had given no evidence whatever of a desire to be included; and third, because in a military point of view, it would give a frontier along Old Virginia and Maryland, both slave States, of about 700 miles, in the place of only about 35 or 50 miles, from the southwest corner of Pendleton, straight up the Alleghany ridge, to the "Fairfax Store." But we were out-voted by reason of the interest and influence of the Baltimore and Ohio Railroad, and had to submit. Our conviction was then that the success and prosperity of the new State depended upon stopping at the ridge of the Alleghanies, and of making ours a free State; and the votes of the delegates from Hampshire and Hardy afterwards, upon the emancipation clause, confirmed that conviction.

We believed then, and are confident now, that that was the only way to harmonize the views of our own people and Congress so as to insure success; and the failure in this is the very rock on which the enemies have hoped all along, to wreck the entire new State project.

The instructions by the people, as proposed, and the fidelity and courage on the part of the members of the Legislature that reside on this side of the Alleghanies, can alone save it from such a wreck.

One word more, and we say it with profound deference and respect, touching the important duties it will impose upon these members of the Legislature. Whilst they are members of a Legislature which represents all the loyal people of Virginia, they will be under the instruction of their immediate constituents—the loyal voters of the Cis-Alleghany. We should scorn to ask or expect them to do any act that is not just and honorable to the whole State. But if the instructions shall be such as to evince a conviction in the minds of a majority of their loyal constituents that the gradual emancipation proposed is necessary to secure the success of the new State in Congress, they will not shrink from the responsibility of adding it absolutely, as the authorized agents of such constituents, or subject to a subsequent ratification by the people.

The idea that the people on this side the Alleghanies ought to shape the internal structure of their government to suit the tastes, prejudice or whims of outsiders except so far as shall be necessary to insure the approval of the Legislature and Congress, and not their own best interest—is simply absurd; and will only excite the derision of the old and other border States, thus sought to be conciliated. Let the people simply be true to themselves and their own best interests, and they will secure the esteem and respect of the loyal and good everywhere.

We perceive that the Schedule makes it the duty of the Commissioners to submit the Constitution to the qualified voters of fifty-one, instead of the forty-one Counties which comprise, according to the ordinance, "the proposed new State," and also the 11th Section of the Schedule commands the Commissioners in case the Convention shall be re-convened, to take the necessary steps to secure a representation from the fifty-one Counties in the Convention, all of which is in direct violation of the Ordinance passed the 20th of August last, and therefore void; and, if our reasoning is correct, the Legislature has no power to give it validity. These provisions were inserted in the Schedule after we left the Convention.

What a pity, that after rearing so goodly a structure the friends and the foes should have united in keeping out the key stone of the arch, on which the whole depends. The Legislature, in obedience to

instructions we confidently hope and expect to see given, will have the high honor of putting in its place the "stone which the builders rejected," and thus avert the impending fall of a structure that has cost so much and on which so much depends.

Let the people then rise in the majesty and strength with which God and the wise and good Fathers have clothed them; vote, one and all, for the Constitution and the proposed Instructions, and if enemies oppose, remove them. CABELL.

I THINK the loyal people of Upshur County, to whom copies of the Instructions had been forwarded, were first to respond, which they did with the downright earnestness, so characteristic of them at that period, at a large mass meeting, held at Buchanan the 17th of March, of which the *Intelligencer* of the 24th of same month gave the following account, with its approval and earnest recommendation.

UPSHUR COUNTY ON THE CRISIS—SHE COMES BRAVELY UP TO THE WORK, AND "TALKS RIGHT OUT IN MEETIN'"—PATRIOTIC RESOLUTIONS.

Pursuant to previous notice there was a grand turnout of the people of Upshur County, at Buchanan, their County seat, on Monday, the 17th of March, 1862, (that being the first day of the quarterly Court,) to take into consideration what should be their action in regard to the adoption of the Constitution, recently adopted by the Convention at Wheeling, for the new State of West Virginia. At noon, the Court having taken a recess, the people assembled at the Court House. Whereupon, on motion of F. BERLIN, Esq., Dr. DAVID S. PINNELL, was unanimously elected President of the meeting, who upon taking the Chair delivered an able address to the meeting fully explaining the objects and purposes of the meeting, and urged the people to speak out fully and freely their sentiments upon all subjects under consideration, either pro or con, without fear, favor or affection. On motion, C. P. ROHRBAUGH, Esq., was unanimously elected Secretary. D. D. T. FARNSWORTH, Esq., moved a Committee of twelve, consisting of three from each magisterial district be appointed by the Chair to report business for the meeting,

which motion was adopted. Whereupon the President appointed the following gentlemen on said Committee, namely:

First District—R. FRETWELL, N. B. WARMSLY and LAIR. DEAN.

Second District—C. B. LOUDIN, LEWIS KARICKHOFF and JOB HINKLE.

Third District—F. BERLIN, D. D. T. FARNSWORTH and N. C. LOUDIN.

Fourth District—SAMUEL WILSON, C. S. HAYNES and ASHLEY GOULD.

The Committee then retired to perform its duties, and during its absence SPENCER DAYTON, Esq., of Barbour County entertained the meeting with an able address upon the various topics under consideration.

The Committee after having been absent some time returned and reported the following preamble and resolutions:

WHEREAS, It is the desire of the people of West Virginia to organize themselves into a new State as a loyal State of this Union, with a view of securing to themselves the largest amount of liberty, security and prosperity. And whereas it is the further desire of the people to aid the General Government in suppressing the present iniquitous rebellion in the Southern States of this Union, therefore,

1st *Resolved*, That we do most heartily endorse the policy adopted and pursued by the Administration at Washington, to suppress and crush out the present unrighteous and wicked rebellion, and to restore our national Union.

2d. That we, the citizens of Upshur County, do endorse and accept the policy recommended by the present Chief Magistrate of the United States, (ABRAHAM LINCOLN,) in his message of the 6th of March, 1862, to Congress, in regard to the emancipation of the slaves of the Border States, as the policy that should be adopted by the people of West Virginia; and we do now pledge ourselves to advocate, defend and carry out the said policy, as most promotive of our liberty, safety and prosperity in the Union.

3d. That we had hoped and expected that the late Convention to frame a Constitution for the new State, would have given the people a chance to express their sentiments upon the subject of slavery in the proposed new State. And believing as we do, that a decided

majority of the people are in favor of gradual emancipation, we therefore regard the action of the said Convention as not reflecting the will of the people.

4th. That we will open a separate poll book for this County, in order to enable the people to express their preferences for or against slavery within the proposed new State, when called upon to vote upon the proposed Constitution; and we earnestly invite our fellow-citizens throughout the proposed new State to open poll books for a like purpose.

5th. That we deprecate and detest the insulting efforts of those who are now striving to intimidate our purpose by denouncing as abolitionists those who, to promote the prosperity of West Virginia and develop its natural resources, advocate the exclusion of the institution of slavery from the proposed new State.

6th. That we regret the course of some of our newspapers that are daily agitating the question of slavery with as much zeal as do the rebel papers of the South, or the extreme abolition papers of the North. And this, too, by a set of cowardly newspaper writers and editors, who would not risk a hair of their heads in defence of the Union.

The resolutions were then read to the meeting and were unanimously adopted with the greatest enthusiasm.

On motion of R. FRETWELL, Esq., it was

Resolved, That the President and Secretary sign the proceedings of this meeting, and that the newspapers of Wheeling, Parkersburg, Clarksburg, Fairmont, and the *National Intelligencer* be requested to publish the same.

After the adoption of the foregoing resolutions, D. D. T. FARNSWORTH, Esq., being loudly called for, appeared upon the stand and delivered a most able and telling speech upon the various topics before the meeting, which was cheered by a hearty roar of applause from the entire house, and produced the greatest enthusiasm among the people.

D. S. PINNELL, President.

C. P. ROHRBAUGH, Secretary.

THIS set the ball in motion. The loyal people of other Counties soon after followed, together with several of the loyal papers, either

by copying the "Instructions," with commendation, or, approving and recommending the measure proposed. Though it appears Ohio County made no arrangement for the informal vote of instruction till a day or two before the election, April 3d.

The opposition became alarmed, and spared no pains to prevent such an expression being made. They made every effort to squelch it altogether. Notwithstanding, on the day of election, April 3, 1862, the informal poll was opened in about twenty Counties, and the vote for gradual emancipation was nearly equal to that for the Constitution as proposed, both being nearly unanimous.

I give the following returns as samples of the way the vote stood in Counties where separate polls were opened, in all, or some precincts: Preston, for the Constitution, 1493, against, 11; for Emancipation, 1320, against, 93. Upshur, for the Constitution, 719, against, 2; for Emancipation, 594, against, 13. Monongalia, (Senator Willey's County,) for Constitution, 1148, against, 17; for Emancipation, 649, against, 185. Marshall, for Constitution, 1053, against, 34; for Emancipation, 795, against, 71. Ohio, for Constitution, 1023, against, 31; for Emancipation, 875, against, 54. Brooke, for Constitution, 292, against, 45; for Emancipation, 248, against, 43. Hancock, for Constitution, 225, against, 73; for Emancipation, 217, against, 44. Cabell, for Constitution, 269, against, 1; for Emancipation, 244, against, 26.

The following from the Wellsburg *Herald* and Wheeling *Intelligencer*, show how this informal vote was regarded by these papers and the public:

From the Wellsburg Herald, April 25, 1862.

"THE VOTE ON EMANCIPATION IN WEST VIRGINIA.

The vote seems to have taken everybody by surprise, those friendly to gradual emancipation as well as those opposed to it. It has, in the eyes of the public outside of Western Virginia, completely overslaughed the vote on the adoption of the Constitution itself, though this latter was the thing regularly voted upon. The article printed in the *Herald*, immediately after the election, commenting on the educationary effect of the war as displayed in the unlooked for majority for emancipation, has attained a wide publicity solely by the singularity of the facts and the importance of the result foreshadowed.

The attention of the loyal United States, and doubtless of the disloyal, has been turned by this vote, upon Western Virginia, and it is felt to be a blow at slavery, and through it at rebellion, from the right quarter, that cripples the rebellion more than the defeat of an army, and at the same time indicates its suppression with a certainty, as to the manner, that is understood to be inevitable.

The vote, be it always borne in mind, was taken under most adverse conditions. In many counties, no vote was taken, for the reason that parties high in authority did all they could to discountenance it, in others it was not known that such a thing was contemplated, in others the conductors of the election did not see fit to trouble themselves with the matter, and no one else conveniently could, at many precincts where numbers of votes were cast for emancipation they were not returned through neglect, so that under the circumstances, the aggregate of 6,052 to 610—10 to 1, is fully as large as could be reasonably expected. The vote for the Constitution itself was a meagre one—16,981 to 441, but the proportions in the different counties correspond sufficiently to indicate what would have been the result, had there been a full and regularly taken poll.

The vote will undoubtedly have a decided influence in Congress, though we do not think it will influence the majority in that body to vote for the admission of the new State with the Constitution as adopted. It will, however, lead to the adoption of a free State clause, pure and simple, in the Constitution, should the Convention again assemble, and will be regarded by the Legislature, which meets on the 6th, in the light of instruction as to its course in the matter.—It will also satisfy Eastern Virginia, that if the State maintains its integrity, slavery is doomed, and probably lead them to reflect whether the prospect of its perpetuity after the war is over, will justify a longer continuance of a hopeless struggle."

From the Wheeling Intelligencer, April 28, 1862.

"THE POSITION OF THE NEW STATE QUESTION.

We print this morning a communication signed by many citizens of Marshal *County, which is chiefly interesting, as showing the temper of the public mind on the question of a free State in West Virginia.

*This was one of the printed instructions signed by 108 of Marshal's best men.

Practically, the document can avail nothing with those to whom it is addressed, viz: the delegates from that County in the Legislature. The Legislature will assemble in this city on the 6th of May coming, and their sole and only business can be, when they get here, to assent or dissent to a division. That body can have nothing to do with the Constitution or any of its provisions or shortcomings, further than the Constitution bears upon the merits and demerits of the division question. The Legislature that meets will be the Legislature of the whole State of Virginia, and it is called simply in pursuance of that article of the Constitution of the United States, which requires the consent of the Legislature of any State previous to a new State being formed out of such State.

It is a mistake, therefore, to suppose that the omission of the Convention—the great and serious omission which that body made, when it refused to submit the free State clause to a vote of the people—can be remedied by any power short of that Convention, or one similarly constituted. The Constitution as it is, without addition or substraction, must go to Congress, and it will be for that body to say whether or no they will take the will of the people of West Virginia as informally expressed at the recent election, for the deed, and in consideration of it, receive the new State into the Union.

This is the way the whole question now stands, and we are sorry for it. We did our best to forwarn all whom it could concern, of the predicament in which we now find ourselves. We affirmed what has overwhelmingly proved true, that the new State people of West Virginia were a free State people; that they meant a free State when they voted for a division, and that nothing short of a free State would ever satisfy them, because nothing else would be of any use to them. But we had all sorts of higher and lower influence to fight on this belief, and in an evil hour our free State members of the Convention suffered themselves to be drawn into a blind that completely overslaughed the whole effort.

The only thing that remains for us now to do, is to seek an admittance from Congress as we stand. We are not entirely without hope that something can be done in that direction. The prospects are not flattering, but we trust that the temper of debate in the Legislature will be such, when it comes together, as to brighten them. Much at this crisis in our affairs will depend on the way in which that body acts with reference to the free State question. The members have it

in their power to rivet the good effects which the vote of the people has undoubtedly produced on Congress and the loyal States, and they also have it in their power to neutralize that effect by a resurrection in debate of all the old stale pro-slavery cant that was used by such anti-new State and anti-free State people as the Wheeling *Press* before the recent election.

We hope for the best from the meeting of the Legislature. We hope for a short session and a harmonious one. Brevity and unanimity are what are wanted. Let us go to Congress with all the propitiating influence we can. We will need it all."

THE question was, how to use this *informal* expression of the popular will, so as to satisfy Congress. The Legislature of the re-organized Government of Virginia was summoned by the Governor to meet the 6th of May, in extra session, to give, or withhold its consent to the proposed Constitution. The friends proposed, in view of the recent popular expression, to ask the Legislature that was *personally* cognizant of this informal vote, while Congress was not—to give its consent, if given, upon the condition, the people should subsequently accept a gradual emancipation clause, substantially, as Congress afterwards did, and that body would follow. It was feared the Legislature might be as chary and timid on the subject, as the Convention had proved, if not more so; and known, the opposition was everywhere on the alert. Still, we ventured to make the effort, and I wrote and published the following articles in the Wheeling papers, giving our views, and answering objections raised by the opposition.

[LETTER TO THE INTELLIGENCER.]

WHAT THE PEOPLE OF WEST VIRGINIA WISH AND EXPECT THEIR REPRESENTATIVE SERVANTS, COMPOSING THE GENERAL ASSEMBLY, TO DO WHEN THE GOVERNOR SHALL CONVENE THEM—VIZ: PASS, IN SUBSTANCE, THE FOLLOWING RESOLUTIONS:

WHEREAS, It has long been the desire of the people inhabiting the portion of the State lying west of the Alleghany mountains to erect themselves into a separate State, and on the 20th of August last a

Convention of the people of Virginia assembled at the city of Wheeling, assented to a separation upon the terms and conditions set forth in an ordinance passed on that day, and authorized a Convention to be called for the purpose of framing a Constitution for the proposed new State, which has been done, and the Constitution having been approved by a majority of the people voting thereon, is now submitted to this body for its consent and approval, agreeably to the Federal Constitution and the provisions of said ordinance. But, it having now become apparent that it is the unanimous desire of the loyal people of the proposed new State that a clause for the gradual extinction of slavery within its boundaries shall be incorporated, and also that the Congress of the United States will not consent to a division and admission of the proposed State unless the Constitution contains some provision for the gradual and certain extinction of slavery within its boundaries, and that without such provision an object so dear to our cis-Alleghany people and beneficial to all, must fail—this body, representing the loyal people of Virginia, desire to consult and promote the best interests of every section—Therefore,

Resolved, That the consent of the General Assembly be given to the division proposed, upon the condition that the following provision be made a part of the Constitution (which it shall become as soon as ratified by a majority of the qualified voters in the proposed State that shall vote thereon), viz:

"All children born of slave mothers in this State, after the Constitution shall go into operation, shall be free, males at the age of 28 years and females at the age of 18 years, and the children of such females to be free at birth."

2. *Resolved*, That a copy of these resolutions, with the Constitution, be forthwith transmitted to the Congress of the United States, with the request that that body give its consent to proposed division. and admit the new State *upon the terms and conditions above stated.*

3. *Resolved*, That as soon as Congress shall so consent and admit the proposed State, it shall be the duty of the Governor to appoint a day and make suitable provisions for taking the vote of the qualified voters of the proposed State upon the question—the cost thereof to be charged to the new State.

I said in a former communication, that the nigger fogy leaders intended to wreck the new State project upon *a failure* to harmonize the views of our people with the views of Congress upon the subject

of slavery. These fogy leaders have always, *in their hearts*, opposed a new State. They opposed it at the commencement, when Mr. CARLISLE and a few other bold men pushed through the ordinance of the 20th of August last, against an opposing host of these old fogies, who then were *openly* opposed to the new State. These then looked forward to a time when the Wheeling Government should be recognized over the entire State, and they (WISE, HUNTER, MASON & Co. being crushed out by the Federal power) would enter Richmond as the leaders of the entire State. *This is what they desire now.* But as soon as they found a large and earnest majority of the people were for a new State, what were they to do? openly oppose? Certainly not; for by so doing they would go under. They meant to do just what they are now attempting to do, viz: *Profess* and *pretend* to be for the new State, and by such false pretences retain the confidence of the people and the leadership of the measure, until they should be able to wreck the whole project upon the breaker I have before mentioned. If they really desired a new State, why did they contend in the Convention for taking in the whole Valley, with 60,000 slaves, with which Congress could never have been reconciled? Why refuse to submit the gradual emancipation clause to the decision of the people? Why combine their whole efforts and go wandering about the State, to prevent the people expressing their wishes in regard to the gradual emancipation clause? Why were JAMES H. BROWN and JOHN LAIDLY, while holding Courts in Wayne and Cabell Counties, all the time warning the people against having anything to do with the subject—reiterating anew what every sane man knows to be false—that such an expression was unnecessary to secure admission by Congress? Why should JOHN HALL, President of the Wheeling Convention, visit Ceredo during that Court, and hold consultation with BROWN and LAIDLY? Why should JAMES H. BROWN advise Col. LIGHTBURN to suppress all expression in his Regiment on the subject? Why did Colonel LIGHTBURN withhold the instructions from the legal voters under his military charge on the day of election, when the Colonel had been furnished, two weeks previous, with a printed instruction and letter explaining the necessity of taking the sense of the people on the question? Why did JAMES H. BROWN advise the people of Barboursville that it would do much hurt and that it was only a scheme of ambitious demagogues? Why did JOHN LAIDLY come before the Commissioners while holding the election at Guyandotte, pale and shaking with rage, while the people were voting in fa-

vor of the clause, and declare the instruction to be unauthorized and improper, and use all the means in his power to suppress their expression on the subject? All these things I stand ready to prove by unimpeachable witnesses. Was it the fear on their part that the expression of the people would be adverse to gradual emancipation, and so injure our case before Congress? Or was it exactly the reverse? Why was it that wherever any of these old fogies lived or exercised their influence the people had no chance to express their minds on the subject; while at every point throughout the entire State, where the people had a chance to express their minds, their votes were nearly or quite as unanimous for gradual emancipation as for the Constituton. Look at Mason, Kanawha, Wood and their other nestling places: Jackson, Roane, Wayne, and other counties that come within their benumbing influence.

But the election has demonstrated two great facts which now stand out as clear and prominent as the cloudless sun at noon day, viz: that nine-tenths of the loyal people desire gradual emancipation and the new State; and 2nd, that these nigger fogy leaders don't mean to let them have either, but mean to wreck the whole project by keeping the Constitution in such shape that Congress will not approve it.

How vain and shallow their efforts! for the thunder tones in which the people have spoken at all their various points throughout the State where they had a chance, affords conclusive evidence that *all the loyal people of the State are of the same mind* and will so express themselves as soon as removed from under the shadow of the raven wings of the fogy leaders; and at the same time they have *unmasked* themselves and revealed their nefarious purposes, viz: to place the neck of West Virginia again under the yoke of a slave oligarchy.

They know that if the Constitution goes to Congress as it is, it will be rejected, and the Convention will have to be called together again for the purpose of inserting the Gradual Emancipation clause; then it will have to be again submitted to the people, agreeably to the 6th section of the ordinance of the 20th of August last; and then again laid before the Legislature, which will have to be again convened for the purpose; and before all this can be accomplished, Congress will certainly have adjourned without having acted upon the subject, except to reject it in the first instance. Congress and the Virginia Legislature will convene again on the first Monday of December next. In that Legislature the whole of East Virginia will probably be represented, and all the plagues that were heaped upon Pharoah will not make

them let West Virginia go. And if a previous Legislature shall have consented, (Congress not having approved,) this new Legislature will have the power, and *the will too*, to repeal and annul such consent. And the new State will be forever lost, (except the ordinance of the 20th of August, and the unanimous ratification by the people, with the action of Congress, can still save it.) I stand ready to prove, by unimpeachable witnesses, that these leaders have *admitted* that they do not expect nor believe that Congress will admit the new State for the present, and I have shown what must be the inevitable consequences.

Now the way I propose to obviate all the difficulties and secure the new State, is for the Governor to convene the present Legislature at once; let that Legislature give its consent, with the condition that the gradual emancipation clause shall become a part of the Constitution, as soon as ratified by the people; let Congress, at its present session, give its consent and admit the new State, *on the same condition*, and the people ratify afterwards. As soon as Congress shall give its consent, (though with the condition,) it places the subject beyond the repealing power of any subsequent unfriendly State Legislature.

The 3rd Section of the 4th Article, Federal Constitution, requires the consent of the Legislature. The conditional consent, I propose, answers this requirement; and if any of the fogy leaders deny it, I challenge their reasons.

What, then, do these leaders really desire? To procure the admission of the new State into the Union, under the guise of a lamb, when they really believe it to be a wolf—a free State people, when they believe it to be a slave State, and that, if permitted to speak, the people will so declare themselves? This would imply a fraud on the part of the leaders. Do they believe it will throw the people into a tempest of excitement, as they contended in the Convention it would; or is their real motive what many have admitted it to be in their declaration, "that they do not expect or believe Congress will admit the new State for the present?" *No new State, if they can prevent it, is their real purpose.*

The valuation of the real estate in the proposed new State is about ninety million dollars. All admit that the erection of the new State will double its value. Do the fogy leaders suppose the future increase of 2,000 slaves is to be permitted to stand in the way of a gain of

ninety million dollars to the landholders, especially after the Federal Government has offered to pay the loyal owners of the slaves, and the enhancement of their *own* lands will indemnify a hundred fold for every possible loss.

While representing the largest tax-paying real estate in the proposed new State, I, for one, answer never! and I say to my fellow-landholders throughout the proposed State that if we succumb, the Federal Government ought to look upon us as incapable of self-government, and ought at once to establish a Provisional government over West Virginia; and take care of a people who have shown an entire inability to take care of themselves.

I dislike to be personal, or say anything to injure the feelings of individuals, but the present occasion, and the necessity of unmasking individuals who are laboring to crush out the last and only hope for the loyal people of West Virginia, demand it.

G. PARKER.

GUYANDOTTE, April 11, 1862.

[LETTER TO THE INTELLIGENCER, April 26th, 1862.]

THE NEW STATE—AND NEXT STEP TO BE TAKEN.

It is now clear that a large majority of the votes cast upon the Constitution question, within the forty-four counties, is in favor of its adoption.

Section 5th of the Schedule makes it the duty of the officers conducting the election in any precinct "to ascertain as early as practicable after the election, the vote in their respective precincts, and certify and return the same, as soon as practicable, to the persons conducting the election at the Court House precincts, who shall ascertain and certify the result to the Commissioners appointed by the Convention." This, I presume, has all been done before this time.

The next step to be taken, then, is for these Commissioners to ascertain the aggregate vote, and if a majority be found to be in favor of the Constitution, to certify the result to the Governor, and request him to convene the Legislature, and lay the result before that body for its consent.

The 8th Section of the Schedule reads thus:

"The Commissioners hereby appointed shall take such steps, and do all such things as they shall deem expedient to procure, as soon as possible, the consent of the General Assembly and Congress to the formation and erection of the State of West Virginia."

In view of the manifest meaning and spirit of this clause, no one can doubt what the duty of these Commissioners requires them to do in order to make safe the new State. How will some members of this Commission reconcile with this clause their efforts to suppress the voice of the people upon the gradual emancipation question at the late election? Did they really believe that such a course would secure the most speedy success of the new State? If they did, they certainly differ from nearly everybody else.

There is nothing contained in the 4th Section of the Schedule that will justify further delay on their part, whatever their private inclinations may be.

Our Governor will need no other suggestion on this subject, but to rely upon himself in this and other matters, and not upon the advice of interested demagogues, civil or military. He must comprehend the necessity for *speedy* action on the subject, (as everything—he and all, that *will, must see*—depends upon securing the *favorable* action of Congress at the *present* session;) and that *his friends*, for the present at least, are *Cis-Alleghanians* and *new State men.*

I perceive the papers, and yours among the rest, seem to think that the very unanimous vote of the people in favor of the gradual emancipation clause (wherever they were permitted to speak at the last election) is all that will be required to insure a speedy admission by Congress. *Never was there a greater mistake.* Congress will never trust a people (one half of whom are rebels, open or covert) that have shown themselves so liable to be duped and misrepresented on the subject of slavery, as our people were in the choice of delegates to the late Convention. The total want of confidence in, and respect for, the intelligence and wishes of their constituents, manifested by such members as opposed the reference of the gradual emancipation clause to the decision of their masters, the people, Congress will not overlook or ignore. They will naturally and properly infer that the *same* people will suffer themselves to be duped and misrepresented on this question in future, by the negro fogy leaders, and thereby the element of slavery will be made perpetual in the new State, and pro-slavery Senators represent it in Congress.

Nothing short of the incorporation of the gradual emancipation clause by the Legislature in the Constitution itself—either absolutely or upon condition that the people shall ratify afterwards, will secure for the new State a hearing before Congress. Let us not be lulled or deceived, but keep our eyes constantly on the straight and narrow path which can alone lead our new State into the Federal Union, viz: instruct our servants in the Legislature when it shall convene, to give its consent on condition that the gradual emancipation clause shall become a part of the Constitution as soon as ratified by the people; and Congress will consent and admit at once upon the same condition, and the people *will* ratify after, and the new State will be saved—otherwise—lost! Respectfully,

G. PARKER.

P. S. Every Senatorial and Delegate vacancy throughout the new State, should be filled at once by the *right* men, and all our Cis-Alleghany representatives thoroughly instructed. G. P.

COL. LIGHTBURN'S LETTER TO THE INTELLIGENCER.

CEREDO, VA., April 30, 1862.

Editors Intelligencer: I saw a communication in your paper, a short time since, in which one G. PARKER has taken the liberty to use my name in connection with the late election for the Constitution of the new State, known as West Virginia. He seems to charge me with suppressing some instructions sent me by him. Now I would just say that, so far as instructions upon that question is concerned, I was not aware, at that time, neither am I now, that the Convention authorized such instructions. I had not been notified by any of the officers of the Convention, that such instructions should be obeyed. And, furthermore, I conceive it to be no part of my duty, as an officer of the army, to dabble with political questions.

It should be the object of all to use their best endeavors to suppress this rebellion, to restore that peace we once enjoyed as a Nation. This is an object, to me, paramount to all things else, and as far as Mr. PARKER is concerned, I have no further notice to take of what he has, or what he may say upon that subject.

I. A. J. LIGHTBURN,

Col. 4th Va. Vol. Infy., U. S. A.

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[LETTER TO THE INTELLIGENCER.]

THE VIEWS OF THE CONVENTION ON THE RIGHT OF THE LEGISLATURE TO GIVE A CONDITIONAL CONSENT.

I would remind the members of the Legislature about to convene, and the people, of the resolutions drawn up and presented to the Convention on the 10th day of February last. The first resolution reads thus:

"*Resolved*, as the opinion of this Convention, That, if the Legislature of Virginia shall, at its present session, pass an act giving the consent of the Legislature to the formation and erection of the proposed new State within the present jurisdiction of the State of Virginia, but suspending the operation of the said act until the Governor of the said State shall, by proclamation, declare that the people residing within the limits of the proposed new State have adopted the Constitution, to be proposed by the Convention in the manner therein set forth, such consent would, upon the issuing of the said proclamation, be to all intents and purposes, the consent of the Legislature required by the 3d Section of the Article of the Constitution of the United States."

The Legislature is here asked as it was about adjourning, and ten days before the Constitution was finished, to give its consent to the proposed division, but that consent was to have depended upon the happening of the following events.

First, That the Convention should complete a Constitution to be submitted to the people, and *second*, that the people should adopt the same, and the result of their vote be proclaimed by the Governor, and still this consent in the sense of that resolution would be, "to all intents and purposes" such a consent as the Federal Constitution requires.

I agree with the resolution that such consent would satisfy the clause in the Federal Constitution, but not the 8th Section of the ordinance of the Convention, passed the 20th of August last, for that requires that the result of the people's vote upon the Constitution, if in favor of it, shall be laid before the Legislature, thereby clearly implying that the Legislature should not act upon the question until the people should have expressed their sense upon it. It was for the

reason that the resolution violated this provision of the ordinance that I voted against it; and for the same reason, if I have been rightly informed, the Legislature refused thus prematurely to give its consent and not for the reason that it would not satisfy the letter and spirit of the Federal Constitution. Mr. RUFFNER moved an amendment which was agreed to, not affecting however, the substance of the resolution, and it then passed the Convention by a vote of 39 to 7, the following named members voting in its favor:

JOHN HALL, (President,) BROWN, of Preston; BRUMFIELD, BATTELLE, CALDWELL, CARSKADON, COOK, DERING, DILLEY, DOLLY, HANSLEY, HALL, of Marion; HAYMOND, HUBBS, HERVEY, HAGER, HOBACK, IRVING, LAMB, LAUCK, MAHON, O'BRIEN, PARSONS, POWELL, POMROY, RUFFNER, RYAN, SINSIL, SIMMONS, STEVENSON, of Wood; STEWART, of Wirt; STUART, of Doddridge; SHEETS, SOPER, SMITH, TAYLOR, VAN WINKLE, WARDEN, WILSON.

Now the members of the Convention, who voted in favor of this resolution, will not, I trust, object to the Legislature now having the *right under the Federal Constitution* to give its consent on the terms now proposed, which is, in substance, simply this: For the Legislature to give its consent—to take effect as soon as the qualified voters of the proposed State, shall, by their ratification, make the gradual emancipation clause (as proposed and defined,) a part of the Constitution. Congress will, at once, endorse the same, as it secures, with mathematical certainty, a free State. If the people afterwards comply with the condition and ratify the clause (to be submitted as the Governor shall provide) the new State becomes to all intents and purposes formed and erected and a member of the Federal Union. But if the people shall fail to add the clause to their Constitution by ratifying the same then the consent both of the Legislature and of Congress goes for nothing and the State of Virginia remains unchanged, except the ruins of rebellion in the East, and the disgrace of a most stupendous farce played out in the West.

None of the objections exist now to the Legislature's adopting the course proposed, which existed last Winter. Then the character and nature of the Constitution to be assented to were in a great measure unknown, as the instrument had not been completed or published, except by piece meals in the *Daily Press*, and that still subject to revision by the Convention.

Now the instrument with the proposed addition is definite, certain,

incapable of future change and understood by all. The Legislature now sees exactly what it has to consent to, and what is the earnest and express desire of the people to have done in the premises. For the people have spoken as emphatically in favor of the additional clause as of the Constitution. They want the two combined. The Legislature was urged to act thus prematurely last winter, for the sake of avoiding the expense of having to be convened over again. The same body is now urged to act upon a full knowledge and understanding of the whole matter, including the wish of the people, the President and Congress, so emphatically expressed, for the sake of avoiding the expense of convening both the Convention and Legislature again, the total loss of the new State, and the immense amount of time, labor and money which have been expended about it.

G. PARKER.

GUYANDOTTE, May 1st, 1862.

[LETTER TO THE INTELLIGENCER, MAY 3, 1862.]

HOW CAN THE NEW STATE BE SAVED?—A CONDITIONAL CONSENT BY THE LEGISLATURE PROPOSED.

I had supposed no friend of the new State could or would question the right of the Legislature to give its consent *conditionally*, however he might view the *exercise* of that right at this time, until I read the remarks in your paper of Monday.. That the fogy leaders would covertly start all sorts of objections, hobgoblins, and "chimeras dire," to frighten weak-kneed legislators as they had done weak-kneed delegates in the Convention, none of us doubted. But when a paper as respectable and influential as yours intimates a doubt, it demands a seasonable and candid reply.

I propose to consider, 1st, the question of *right*, and 2d, the *expediency* of the Legislature *exercising* that right at this time.

Section 3d, article 4 of the Constitution of the United States, reads thus: "New States may be admitted by the Congress into this Union; but no new State shall be formed by the junction of one or more States or parts of States, without the *consent* of the Legislatures of the States concerned, as well as of the Congress." The ordinance passed the 20th of August, by the people of the *whole* State, assembled in

their sovereign capacity in Convention at Wheeling by their delegates, made the division and fixed the boundaries, which the people of the proposed new State ratified, the 24th day of October, by a vote of 18,408 for, and 781 against. This ordinance presented no prerequisites, supplemental to the before mentioned clause of the Federal Constitution, except that the new Constitution and the vote of the people thereon, should be laid before the Legislature at the time its consent was asked, in conformity to the Federal Constitution.

The before quoted clause of this Constitution is all we have to look to. What then is the meaning of this clause in relation to erecting new States out of old ones. At the time the Federal Constitution was formed, the Union consisted of thirteen States, Virginia being the oldest. Each of these States had its State-government, its boundaries defined, and each to be entitled to two Senators in the U. S. Senate; and Congress was clothed with the power of districting each State for representatives to the United States House of Representatives, and apportioning the same. It was manifest that the rights of the Federal Government required that no more new States should be erected out of the original thirteen without the consent of Congress. Hence to this body, as the faithful guardian of the rights of all the States, was confided the power to give or withhold its consent to the formation of any new State out of old ones. It has the perfect right to give or withhold its consent; to give it absolutely or conditionally, as the peculiar circumstances or merits of each case, and what in its judgment the best interests of all who are under its guardian care, may require. To deny this body the right to annex a condition to its consent which the true interests of all require, would be inconsistent with the general terms used in the clause and the duties devolved thereby on that body.

The same is true in regard to the State Legislature, within the boundaries of the State proposed to be changed. The same word "consent," in the clause, is applied to both the State and Federal Legislatures. The State Legislature is the guardian of the entire State. It should give, withhold, or modify its consent, just as the best interests of the whole State should seem in each case to require. To restrict the State Legislature in the exercise of its discretion to a simple absolute giving or withholding of its consent, would therefore do violence to the general terms used, and be incompatible with the faithful exercise of the powers granted and the high duties to be performed.

This brings us to the second question. Will the case West Virginia presents to the Legislature, justify its giving the *conditional* consent as proposed? It seems to me very clear that it does; because surveying from its high position the whole State, it must come to the conclusion that the new State merits, and is justly entitled to, all she asks, and that the East has no claim whatever to drag her down into the gulf of bankruptcy and ruin, its own treason and wickedness has voluntarily and against every warning dug for itself. To deny it would surpass the inhumanity of that custom which binds indissolubly the living Hindoo widow to the loathsome and putrid corpse of her deceased husband, to languish and die. The figure is not too strong.

"But," say my friends, "there is a more formal and better looking course to pursue, which will as well or better secure the new State." I deny it, and defy any one to point out any other course, that can possibly secure success. As for the *form* or *looks*, these all sensible men disregard in times like the present, if *the substance can be secured.* That substance with the people of West Virginia is the new State; and with Congress it will be a *mathematical certainty* that slavery shall at some future day become extinct in West Virginia. Congress, surrounded as it has been during the past year with startling facts and stern realities, will not heed the *form* or *mode* in which the mathematical certainty is produced—whether inserted absolutely in the Constitution, or secured as Mr. BATTELLE proposed, by submitting by a separate poll to the people (which was the wisest and best way to have done,) only the Legislature and Congress making their consent to depend on the people ratifying the clause afterwards. I say the only thing Congress will look at will be the fact that *that mathematical certainty is there.*

But my friend thinks if our special commissioners take the Constitution as it is with the mere absolute consent of the Legislature in one hand and the informal vote of a portion of our people on the free State question in the other, and present them to Congress, it will consent and admit. Never! For this reason: the mathematical certainty is wanting, and the natural inference to be drawn from the facts would be, either that the people did not want it, or else they did not have the power and spirit to obtain it against the scheming and management of their fogy leaders. Else why has the question been before the people, the Convention and our own Legislature, and all the progress the people have made toward the mathematical certainty is the informal vote? This is the way it will be looked at by Congress.

With such a show, can any one hope that the present Congress (which was elected while standing on the Chicago platform and *because* they stood there,) will consent to place on the journal a consent to make two slave States out of one—four slave Senators in place of two—and record a precedent to justify any other slave State cutting itself into ten (instead of two) slave States and thereby increasing its slave power in the Senate ten fold. When we talk to them about what *we are going to do and be in future*, they will remind us of what we *are*. They will point us to Delaware which during the last forty years has had a less remnant of slavery than we have, and to the power that controls its Legislature and abortive attempt by that body to institute a gradual extinction last winter. They will point to SAULSBURY and BAYARD, as samples of the Senators, and to the present Senators of Virginia elected solely by our people. Besides, is it to be supposed for a moment, that Messrs. HALL and VAN WINKLE of the present commission, who are opposed to a new State in any form for the present at least, will ever make such a presentation? And what can Messrs. PAXTON and CALDWELL—however willing and able do in such a predicament? Nothing.

But I need not pursue this further. It is not only morally but mathematically certain that Congress will reject. What then? Why the Convention will have to be convened and as mere draftsmen, for its members are nothing more—from 50 to 60—in order to append the gradual emancipation clause. This will take at least a month after the rejection by Congress, and cost thousands of dollars. It will then have to go before the people, which will take another month and cost thousands more. Then the Legislature will have to be convened (as all the parties must consent to the alteration) which will take another month and cost thousands more; and by this time Congress will certainly have adjourned not to meet again till the first Monday of December next. The same day the new Legislature will convene, with representatives from nearly all the counties in the East. This Legislature will at once repeal and revoke the consent given by the present Legislature. What then? Why our fogy leaders will proceed in triumph to Richmond, carrying poor crushed and ruined Western Virginia, as the trophy of their labor, expecting to receive the benediction from counterfeit loyalty in that section, of "well done good and faithful servants," &c. This is no fancy sketch, it is the reality that awaits us if we take that course. But if we can get the consent of Congress to the division and admission, at its *present* ses-

sion, subject to the condition that the people shall ratify the clause afterwards—the whole subject is at once placed beyond the reach of any unfriendly Legislature, because another party has become interested. But my friends say, it will be improper for the Legislature to take the initiatory step by giving its consent, subject to the condition proposed, because that body has no power to add to the instrument. I aver that the people have the unquestionable right to appoint any body of men, or individuals they choose, to be their draftsmen. The wish and approval of the people is the only thing that can give vitality. The members of the Legislature *now know* what the desire of the people is, and that it is the wish of nine-tenths to have the clause inserted. Congress *does not know* this fact, and if the Legislature immediately representing our people shall take the initiatory step, Congress will at once follow. And to say that Congress will be improperly dictatory by so doing, in thus securing that "mathematical certainty" which can alone justify and which will go on the journal with its consent, is too absurd to merit notice. The consent of neither Legislature nor Congress is absolute until the people, the life giving party, shall have ratified. Nor does the Legislature or Congress make any addition to the Constitution, though either would be competent to do so if properly authorized by the people.

These simply give a consent, which they have the right to give, or withhold, at discretion, upon the condition that the people themselves shall make a certain specified addition afterwards, which nine-tenths of these very people have already declared they desire to have added.

I fear I have already extended my remarks too far. I hope I have made myself intelligible to all minds. My heart, yea, my whole being is filled with the importance and magnitude of the subject, as relates to the present and future of West Virginia, and if her loyal people, through a want of manly spirit and heart, let her sink into the gulf of ruin her enemies have opened and seem eager to plunge her, I shall have the consolation of having used my feeble efforts to save her. The people should instruct in every County, and if need be, come up to Wheeling in grand mass meeting, and thunder at the door of the Capital.

Respectfully,

G. PARKER.

P. S. I need not remind my fellow-citizens that every argument used by the fogy leaders, the past winter, on this question, has been *refuted by actual facts.* They contended that the Government at

Washington *desired* that the question of slavery should be *ignored* by the Convention. The Message of the President, the 6th of March, and action of Congress upon it, proved the exact reverse to have been true. They contended that a majority of our people desired the question to be ignored, and that it was unsafe to trust the people with the subject in these exciting times. The vote on the 3rd of April has demonstrated both propositions to be false. What confidence can we put in the judgment or honesty of such men?

One thing more, be sure to make every candidate for any office at the May election *define* his position on the new and free State question, and have that definition in writing before you give him your vote. By this means we shall secure for our Cis-Alleghany people a new and free State representation in the Legislature that convenes the 4th of December next, and in the executive department also; by this means too, we shall unmask counterfeits and teach them that there is to be no more false pretences, or sailing under false colors in Western Virginia, and that the sentiments of every loyal citizen is what HOMER ascribed to one of his heroes, viz:

> "Who dares think one thing and another tell,
> My soul detests him as the gates of Hell."

G. P.

[LETTER TO THE INTELLIGENCER.]

SOME AUTHORITIES FOR GIVING A CONDITIONAL CONSENT BY CONGRESS AND THE LEGISLATURE.

It will be observed that the same word "consent" is used in section 3d, 4th Article of the Federal Constitution (and used but once) to prescribe the powers of both Congress and the State Legislature in relation to erecting a new State out of an old one. Any interpretation, therefore, which Congress has given of the true import and meaning of this word in this connection is direct authority as well for State as subsequent national Legislatures, and its relative weight would be as the weight of the nation when compared with a single State. The section reads thus: "New States may be admitted by the Congress into this Union; but no new State shall be formed by the junction of one or more States or parts of States without the *consent* of the Legislatures concerned and of the Congress."

P.

If the Congress, by virtue of this clause, has the power to give its consent *conditionally* to the erection and admission of *any* new State, it has the power to give the like consent to the admission of *all*, where its discretion dictates, whether formed of Federal territory or the territory of an existing State.

Congress gave its consent to the erection and admission of Missouri, March 2d, 1821, *on condition* its Legislature should thereafter consent to the "Compromise measure" proposed by Congress. Its Legislature having afterwards consented and complied with the condition annexed, its formation and admission became complete and perfect, August 10th, 1821, upon the announcement of the facts by proclamation, as the act of Congress provided, and without further action by Congress. Volume 3, page 797, Statutes at Large.

Congress consented to the erection and admission of *Michigan* upon the express condition that the State should thereafter consent to certain boundaries prescribed by Congress; and the State having afterwards assented and complied with the condition its erection and admission became thereby complete. Ib. Volume 5, page 49.

Wisconsin was erected and admitted into the Union on condition her qualified voters should thereafter consent to a boundary proposed by Congress. Her qualified voters having thereafter complied with the condition the erection and admission of the State became thereby perfected. Volume 9, page 233, Ib.

So with *Iowa*, Congress consented to its erection and admission *on condition* its qualified voters should afterwards consent to a certain proposition submitted by Congress; which having been complied with, she became a member of the Union. Volume 9, page 177, Ib. So Congress annexed conditions to the erection and admission of *Kansas*. These repeated enactments during the last forty years by Congress have established an interpretation of the section, and the word "consent," which no declaration however boisterous, nor rant and denunciation however bitter, can change.

Kentucky, Maine and Vermont were the only States, I think, that have been created out of the existing territory of other States; and in the case of Kentucky, Maine and Vermont also, if I remember rightly, the Legislatures of the mother States annexed conditions, both *precedent and subsequent*, to their consent. In nearly or quite all the cessions of territory made by any of the original thirteen States since the Revolution the grantors annexed conditions. The

Legislature of Virginia annexed among others the condition of Freedom to the cession of the Northwest Territory. North Carolina annexed conditions of another character when she ceded Tennessee; and so with Georgia and other States.

A majority of our present Legislature, however, seem to think it incompatible with their duties, while representing the *whole* State, to annex any condition to the consent they shall give to the erection of West Virginia; and some few because it would be *altering* the Constitution, which the people of the new State framed and adopted! The mind that can confound, or view as identical, propositions so totally unlike, I have no desire to say anything about; while I admit the *propriety* and *expediency* of annexing the condition to their consent, *at this time*, may be considered a debateable question. And if the Legislature shall feel themselves constrained to decide adversely to annexing the condition proposed, on account of an appearance of improper suggestion or dictation it may give (though the very thing be desired by a large majority of our people), I sincerely hope, and I know it is the wish of the people, that the Legislature shall so frame their consent to the division as to permit the people immediately interested to modify their Constitution as they may desire, or as they may find necessary to secure the admission of the new State by Congress, without having to resort again to the Legislature. This course I believe the Legislature will feel themselves justified in adopting, as it will relieve that body of further trouble about the matter, and the people of expense.

For the uniform good will, frequent and important aid the Legislature and Executive officers of Virginia have shown to the people of the New State, during their long and arduous efforts, I know I utter the sentiment of our people, no less than my own, when I say we are profoundly grateful. And the prompt and almost unanimous consent—though unconditional, if it must so be—of the Legislature to the proposed division is calculated to deepen that sentiment.

Respectfully,

G. PARKER.

May 10th, 1862.

P. S.—When the recipient of Divine grace can rightfully ascribe dictation or improper interference to the Power that conditions his heart and mind for receiving the precious favor, then will the people of West Virginia make similar ascriptions to any power that shall

suggest or help in any way to shape her internal structure so as to secure the consummation of the new State. Not till then.

G. P.

THE Legislature convened on the 6th of May, and on the 13th passed an Act, giving its consent to the formation of the new State absolutely, and without annexing the conditions prayed for. Many of the friends were present, and we did what we could, but without success. There were some members, however, who had the courage to advocate the proposition. FONTAIN SMITH, JOSEPH SNYDER, the late GEO. MC C. PORTER, and others of the House of Delegates were among them. Our only remaining hope was with Congress, and, to say the least, it was anything but cheering. Such a petition, in the shape it was, intrusted exclusively to five Commissioners, three of whom were against a new State in any form—to be presented to a Congress of its political sentiments, at such a crisis! Still, all its friends did not despair.

LETTER TO THE WHEELING DAILY PRESS, MAY 15, 1862.

Permit me through your valuable paper to say a few words in reply to the remarks in yesterday morning's paper headed "False Premises."

Your error seems to me to consist in an entire misconception of the legal *status* or relation of the segregating portion—*after* the Legislature of the Mother State has given its consent to the division, fixed the boundaries and laid down such fundamental provisions as is deemed just to the *whole* State, which such Legislature represents. *Subject to these*, the people proposing to leave are as free and independent to construct a Constitution as they please—make the best terms they can to obtain the consent of the other party—viz: Congress—to the division and admission to the Union; and to make and receive propositions to and from the party they are negotiating with; and if Congress shall consent to the division and admission, all former relations with the Mother State cease. But if they fail to consummate they remain as before. This seems to me to be the true *status* and relation, after the Legislature has consented to the division, fixed the

boundaries and prescribed the fundamentals of the division; and I am unable to see how their relations to Congress, so far as negotiating for its consent to the division and admission is concerned, can materially vary from the residents of Federal territory. There is a "republican" necessity that both should be equally free and untrammeled in this respect, for in both cases the people are negotiating a matter peculiarly their own, and in the former case the Mother State certainly can have no concern. Respectfully,

G. PARKER.

P. S. My object and purpose from the beginning, has been to get a *new* State, and to use all legitimate and honorable means to secure it.

[LETTER TO THE WHEELING INTELLIGENCER, MAY 17TH, 1862.]

THE POSITION OF THE NEW STATE NOW, AND THE NEXT STEP TO BE TAKEN.

The Legislature has given its consent to the division and erection of the new State, fixed the boundaries as was deemed right, and left the promising daughter free to arrange her household and domestic affairs as her best interests may dictate, subject only to the obligation, contained in the 8th section of the 8th article of the new Constitution: to assume and pay an equitable proportion of the State debt prior to the 1st day of January, 1861, and the condition or compact, contained in section 1st 9th article of the same Constitution relating to the titles of land. Subject to these restrictions the new State is left free to make the best terms she can with Congress to secure its consent and thereby secure admission to the sisterhood of States. Until this happy consummation, however, the mother's care and protection will continue, but not her control or restraint to interfere or prevent the new State's modifying her Constitution, subject always to the limits above stated, to suit the wishes of the people and secure the speedy action of Congress.

Being released to this extent from the former power and control of the mother, and allotted an outfit of $100,000 if her majority be attained, the people of the new State are at full liberty to place themselves in immediate communication with Congress and ascertain at once on what terms Congress will give its consent to the proposed

division and admission of the new State. This should be done at once. There is not a moment to lose. The Commissioners appointed by the Convention are the properly authorized agents of our people for that purpose; and they should be at Washington as soon as the Constitution and action of the Legislature reach there. Our prompt and faithful Governor will lose no time in transmitting them, and before this, the documents are probably on the way.

The vote to be taken in the District, comprised of Berkley, Jefferson and Fredrick, will neither necessitate nor justify delay. The consent of Congress can be given subject to that provision and the vote taken after as well as before the action of Congress.

It seems to be now the almost universal desire of our people to accept at once the proposition of Congress made in pursuance of the President's recommendation the 6th of March last, proposing to pay for the slaves owned in any State, that shall adopt a system of gradual emancipation.

Our Commissioners ought at once to arrange with Congress the details of a plan, re-convene the Convention, and if satisfactory, that body can modify the Constitution so as to conform to the terms agreed on by the Commissioners and Congress, and Congress will at once give its consent to the division and admission—*to take effect whenever the people of the new State shall ratify the change so made in their Constitution.* This will place the subject, for a certainty, beyond the repealing power of any unfriendly Legislature, and our people can ratify and consummate the establishment of the new State at any time thereafter, that Congress may determine, the country and re-organized government of the mother State shall require. Or Congress can give its consent without the further action of the Convention, but subject to the people ratifying afterwards the terms that shall be agreed on between the Commissioners and Congress.

Either is a practical and feasible course to save the new State, and ought to be satisfactory to our people and Congress. And the man that raises the cry of dictation or improper interference by Congress or other party, for taking either of the courses indicated, can be regarded in no other light than an enemy to the new State, and consequently to the best and highest interests of the cis-Alleghany people. But if the Constitution and action of the Legislature are permitted to go before Congress in the condition they are—without our

Commissioners opening at once the negotiation with Congress before indicated—the subject will either not be acted on at all by that body at its present session, or it will be unconditionally rejected. Nothing can be more certain. And before Congress shall convene again, an unfriendly State Legislature will revoke (if they have the power) the consent just given by the State Legislature, and the new State lost beyond hope.

The idea that our loyal friends in the East when they shall become represented in the Legislature, will consent to let us go has been already demonstrated to be utterly false and delusive. The Delegates in the present Legislature representing the loyal people East of the Alleghany, though personally liberal and noble minded men, that appreciate and acknowledge the merits of the West to all she asks, felt themselves nevertheless constrained by the known sense of their constituents to vote against the division. No one esteems our loyal friends in the East higher than I do, or is more ready to assist them, where it can be done without sacrificing all that is valuable to the West. We cannot but remember that, during the last forty years of worse than Egyptian oppression to the West by the East, these now loyal friends of the East never raised a voice, nor lifted a finger to alleviate our grievous burden, and the presumption, nay, the fact is, they helped to impose and continue the burden. Let us not be deceived, therefore. Let us be just to ourselves and to our fellow-citizens everywhere; but let us not be deceived further. They will insist that they love us too much to spare us, and that the co-operation of the loyal people of the West is indispensible to them, in order to control the conquered, but still unconverted traitors of the East.

When our loyal friends that are incarcerated in the loathsome prisons at Richmond, can be rightly blamed for effecting their escape, when the torch of the traitorous oppressors have burned down the doors of the prison, then can the loyal people of West Virginia be justly blamed by Congress, or other persons, for cutting loose at once and forever.

There is devolved a very great responsibility upon our Commissioners in this juncture, which I hope they will fully appreciate and meet in a manner that will reflect honor on themselves, and secure the approbation and gratitude of the people, whose highest and dearest earthly interests are now in a great measure committed to their hands.

Respectfully,

G. PARKER.

As SHOWING the feeling of the people of the Valley at this time, I insert the following from the Wheeling *Intelligencer* of the 13th of May, 1862:

"GENERAL KENTON HARPER, of Augusta, Virginia, prints in the *Register* a call for

FREE FIGHTERS.

"People of the Valley: Your homes are threatened with ruthless invasion. Wait not until the enemy is upon you, but meet him on the threshold. There are thousands of us not subject to a draft, who have arms, or who can get arms, and who know how to use them. None but the craven can hesitate in such a crisis. Better fight the battle on the borders than at your own door. Your families will then be secure behind you, and you will be able to put forth all your energies. If you delay, the sad fate of our fellow-citizens of the lower valley may soon be yours, and will you deserve it for your pusillanimity.

"Let neighborhood meetings be called, then, at once, and see that every efficient man and every efficient gun is brought into service. None should withhold their arms who are not able to use them, and those who cannot endure the march may be organized into mounted corps.

"The service proposed is a brief one, for who can doubt if the whole valley would pour forth her whole strength, the insolent invader could be driven across the Potomac in less than thirty days? Then, shall we sit still and allow ourselves to be paralyzed and subdued by gradual approaches.

"I shall be glad to confer with citizens of Augusta and other Counties in furtherance of this movement. It interferes with none of the arrangements of government. It is simply for the defence of our homes and our firesides against a cruel foe, who, under the absurd pretence of restoring fraternity, marks his advance with desolation, outrage and ruin. This is not less our duty than our right. We propose to be governed by our own rules—eat our own bread and meat, if necessary—and to ask nothing but to be assigned a place in the line of battle. KENTON HARPER."

I ADMIRE the pluck of General KENTON HARPER, situated as he was; but I cannot think either he, or the sympathizing friends in the Valley he addressed, were in a mood to aid us much in getting the new State at that time.

AS AN illustration of the sentiments of our new State people, *this side* the Alleghanies, I insert the following, which appeared in the *Intelligencer* of May 9th, 1862:

"THE NEW STATE.

"MONONGALIA CO., VA., May 8, 1862.

"Being a very humble citizen of Monongalia, I wish to say through your paper a few words in relation to our new State organization, to the members of our Convention, and also to the members of our Legislature now in session, which I hope they will take into serious consideration. Now, in the first place, I will tell the members of the Convention that they disappointed the hopes and expectations of at least three-fourths of the real friends of the new State, by not providing for gradual emancipation in the Constitution they made. Does any sane man suppose that Congress will make two slave States out of one, when we all know that a large majority of Congress and about nine-tenths of every body else, believe that slavery is the cause of this cursed rebellion that is now covering our country with debt and mourning? If the members of our Convention don't know these facts now they will learn them to their sorrow before long. Political death will be the fate of every member of the Convention, who has and does hereafter oppose having a gradual emancipation provision engrafted in the Constitution.

"Have the members of our Convention ever reflected and considered what would be the consequences to the people of Western Virginia should our new State organization fail and we have to be put under the rule and dominion of the rebel traitors of old Virginia? They must know that the traitor part of Virginia would have a majority in the State and could and would rule us with a rod of iron. Don't they know that the traitors both East and West hate the Union men of Virginia worse than they do the devil and would delight in tyrannizing over them. And they must know further that the debt of Virginia before this rebellion was near fifty millions of dollars,

and that we of Northwestern Virginia got but very little of what that debt was made for, and further, there can be no doubt but what, since the rebellion, Eastern Virginia has made a debt of an enormous amount. Now suppose we fail in our new State organization and have to come under the control of the traitors, what is to hinder them from making us bear the burden of the most of these debts? It is a well known fact that a large portion of Virginia is now devastated and impoverished, and there is not much doubt but before this rebellion is put down a great deal more of it will be in the same situation. And the niggers, the boasted wealth of Eastern Virginia, where are they now! There is no doubt but a large portion of them have been sent South, and as little doubt that a large number of them have found their way North. Now, with a knowledge of all these facts, who can suppose that Virginia can pay her debts? Does not repudiation stare her in the face? Is it not inevitable? Do the members of our Convention want Northwestern Virginia to be a part of a State that will have to repudiate her debts, and be under the rule of as base a set of tyrants as ever disgraced the earth? If not, then let them assemble as soon as possible, while the Legislature is in session, and add a gradual emancipation provision to the Constitution, which will, no doubt, prevent such a dreadful calamity coming on us. And there is another consideration about this emancipation business which ought to be considered well by the members of our Convention, and that is the people should have a chance to decide the nigger question for themselves. The responsibility of deciding all questions that pertain to the State's welfare should be referred to the people for their decision. Now, if the members of our Convention are so disposed they can assemble soon, and in a few days fix an emancipation clause to the Constitution and let the people take the responsibility of deciding for themselves; then if our new State organization fail they will have the satisfaction to know that it was not their fault.

"Now I wish to suggest to the members of the Legislature that they use their best efforts to get this Convention assembled again as soon as possible, if they have any hopes of their adding an emancipation clause to the Constitution, but if they find there is no chance of getting the emancipation clause fixed by the members of the present Convention, I think the Legislature ought to forthwith pass an act calling another Convention to meet soon as possible. The emergencies of our situation require it, for all we have will be nearly

worthless if we don't get separated from old Virginia; and unless we have an emancipation provision in the Constitution there is no hopes of admission by Congress. You Messrs. Editors know and can inform the people there is no time for delay. It is almost certain, if we don't get the consent of the Legislature within a few months we will never get it. M."

Soon after publishing my last letter, I drew up the following Appeal; and after submitting it to some friends, I went to Ironton, Ohio, and had a large number printed in document form, and immediately enclosed a copy to each member of Congress, the President, and each member of his Cabinet, and the leading Republican journals of the country. I ventured to subscribe it in the manner that appears.

AN APPEAL OF THE PEOPLE OF WEST VIRGINIA TO CONGRESS, SUGGESTING FOR THE CONSIDERATION OF MEMBERS MATERIAL FACTS; ACCEPTING THE "NATION'S PROPOSAL" FOR THE GRADUAL ABOLISHMENT OF SLAVELY, AND ASKING THAT BODY TO GIVE ITS CONSENT TO THE ERECTION AND ADMISSION OF THE NEW STATE INTO THE UNION AT ITS PRESENT SESSION.

GENTLEMEN: A Constitution conforming to our wishes in all respects but one, the informal spontaneous, and nearly unanimous expression of such Counties throughout the proposed State (being about twenty), as had an opportunity to speak upon the matter, which our Delegates in Convention *unwarrantably* suppressed, with the almost unanimous consent of the Legislature of the mother State, have been laid before your honorable body for its consent agreeably to the 3d Section, Article 4th, of the Federal Constitution. The action by the Legislature of the mother State, has, in our judgment, placed the people of the proposed State in *direct communication* with your body, to negotiate for its consent to the erection and admission of West Virginia into the Union, upon such terms as shall be agreed upon by your body and ourselves, subject only to the fundamental

compacts contained in the 8th Section of the 8th Article of the new Constitution; touching the public debt, and the 1st Section of the 9th Article of the same, touching titles to land—and without further resort to that body. Our Convention still exists, and can be re-convened whenever necessary to carry into effect the terms that may be agreed upon.

It is proper for us to say, as mitigating in some measure the wrong done us by the Convention, in withholding the matter from our decision, that the Delegates thereof were elected and the Convention, as it supposed, had completed its labors and adjourned, (though subject to be reconvened), before there had been any definite or authentic expression of the views of the Nation, or our people, upon the subject.

OUR CLAIM ON CONGRESS FOR PROMPT ACTION AT ITS PRESENT SESSION.

When we ask Congress to change the oldest State in the Union, so as to make two States instead of one, and four Senators instead of two, we expect to make out a case, the justice, equity and propriety of which shall satisfy all loyal and fair minded men, that we *merit* what we ask, and which shall readily evoke the exercise by Congress of a power purely discretionary.

It is now about forty years since the *expediency* of dividing the State was first discussed, some contending that the Blue Ridge, and others the Alleghany Mountains, ought to constitute the boundary. The Seaboard and Piedmont Districts, in order to make sure of the Valley, extended internal improvements of all descriptions into that section, uniting the people commercially and socially with Richmond; and after Baltimore had extended a branch of its road to Winchester, our Legislature denied further charters. The growing of slaves for the Southern markets, served also to attach and assimilate the Valley to the East, and to alienate it from the West. In proportion as the East has been lavish to the Valley, it has been sparing to the West; and of the forty-four millions of State debt, created prior to January 1st, 1861, and expended in internal improvements, only one and a half millions have been expended West of the Alleghanies. And when Baltimore proposed to extend branches of its road throughout our territory, at its own expense, the Legislature refused to grant charters for the purpose—being neither willing to improve our country themselves, nor permit any one else to do it.

Of the half million slaves in the State in 1860, only about ten

thousand were owned West of the Alleghanies. The Valley and the East have co-operated to enact and continue a system of taxation more unequal and unjust to the West than anything of the kind before known. By it, no slave, though worth $2,000 in the market, can be valued over $300 for the purpose of taxation; and no slave under the age of twelve years, though worth $600 to $800, can be taxed at all. *In this way two hundred million dollars worth of slave property,* owned almost exclusively in the Valley and the East, has never been taxed at all, while every other species of property has been taxed to its full value. And almost every species of income, even to the earnings of day-laborers, which go daily to support their families, are either taxed, or are liable to be taxed; and also nearly every branch of business, except the growing, working and selling of negroes, by requiring licenses to be taken and paid for at enormous prices. The poor man, who buys a piece of wild land, with a view to clear up and make him a home, has to pay $1,00 tax to the State before his deed can be recorded—this being in addition to the recording fee; and so with all forms of legal process, whether relating to the living, or the settlement of estates of the dead. All this startling injustice and oppression exists now throughout the State. *Everything pays tribue to the slave power.*

Besides, the East early adopted a system of "land law" which has for eighty years, and does to-day, treat the lands West of the Alleghanies as *"waste and unappropriated," and has continued to sell them and grant patents of any portions to anybody who will pay, until the whole country has become shingled over, and some five or six patents deep. Two, three, and frequently more, have paid taxes on the same land, at the same time.* The result has been to increase the revenue drawn from the West, to keep the titles to land unsettled—plenty of work for lawyers, and a defrauded and impoverished people. The Legislature has repeatedly exonerated lands in the Valley and in the East of taxes justly assessed; whilst, by the same act, it enforced the payment of the like tax against the lands of the West by ordering their sale. There is one statute of limitation relating to lands East, and another relating to lands West, of the Alleghany Mountains.

These are some of the wrongs which the people of the Valley and the East—they having had a large majority in both branches of the Legislature, increased in the Senate by a mixed or property basis—

have practised on the people West of the mountains. And is it any wonder, that when a year ago, these oppressors—the measure of whose iniquity had become full—plunged into treason and rebellion against the Government of their choice which had bestowed every blessing, without one single wrong that could be specified, that the loyal and true, though long oppressed and abused people of the West, should have rallied around the nation's flag, and at the same time have embraced the first opportunity ever offered for making their escape from such bondage? As we are human, we could not have done otherwise; and still we had a terrible enemy to battle with in our very midst. The minions and tools of the slave oligarchy in the East were thick among us. JENKINS, WISE & Co. were gathering their forces and a terrible doom was denounced on all who should hesitate to take up arms and defend the State ("after a majority had voted her out," as they contended, "against ruthless invaders.") Many of our counsellors and guides in matters of constitutional rights and duties, had either openly joined the enemy, or stood silent in trembling suspense. The plan so timely proposed by General MCCLELLAN to give effectual protection to our loyal people was thwarted by the treason or the weakness of former leaders.

It was at this trying crisis that some bold men, from among the people, struck for re-organizing the State Government, and that accomplished, then for a new State, and eternal deliverance from our worse than Egyptian oppressors in the East. Light broke through the thick darkness, and we awoke as if from a dream.

About this time the Stars and Stripes were unfurled by the sons of Ohio, Indiana and Kentucky, upon the "sacred soil," and our young men and the middle aged gathered around the Nation's standard. The spell of years that moment was broken, and our people began to stand up in the majesty and strength of conscious manhood. We have continued to rally, leaving our wives and children, aged dependents and property, to the mercy of the guerrilla and bandit, until our people to-day are as largely represented in the loyal army as the other portions of our country, where no such sacrifices had to be made.

The effect of the loyalty of West Virginia thus thrown into the scale at a moment when the fate of our country trembled in the balance, when the mere accidental use of an ex. instead of an abdicated, Governor's name to a telegram, could, under the Providence

of God, have saved from destruction a Government like ours, no man can calculate. But whatever may have been its weight and effect, we feel that the Federal Government has fully paid us by its liberal and timely aid. We only claim to have done our duty faithfully in this great crisis. Meantime, our people have pressed forward the New State project with equal vigor. We felt that the Almighty had opened a way for our deliverance, and we were resolved to improve it. The minions of the power of the East were everywhere busy among us. They *affected* to be friendly leaders and guides still. They at first openly opposed the measure, but finding the people were *resolved* they changed tactics, and *pretended* to favor it. But, with a view to retain the leadership of the measure and wreck the whole project upon a *failure*, as they confidently expected, to *harmonize* the views of our people, which were supposed to be *pro-Slavery*, with the views of the Republican Congress on the subject of Slavery, and receive their reward, when they should return to Richmond with West Virginia, foiled in her purpose, and still in chains.

Some of the "wolves in sheep's clothing," managed to get themselves chosen Delegates to the Convention to frame the Constitution, and it was through their influence and misrepresentation that the question of gradual emancipation was not permitted to go to the decision of the people, and through their influence the clause is now wanting in the instrument. And the same persons used every effort to prevent the spontaneous and informal vote, which, in spite of them, was given in favor of emancipation. They are too well known now to be able to deceive the people again. They boldly contended that it was the wish of the Federal Government that the Convention should be silent and ignore the question of slavery; and, if it were otherwise, it would be unsafe to refer the question of emancipation to the people at this time; that they would get mad with excitement and tear things to pieces! Fortunately, neither of these assertions or predictions has proven true. The "Nation's proposal" we now have, and the people, have of their own accord, and in defiance of the commands and warnings of these men, given their votes without "undue excitement, and without having torn anything to pieces."

THE NECESSITY OF IMMEDIATE ACTION BY CONGRESS.

If Congress shall defer its action upon the subject until the next session, there is imminent danger that the accession of new members

from the Counties of the Valley and East, that will be elected and sent into the Legislature as soon as the rebellion shall be crushed in that section, and the East and Valley secure thereby a majority of both branches of the Legislature adverse to a separation, and as the Legislature will be convened in extra session before Congress shall meet again, such Legislature will repeal the act already passed, giving consent, and the consent of that body cannot be obtained afterwards. There is no doubt such will be the disposition and action of the Legislature as soon as it gets the power.

There were members from the Valley and East of the Blue Ridge, in the Legislature at its recent session, and although they personally acknowledged the merits and just claims of West Virginia, yet, out of regard to the known sentiment of their constituents, they felt themselves constrained to vote against it. This is actual demonstration, if any be needed, that the loyal portion of the people East of the Alleghanies will never consent to let Western Virginia go. They will say that they love us too well to think of a separation, and that our co-operation is indispensable to enable them to hold in check the great number of unregenerate traitors that shall continue among them. But it is quite uncertain whether the loyal people of the whole State combined will be able, for some time at least, to out-vote the disloyal portion (unless the latter shall be disfranchised) and so subject the whole State to loyal rule; whereas, taking the cis-Alleghany people, separate by themselves, and there can be no doubt as to their power to control the disloyal. The disloyal portion of the Valley and East will desire to hold on if they can control, oppress and torture us; otherwise, they will be for letting us go.

CERTAIN OBJECTIONS ANSWERED.

First. That Congress ought not to regard the consent of the present Legislature which has been given, as satisfying the requirement of the 3d Section, 4th Article, of the Federal Constitution, because all the Counties of the mother State, though invited, were not in fact represented. Such objectors would therefore have us simply decline the way of escape, now providentially opened, from unparalled oppression, and wait until our oppressors shall have regained their former power, "bound us hand and foot," and remanded us to our former bondage. Whatever loyal West Virginians might have done a year ago, they are now prepared to strike down the unholy oppressor whenever and wherever opportunity may offer.

We deem it unnecessary to say anything in support of the *legal competency* of the present Legislature to give the required consent to the separation. LETCHER and his co-conspirators through their treason, committed against both State and Federal Government, abdicated; and the powers of the State, incapable of annihilation, returned to the people. The disloyal portion could not take advantage of this forfeiture for they were confederate with LETCHER, *participes criminis*, equally guilty, and to allow it would be to allow a party "to take advantage of his own wrong." The loyal people alone had the right to take advantage of the forfeiture, and re-produce and re-organize the Government. Full notice was given to all loyal people throughout the State, and all who would and could be, were represented in the Convention which convened at Wheeling, the 11th of June, 1861, and re-organized the Government, and caused to be elected and convened at Wheeling, the present Legislature. If all loyal people were not represented, it was their own fault or misfortune, and on account ofeither, it would have been wrong to have permitted the whole machinery of Government to remain suspended, especially as there exists no power to compel an election and return of Delegates. If a County or Senatorial District, neglect or refuse to elect and return Senators or Delegates, there is no power to compel, and those elected and returned, must *ex necessitate rei*, constitute the legal body, and its acts bind all.

But it is unnecessary to elaborate this point, as every branch of the Federal Government has now for nearly a year been recognizing its legitimacy in various forms, and by the most solemn and deliberate acts. It is, therefore, too late to take exception, even if any valid ground had existed, which we deny.

The Legislature, and the Governor during vacation, have granted Writs of Election, whenever applied for by the people in any County or District of the State, and elections have been held, and Delegates and Senators returned, and admitted into their respective branches, without hindrance from any quarter. Northampton, Accomac, Fairfax, Loudon, Berkeley, Hampshire and Hardy, were all represented at the late session.

Others who admit the strict *legality* of the consent given by the Legislature, object that it is morally wrong—wrong in the forum of conscience, to effect a division of the State, until every section shall be represented in the Legislature. This objection we have already

answered, and need only add that no loyal mind will hesitate to say where such objectors' sympathies lie.

Others object that it is unjust and unfair in the loyal people of West Virginia, to separate themselves from the loyal people in the Valley and in the East, at this time of their trouble. We would ask who, and where, are those loyal people of the Valley and the East? Where have they been during the fearful struggle of life or death, to our glorious Government? Have they rallied around the old flag in this their country's peril? Have they become voluntary exiles from home, family and all that is dear, rather than submit to and affiliate with fiendish traitors? Have they abandoned all to the mercy of marauders and bandits as West Virginians have done, to battle for their country? If they have, we have not heard of it. But are they not rather, with some bright exceptions, avaricious and no souled loyalists—these "submit to the powers that be" patriots, whether that power be JEFF. DAVIS, or any other, no matter, if only *their* persons and property are kept safe? In the bold, open, but deluded rebel, there is something to admire; but in the "submit to the powers that be" loyalist, in these times, there is nothing.

But the most important inquiry which all loyal Western Virginians have to make in this respect, is this: have not these now professed friends and loyalists, of the Valley and the East, done as much, and been as ready as any others during the past forty years to impose and continue the unjust oppression to the West? Have they ever lifted a voice or a finger towards alleviating our unjust burdens? What possible claim then can they have on us now to remain and help them to reconcile their Confederates in our oppression, until they can again unite to remand us to our former vassalage? Will any sane loyal man hold up his head and say we owe them anything but retaliation—were we unchristian enough to acknowledge and pay such a debt, which we trust none of us are disposed to do? On the score of true merit the balance is already largely in our favor. And is there any member of Congress who will desire to retain us to help reconcile among themselves, our common oppressors east of the Alleghanies for the last forty years, so they may again jointly resume and exercise that prerogative, rather, than help us escape? If there is we should like to see him hold up his head also, and assert it. But there are none. Such thoughts can only exist in minds unhinged by the mania of secession, or other like malady. Nevertheless we

wish it understood that to help *true* and *live* loyal men anywhere, none will make greater sacrifices than loyal West Virginians.

But others object that we should not ask for separation at present, because Congress and the re-organized Government of Virginia will require our aid to help reclaim and restore the rebellious East. If it is thought by these Governments, or either of them that loyal West Virginians can serve the cause better, connected than separated, in this respect, and after the re-organized Government shall remove to Richmond, where we understand it hopes soon to go, we will consent to do so most cheerfully, and shall respectfully ask Congress to adopt the following course of action, which will enable us to give that aid without endangering our final deliverance by the establishment of the new State. It is this: For Congress to pass an act at its present session, giving its consent to the division and admission of West Virginia, *to take effect when the qualified voters thereof shall accept the "Nation's Proposal,"* made by Congress, pursuant to the recommendation of the President, on the 6th of March last, in relation to the gradual emancipation of, and compensation for the few slaves of loyal men now remaining among us, not exceeding 2,000 in number. Our Convention, or the Commissioners appointed thereby, can arrange with your body the details to be embodied in your act, and our people will accept, and ratify the same, by a vote of at least twenty to one, at any time thereafter, when the President shall notify the Commissioners aforesaid, that our services in that respect are no longer required. The Commissioners, or Convention, will then submit the provisions to the qualified voters, who are sure to ratify the same with the unanimity before stated. and the separation will thereupon become consummated. This action on the part of your body at its *present* session, (making itself a party thereto,) will place the matter for a certainty, beyond the reach of the *repealing power* of *unfriendly* State Legislatures, if such shall have the power, and add to the new Constitution a provision which nearly all the people earnestly desire, but which our Convention omitted, and denied us an opportunity to insert, for causes already stated. The *competency* of Congress to give such *conditional* consent is clear on general principles, and has been sanctioned repeatedly by Congress. *Missouri* was admitted March 2d, 1821, *on condition* that its Legislature should thereafter consent to the "compromise measures" proposed by Congress. Its Legislature having thereafter consented, and complied with the condition annexed, its formation became complete and perfect,

August 28th, 1821, upon announcement of the fact by proclamation, as the act of Congress provided, and without further action by Congress. Volume 3d, page 797, Statutes at Large. So with Michigan, Ib., Volume 5th, page 49. So with Wisconsin, Ib., Volume 9th, page 233. So with Iowa, Ib., Volume 9th, page 177, and so with Kansas. In these cases it is true the States were formed out of Federal Territory. But it is very clear, that *after* the Legislature of the mother State gives its consent to the division, fixes the boundaries, and prescribes such other fundamental provisions as she judges the best interest of the whole State requires, the segregating people must stand subject only to such limitations, in substantially the same relation to Congress as the residents of Federal Territory. The former must be as free to negotiate with Congress for its consent, and to make and receive propositions, as the latter are. In the case of Missouri, the condition annexed by Congress, had relation to the slave institution in that State.

In most of the other cases cited, the conditions annexed by Congress related to boundaries. There can be no question therefore, as to the entire right and propriety of Congress, annexing the condition proposed, to its consent, and however much dictation, and improper interference, the minions of the slave power may affect to see in it, nineteen-twentieths of our loyal people earnestly desire the provision, and desire Congress to do for them *as a favor*, what their unfaithful delegates failed to do in the Convention. We beg the members of your honorable body not to suffer your minds to be abused by a class of men among us who are, or have been enemies to the new State in disguise. They have spared and will spare no pains to defeat it. Some are members of the Convention and perhaps the commission appointed by that Convention, and others of the Legislature. 'Tis the outside pressure of an earnest and determined constituency, whom they have deceived and now attempt to betray, that makes them assume their present guise. Their highest aspiration is to defeat the whole project, and deliver over West Virginia, with tightened chains and a broken spirit, to her former oppressors.

Compare West Virginia *as she is*, with what *she might have been*, if she had been free from the oppression and thraldom of an accursed slave oligarchy and its minions. Her salubrious climate, fertile soil and fine streams, attracted the attention of Washington and his co-patriots. Soon after the Revolution, they patented and attempted a settlement of a large portion of her land. Their great influence and

combined efforts were directed in that end. The great free West was then, and for a long time afterwards, an unbroken wilderness; and still the tide of emigration and capital has flowed from the East to the West, veering around our repulsive border as the mighty river bends its course around the repellant features of the projecting rock, until it has filled up the vast valley with States Imperial, reached the base of the Rocky Mountains, and sent back its refluent wave; nay, it has o'er-leaped that stern barrier, peopled the land of gold, and is fast filing up the whole Pacific slope. And where is West Virginia? Comparatively a wilderness still! Look on either side of our beautiful Ohio. On the one hand is a thrifty, happy and loyal people. Their hills covered with green pastures, and waving grain, are worth from $15 to $30 per acre; on the other side, we find similar hills, but they are still, in a great measure, covered with primeval forests, and worth from 50 cts. to $1 per acre; and a large portion of her people, roaming bands of marauding guerrillas, mad with treason, and "seeking whom they may devour." Your own minds can run out the contrast and assign the cause.

We have just read the proclamation of our good and sagacious Chief Magistrate, restating the "standing proposal" of the Federal Government and using the following significant language:

"It now stands an authentic, definite and solemn proposal of the Nation, to the States and people most immediately interested in the subject matter. To the people of these States I now earnestly appeal—I do not argue. I do beseech you to make the argument for yourselves. You cannot, if you would, be blind to the signs of the times. I beg of you a calm and honest consideration of them, ranging, if it may be, far above partisan and personal politics."

All this the people of West Virginia have calmly and deliberately done, and desire to be the first to accept and carry the same into practical operation, as we have been the first to reclaim and re-organize a loyal State Government; and we entreat your honorable body to help us in the manner before indicated or in any other your superior wisdom may suggest. And we entreat you not to let our enemies, in whatever form or guise they may appear, misrepresent us. We know our present position is awkward and embarrassing, and hence we stand in greater need of your aid. You know the causes that have placed us in this predicament. Our sentiment and that of the Nation are now fully known on the subject. In these times of great and sudden changes, startling facts and stern realities,

the known character of your body leads us to hope that no matter of mere *form* or *technicality* will be permitted to stand between us and the great object which both of the negotiating parties are so desirous to attain. Nor will you let the fallacious, though specious argument it may be, of our enemies, that the *whole* State is soon to be reclaimed to loyalty, accept the "National proposal," and a millenial harmony is to exist between the East and the West, and that the "lion and the lamb," the oppressor and oppressed, are to lie down in love together. Let us not be deceived; but remember that the same physical, commercial and geographical necessities, the same political, moral and social antagonism, will still exist as they always have between the sections East and West of the Alleghanies; and the line of their separation is, and will remain, as marked and permanent as the Alleghanies themselves, absolutely necessitating, now and always, separate peoples.

Confiding in the justice of your honorable body we have frankly disclosed our present condition with our hopes, fears and desires, and what seems to us to be our just merits, and "appealing from FESTUS unto CÆSAR," we commit our Destiny into your hands. If disenthralled and permitted to set up for herself, West Virginia will at once "spring forth into newness of life, with JOY and FREEDOM in her wings"—to bless and be blessed; but if remanded to her worse than former bondage and chains, the young and loyal West, bound indissolubly to the disloyal and now *self-immolated* East, the living Hindoo widow bound to the corpse of her deceased husband, she will become lost to the country, and no pen can adequately depict the anguish and utter dispair that will settle with crushing weight upon the hearts of her loyal people. But we *know* that some *timely action* of your body will save us from such a fate.

THE LOYAL PEOPLE OF WEST VIRGINIA.

May 22, 1862.

THE Lawrence County *Clipper*, at whose office it was printed, published it in full, in its issue of June 3, 1862. The Wheeling *Intelligencer*, of June 7, 1862, also published it in full. The editor of the latter, A. W. CAMPBELL, Esq., as I was afterwards informed, visited many of the editors of the leading Republican journals, explaining

the vital importance of the measure, to the loyal people of West Virginia, securing their advocacy, as well as furnishing articles himself. This effort, on the part of Mr. CAMPBELL, was of great service, and helped to bring the subject prominently before the public. Many of the journals gave the substance of the Appeal, and all expressed sympathy, though some thought the time inauspicious. While at Ironton, I accompanied the copy sent to the Hon. BENJAMIN F. WADE with an explanatory note, and not having the honor of his personal acquaintance, the Hon. RALPH LEETE and JOHN CAMPBELL, Esq., our warm sympathizers, and efficient helpers, on all occasions, were so kind as to vouch for me.

Let us now glance, for a moment, to the condition of our case at Washington. The Commissioners having the matter in charge, proceeded to Washington soon after they were furnished with copies of the Constitution, and action of the Legislature, hichw were presented to the Senate by Mr. WILLEY, one of the Virginia Senators, chosen by the Re organized Government, accompanied by an appropriate speech, had there not been "a nigger in the wood pile." He urged, with consent of the Commissioners, I presume, that Congress should admit, with the Constitution as presented, which he declared expressed the will of the people, and made no allusion, whatever, to that will, as simultaneously expressed, on the Emancipation clause, by the informal vote. This was entirely ignored. The matter was referred to the Territorial Committee, of which Mr. WADE, of Ohio, was Chairman, and Mr. CARLISLE, the other Virginia Senator under the Re-organized Government, was a member, and then a determined enemy in disguise, of a new State, as would seem from the sequel; though he had been foremost in inaugurating it in the first Convention, as before stated. The matter was referred to this Committee on the 25th of May, which did not report till the 23d of June, nearly a month, and then reported as Senate Bill No. 365, which was read a first and second time. As this Bill reveals, with so much distinctness, the *animus* of the *home* enemy in disguise, that the measure was cursed with, including Senator CARLISLE, whose brain shaped and fashioned, while others inspired—I copy its substance, as stated in the *Congressional Globe*, of that session, page 2942.

"THE motion was agreed to; and the bill (S. No. 365) providing for the admission of the State of West Virginia into the Union, was

read a second time, and considered as in Committee of the Whole. By an act of the State of Virginia, passed May 13, 1862, entitled "An act giving the consent of the Legislature of Virginia to the formation and erection of a new State within the jurisdiction of this State," the people of that-part of the State of Virginia including the counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire, and Morgan, did, with the consent of the Legislature of the State of Virginia, form themselves into an independent State, and did establish a constitution for the government of the same. The bill therefore proposes to admit the State of West Virginia into the Union on an equal footing with the original States in all respects whatever, upon the following conditions: that there shall be included within the State of West Virginia, in addition to the counties already enumerated in the preamble, the following counties, as laid off and defined by the Legislature of the State of Virginia: Berkeley, Jefferson, Clark, Frederick, Warren, Page, Shenandoah, Rockingham, Augusta, Highland, Bath, Rockbridge, Botetourt, Craig, and Alleghany; that the convention thereinafter provided for, shall, in the constitution to be framed by it, make provision that from and after the 4th day of July, 1863, the children of all slaves born within the limits of the State shall be free.

"The second section authorizes and empowers the people of the counties thereinbefore enumerated, qualified under the constitution of Virginia as electors, to vote for and choose representatives to form a convention for framing and adopting a constitution for a State by the name of West Virginia, or any other name the convention may adopt, in accordance with the provisions of this act; and all persons qualified for representatives to the Legislature of Virginia under the Constitution thereof are to be qualified to be elected to the Convention. The election for the representatives is to be held at such time at the usual places of voting in the several counties as the Governor of Virginia may direct and prescribe, and as soon as may be after the people thereof may be relieved from the presence of armed insurgents; and the representatives to the Convention are to be apportioned among the several counties as follows: Hancock, 1; Brooke,

1; Ohio, 3; Marshall, 2; Wetzel, 1, Marion, 2; Monongalia, 2; Preston, 2; Taylor, 1; Tyler, 1; Pleasants, 1; Ritchie, 1; Doddridge, 1; Harrison, 2; Wood, 2; Jackson, 1; Wirt, 1; Roane, 1; Calhoun, 1; Gilmer, 1; Barbour, 1; Tucker, 1; Lewis, 1; Braxton, 1; Upshur, 1; Randolph, 1; Mason, 1; Putnam, 1; Kanawha, 2; Clay, 1; Nicholas, 1; Cabell, 1; Wayne, 1; Boone, 1; Logan, 1; Wyoming, 1; Mercer, 1; McDowell, 1; Webster, 1; Pocahontas, 1; Fayette, 1; Raleigh, 1; Greenbrier, 2; Monroe, 2; Pendleton, 1; Hardy, 1; Hampshire, 2; Morgan, 1; Berkeley, 2; Jefferson, 2; Clark, 1; Frederick, 2; Warren, 1; Page, 1; Shenandoah, 2; Rockingham, 3; Augusta, 3; Highland, 1; Bath, 1; Rockbridge, 2; Botetourt, 1; Craig, 1; Alleghany, 1.

"The third section enacts that the members of the Convention elected under the provisions of this act shall meet at such places as the Governor of the State of Virginia shall designate, at as early a day after their election as may be practicable, and shall have power and authority to form a Constitution and State Government upon the conditions prescribed in this act. and not repugnant to the Constitution of the United States, which Constitution so adopted by the Convention shall be submitted to the people of the State of West Virginia for their adoption and ratification.

"The fourth section enacts that upon the ratification of the Constitution framed by the Convention, and the public declaration by the Legislature of the State of Virginia assenting to the formation of the State of West Virginia under the provisions and conditions imposed by this act, it shall be the duty of the Governor thereof to transmit official evidence of the same to the President of the United States on or before the — day of ——— next, upon receipt whereof the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the State into the Union shall be considered as complete.

"The fifth section declares that the State of West Virginia shall be entitled, until the next general census, to as many Representatives in the House of Representatives as the population thereof will authorize under the present apportionment."

It abrogated, as will be observed, all that had been done; required

the whole thing to be gone over again; admitted the State, whether its form of government was republican or not, upon these conditions, viz: that it should include nearly or quite all the Counties of the Shenandoah Valley, to the top of the Blue Ridge, (the same scheme that was attempted in the Convention) should contain a clause that all children born of slaves after July 4, 1863, should be free; that such Constitution should be submitted to the people of all the Counties named, after all military force had been removed, and receive a majority of votes, be consented to by the Legislature of Virginia, and then to become a member of the Union upon the President issuing his proclamation—without Congress having had the opportunity of deciding whether the form of government was republican or not. The scheme was as shallow and suicidal, as it was specious and treacherous. Who of the Territorial Committee was the deviser and getter-up of the scheme, Mr. WADE tells in the sequel. That member of the Committee had the matter in his hands for nearly a month, and while copies of our printed Appeal aforesaid, were in the hands of the members of Congress, the Territorial Committee, as well as the friends and enemies out of Congress. Of course, during that time, the particular member of the Territorial Committee, had the counsel and advise of its opponents living in and out of the proposed State, including a majority at least, I believe, of the Commissioners, especially charged to see the measure carried through.

Their object was to meet the gradual emancipation offered to Congress by the Appeal, by adopting a gradual emancipation clause, and at the same time to effectually kill the measure by introducing other features, as the taking in of the fifteen additional Valley Counties, postponing the popular vote until peace should be restored throughout the whole of Virginia, which meant country. Of course it meant certain death to the new State, in any form.

The Report of the Territorial Committee the 23d of June, at first staggered and bewildered everybody, editors included; hence, all sorts of interpretations were put upon their Report by the press, which the enemy everywhere regarded, and pronounced to be, certain death to the new State.

About this time I had occasion to go to Parkersburg on private business, where I learned, for the first time, from conflicting statements in the papers, that the Committee had reported, and the gener-

al features of the bill. Dropping my private matters, I immediately went to Wheeling, where I was informed some of our Commissioners, with other opponents, had just passed through Wheeling on their return from Washington, to their homes, and had pronounced the measure dead. The Wheeling papers, including the *Intelligencer*, also said as much.

[From the Wheeling Intelligencer of June 27, 1862.]

"THE SENATE BILL FOR THE FORMATION OF A NEW STATE.

"We print on our first page this morning the report of the U. S. Senate Committee on Territories, providing for the formation and admission of a new State, to which reference was made yesterday. We do not know that anything can be profitably added to the much that has already been said on this subject. We confess that in view of this report, and the poor prospect that seemingly exists for its rejection, the whole matter of a new State begins to pall upon our taste. We begin to feel as if we had been doing the work of Sysiphus—as if all the labor, all the anxiety, and all of the troublous watching and waiting and hoping of our people had gone for nothing.

"There is very little to be said further of an argumentative kind against this report. The whole ground has been traveled and re-traveled again and again, and our people are grown familiar and perhaps weary with the details. And yet notwithstanding all that has been said and written this very report evinces how little the gist of the whole effort for a new State is understood and appreciated outside of our midst. Either the Senate do or do not desire us to have a new State. If they do desire it the report of their Committee on Territories will be promptly rejected, for that body must realize the force of the assertions that its adoption will never in the world give the people of West Virginia what they have been so long wanting, viz: a new and free State. To say that the boundaries prescribed shall be adhered to is to say that the State of Virginia shall remain whole and intact, for just as sure as to-morrow's sun shall rise they will never be the boundaries of a new State that will include this section. The stubborn fact that neither our people nor the people of the new counties proposed to be added will vote for any such State ought to

dispel the delusion of the Senate, if in reality they are deluded and are honestly endeavoring to give us a new State. And the additional stubborn fact that our next Legislature is to meet at Richmond, and that it will consist of a preponderance of those deadly hostile not only to us for the part we have taken on behalf of the Union, but to the very idea of a division of the State, ought to insure the rejection of the report without so much as a division on the vote. The people of the Valley, of the Southwest, of the Eastern shore, and of the Richmond country scout at the very thought of such a thing as a new State. Granting that the Legislature may be ever so loyal, which no intelligent man believes for a moment, their hostility to the project will be just as fatal to us as if they were disloyal. The proof of this is that every member from the East to our Legislature was opposed to the new State. Does any one suppose their minds will change when they get to Richmond? Never!

"The whole thing, then, now to be done, and the only thing, is for the Senate to reject this report. We hope to see our Senators moving to amend it by substituting the boundaries laid down at Wheeling. As to the provision concerning slavery, our people would have no objections to that. Let the Senate tack on the emancipation clause, and our voters will give them an earnest of how much they are enlisted in this matter of a new State, by promptly adopting it. We appeal, then, to the intelligent and sincere men of the United States Senate, who are the friends of West Virginia, and who do not desire to see her put back under the domination of Richmond, when she has so nearly escaped from the hated oppression of that slavery rule, to come promptly to our rescue and save the new State. Now is their only opportunity. If this session goes over, and we are not admitted, then, indeed, is the harvest past and the summer ended for us through all time to come."

STRANGE as it may seem to some now, though greatly depressed, I could not so regard it, but felt, by proper efforts, the new State might yet be saved. I called on the Governor and told him, if he would arrange to pay my personal expenses, and notify the Commissioners to meet me in Washington, I would at once go on, and we would make a trial. He said he would notify the Commissioners, and referred me to DANIEL LAMB, Esq., a member of the Convention, and

Cashier of the Bank, in which the State Treasurer deposited its funds. I called on Mr. LAMB, stated my conference with the Governor, that he referred me to him, as having charge of the funds appropriated by the Legislature for the purpose, for sufficient to defray my personal expenses to Washington and back. He told me as I now recollect, the amount appropriated for the purpose had already been expended, and he had no authority to make the advance. I gave him my check on the Ironton Bank for seventy-five dollars, which he cashed, and which was duly honored. I asked him if he would come to Washington; he said his engagements would not permit, and expressed, I think, a belief, that the measure was dead. I shall never forget how surprised Mr. LAMB looked, on that occasion, when I told him I thought there was still hope, and should make an effort. I reported to the Governor the result, and proposed to defray my own expenses, if he would have as many of the Commissioners and friends come to Washington as possible. I at once left for Washington, and on arriving at the National Hotel met (providentially, it would seem) the Hon. RALPH LEETE and JOHN CAMPBELL, Esq., of Ironton, Ohio, who were there on private business. This was the 28th of June, 1862, and I remained there until the 17th of July following—after the bill, in its present form, for the admission of West Virginia, had passed the Senate (the 14th of July) by a vote of 23 to 17; and the House, the 16th of same July—the Hon. JOHN A. BINGHAM, having charge of the bill—had refused to lay it upon the table, by a vote of 70 to 44; but, postponed its further consideration till the second Tuesday of December then next, by a vote of 63 to 53—Congress adjourned the next day. After the postponement, several of the members were so kind as to come to the few of us that remained, expressing their personal sympathy, and giving assurance that a large majority of the House were for us, and that the Bill would certainly be passed early the next Session. Among them, the Hon. OWEN LOVEJOY, since gone to his reward. The Bill passed the House without amendment the 10th of December following, by a vote of 96 to 55—was approved by the President December 31st, and unanimously ratified by the Convention that was afterwards re-convened, and by the people, to whom it was submitted, and the new State became consummate, and a member of the Union the 20th of June, 1863.

Fidelity to truth, and justice to individuals, requires I should state the condition, in which I found things, on arriving at Washington the

28th of June, 1862, and what transpired, relating to the subject while there. My friends, Messrs. LEETE and CAMPBELL, informed me, that from what they could learn, the new State was dead, but proposed to go that evening and introduce me to Senator WADE, Chairman of the Territorial Committee, that reported the Bill—to whom I had addressed a letter, after gathering, as near as I could, from the papers, the substance of the Report—stating briefly our objections. We went to his room and they introduced me. I inquired if he had received the printed Appeal and my letters. He said he had, and carefully read them, and believed we were right, and merited all we asked; but the Committee had intrusted to Mr. CARLISLE the shaping of the Bill—he being from that section, having personal knowledge, and professed to be zealous for the new State. I explained the matter fully; he agreed to our plan and promised his aid to carry it out—remarking that some of the Committee had began to distrust the sincerity of Mr. CARLISLE. He requested we should see Mr. WILLEY, and ask him to call at his room next morning. Mr. LEETE and myself called on Mr. WILLEY in the morning, and delivered the message. His manner was grave and reticent, but said, I think, he had prepared an amendment he intended to offer, when the Bill came up again. We then called on the Virginia Representatives that had been elected by the new State people, Messrs. BLAIR, BROWN and WHALEY. They were more communicative, but had faint hopes of success—the last named having said, as we afterwards learned, the measure would not get a vote in the lower House. But before Congress adjourned, he got permission to print a speech, in its favor, which he had circulated among his constituents, for which we were thankful. We felt there was little hope of *resuscitating* aid, save from heroic BEN WADE, whose intellect, we felt, we had convinced, and sympathy aroused, and his like that lived outside of Virginia—though the Hon. WM. G. BROWN, one of our Representatives, had on the 25th of June introduced a Bill in the House, the nature of which will appear in the sequel.

That day, Commissioners CALDWELL, PAXTON, and E. B. HALL, with several earnest new State friends, arrived from West Virginia. The late Mr. VAN WINKLE, another Commissioner, having accompanied them as far as the Relay Junction, continued on to New York to enjoy a summer recreation. Commissioner HALL stayed but a day or so and left. The rest, being in dead earnest for a new State, aroused Mr. WILLEY and the three Virginia Representatives to a

comprehension of the situation, and what our people were expecting of them. The same day this party arrived I was introduced to the Rev. Dr. R. McMURDY, of Kentucky, who had studied the facts of our case, and became an enthusiast in our cause. I think him the most untiring, versatile gentleman I ever met. He enjoyed the personal acquaintance and respect of the members generally, and had the address to command their attention. Through him and Mr. LEETE, who had many acquaintances, we were introduced to most of the leading members of both Houses.

Among the friends that came on, was the late HARRISON HAGANS, Esq., of Preston County, a man full of energy and downright earnestness. It was him that approached with success, the most fastidious and inaccessible members. These friends stayed some three or four days, impressed the members of both Houses with their weight of character and earnestness of purpose. They were then obliged to return home, leaving Messrs. LEETE, CAMPBELL, McMURDY and myself to keep the ball in motion, which they had so well started. Mr. CAMPBELL was obliged to leave in a few days, depriving us of his wise counsel and large influence.

The friends had now resuscitated and energised the measure, and secured the attention of Congress, and imparted to the measure, something of the importance it merited. Heroic BEN WADE had become thoroughly aroused. Senator WILLEY had partially emerged from his shell, and began to realize that the measure had friends, as well as the enemies,—who, it would seem, had hitherto monopolized his attention as well as sympathy—at the head of the latter was Mr. CARLISLE, in disguise, and only slightly suspected by his fellows on the Territorial Committee. They put in circulation all sorts of objections and bugbears. It was to meet these, I published in the *National Republican*, the following letters, of which the editor spoke kindly, and commended the measure in an able editorial:

[Letter to the National Republican.]

WEST VIRGINIA—CONGRESS SHOULD ADMIT HER AT ONCE.

While we acknowledge with gratitude the favorable consideration of our application by Congress, the press, and loyal people every-

where, we fear that our friends in Congress do not justly appreciate the importance of definite action by that body upon the subject at the *present* session.

The boundaries described in the Constitution which has been presented, were carefully considered and unanimously adopted by the Convention, and subsequently ratified by the people and Legislature of the mother State. These, in the opinion of the parties that have already acted, require no change, and will not admit of the change proposed by the report, without defeating the entire measure.

A provision for the gradual, but *certain*, extinction of slavery our people desire, and will, very unanimously, adopt. We ask, however, that while this provision shall be of such a character as to deprive the expiring slave element of all political power in the new State, it shall admit of such disposition of the slaves in being, at the time the *post nati* clause shall take effect, as humanity and the best interests of the parties immediately interested may dictate. Nor have we any objection to this provision being made a condition *precedent*, to be complied with before the State shall become established; for we wish Congress to give us nothing in this respect *on trust*. We desire it to be named in the bond, no less than they.

But we have very serious fears that if Congress shall defer definite action on the subject until the next session, the State Legislature will, in the meantime, repeal the act of the 13th May last, giving its consent to the division. We fully understand our enemy, and with what alacrity and reckless desperation they are accustomed to execute their favorite plans. To defeat the new State *now* and *forever* is one of these plans. By existing laws they have the right to elect and send in delegates to the State Legislature, and secure thereby a majority in that body *adverse* to letting West Virginia go. To their accustomed cupidity has now become added insatiate revenge. The State Legislature will be convened before Congress shall meet again, and the irreparable mischief be done, if Congress fail to become a party to the measure the present session. It need consume but little time. It will transfer, for *certainty* nearly half the territory of the Old Dominion from slavery to freedom, with the whites and blacks living thereon. It will dispel, to this extent at least, the dark cloud and let in the sun.

But how important, in a political and national point of view, that

Congress should act *now*, and make our deliverance *certain*. If Congress fails to act now, it will be accounted by many a total defeat. With what heart, then, can our people go about raising the fresh quota of troops now called for by the President? With what heart can our sons already in the field, or to be sent there, help to bear the Nation's flag on to victory, while they and all of us shall feel that that victory must certainly consign us back to a vassalage aggravated by every enormity that enmity and the spirit of revenge can invent?

But let it be *certain* that our deliverance from the Valley and East is *secure*, and our people will respond most willingly to every call, and shoulder to shoulder help bear the Nation's flag to certain and complete victory over a common enemy to all loyal Americans, if not to mankind.

Besides, the immediate establishment of the new State will do much towards extinguishing the last hope of the rebels residing within the bounds. They have been taught, and many religiously believe, that their first duty is to serve their State. Let Congress, then, at once give them a State government, attachment to which shall be attachment to the Federal Government at the same time. It will do much to bring back the deluded, and crush the last hope of *premeditated* treason within our bounds. For these reasons we respectfully ask of Congress *immediate* action.

LOYAL PEOPLE OF WEST VIRGINIA.

JULY 8, 1862.

[Letter to the National Republican.]

WEST VIRGINIA—OBJECTIONS TO ITS ADMISSION ANSWERED.

Some of our friends say they have scruples, whether, acting upon the consent of the Legislature of the mother State, given before *all* the Counties thereof were in fact represented, would be Constitutional. We would remind such that the existing laws of Virginia make a majority of members, duly *elected and qualified*, a Constitutional legislative quorum for doing business. That all the Counties were invited to elect and return members; and all duly elected and qualified, whether coming from the East, the Valley, or the trans-Alleghany, have been admitted to seats. That there exists no power

to compel the election and return of members. That the Legislative, Executive and Judicial branches of the re-organized government rest upon the same basis. The present Congress have admitted Senators elected by this Legislature; have paid $41,000 of the surplus revenue to this government. That the Federal Government has accepted, now commands and pays fourteen regiments, enlisted, organized and commissioned by Governor PEIRPOINT, and has for a whole year recognized this re-organized government as the legitimate authority of Virginia for all purposes. And still, if after all this there is any *friend* in Congress who doubts the power of this State Legislature to give consent to the proposed division required by the Federal Constitution, we should feel constrained, perhaps, to respect him for the goodness of his heart, but not for his understanding.

Others object, that they entertain doubts as to the propriety of Congress annexing to its consent a *condition precedent*, which must be complied with by the party asking the favor, before that party can take anything by his petition.

Now, all will concede that it is a pure matter of discretion with Congress to grant or refuse the petition of West Virginia. The real merits of the case, she makes out, constitute her only ground of claim, and should be such, we admit, as will readily evoke the exercise of this discretionary power by Congress, while looking to the advantages to be derived, as well to the new State as the whole country. Can it be contended for a moment that Congress, in the exercise of this high discretionary power, shall be confined to the giving of an absolutely affirmative or negative answer? May it not, with the strictest propriety, say to the applicants, "We grant your petition on this or that condition; or provided you will adopt this or that specified amendment?" And in the present case, the amendment proposed is what our people have for a long time desired—and wished to have incorporated in the Constitution at the time it was framed—and unanimously wish it done now in the manner proposed, as saving time, expense, and, very likely, the new State itself. It seems to us that such objections are "more nice than wise," and ill fitted to grapple with facts and the great realities of the day.

Others object that we are too hasty—unwilling to "bide our time." That we ought to wait till the rebellion shall be crushed out in every part of the State, and peace and harmony restored. Restored to whom, and in what manner? The same old vassalage, only aggravat-

ed five fold, restored to us! But, say our friends, "Oh, we will help you then." How help? Has Congress or the Federal Government any power to make *one* vote weigh down *two* at the ballot box? The Federal Government will have no right to interfere there and then. West Virginia will be crushed beneath accumulated burdens, and thus she must remain till Providence shall repeat its benign interposition, or a brave people shall cut their way out by the sword against their oppressors, and the Federal arm which the oppressors can in such case Constitutionally invoke.

The past year of desolating civil war in our midst and at our doors, has taught us to be active and vigilant; and we hope all loyal men have profited from the last year's experience in this respect. Whether, then, the speedy transference of 24,000 square miles, bordering from 200 to 300 miles upon the Ohio river—the great highway of the Nation, both civil and military—and reaching back to the impassible summit of the Alleghanies, with 300,000 to 400,000 people, white and black, from slavery to freedom; and a speedy restoration of this people to a settled and unwavering loyalty, to a sense of security beneath the old flag—to an army of determined and resolute soldiers, ready to guard that river and the rights of a Government—that they shall feel has done them justice, be worthy, in a military, political, or moral point of view, a short time of Congress at its present session, is for that body and the people to decide—bearing in mind that delay may defeat all.

LOYAL PEOPLE OF WEST VIRGINIA.

JULY 10, 1862.

WHEN Mr. WADE first called up the Bill, June 26, and before the friends had arrived, Mr. SUMNER objected to its Gradual Emancipation feature, and proposed to amend by substituting therefor, the JEFFERSONIAN clause in the organization of the North Western Territory, in 1787, namely: "Within the State there shall be neither slavery nor involuntary servitude, other than in punishment of crime whereof the party be convicted." It was probably this blow between the eyes of their fraudulent, shallow subterfuge, by Mr. SUMNER, that pleased its originators, and encouraged the remnant passing through Wheeling shortly after, on their way home, to pronounce the new State dead.

Mr. WILLEY, thinking probably, that the death was too sudden, to look well, moved an amendment to Mr. SUMNER's amendment, which the President pro. tem. decided was to the bill itself, and ruled it out of order. Thus the matter stood when I arrived, June 28.

July 1, Mr. WILLEY, with Mr. WADE's consent, I presume, called up the Bill again, and Mr. SUMNER urged the adoption of his amendment, with his usual force, to which Mr. HALE, of New Hampshire, happily replied. Judge COLLAMER, among the ablest lawyers in the Senate, next struck the feature that proposed to permit a new State to be formed, and admitted to the Union, without Congress having the privilege of seeing the Constitution, when formed, and deciding, as was its duty, whether it was republican or not. This was a stunning objection, and admitted of no answer. Mr. COLLAMER, at the same time, expressed his entire conviction that Congress had the right to annex conditions to its assent; and other leading members concurred with him.

Mr. WILLEY then offered a substitute, leaving out the additional Valley Counties, included in the Bill, providing, that children born of slaves after the fourth of July, 1863, should be free; but referred the ratification to the Convention to be re-convened, *and not to the people*, nor did he allude, in any form, to the informal vote in favor of Gradual Emancipation. I copy from the *Globe* Senator WILLEY's substitute, page 3036.

"WHEREAS, by an act of the State of Virginia, passed May 13, 1862, entitled "An act giving the consent of the Legislature of Virginia to the formation and erection of a new State within the jurisdiction of this State," the people of that part of the State of Virginia, including the Counties of Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire, and Morgan, did, with the consent of the Legislature of said State of Virginia, form themselves into an independent State, and did establish a Constitution for the government of the same.

"West Virginia is hereby admitted into the Union on an equal footing with the original States in all respects whatever, and upon the fundamental condition that from and after the 4th day of July, 1863, the children of all slaves born within the limits of said State shall be free, and that no law shall be passed by said State by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States.

"*Provided*, That the Convention that ordained the Constitution as aforesaid, to be re-convened in the manner prescribed in the schedule thereto annexed, shall by a solemn public ordinance declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States on or before the 15th day of November, 1862, an authentic copy of said ordinance, upon the receipt whereof the President by proclamation shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of said State into this Union shall be considered as complete."

Mr. WADE admitted there was insuperable objections to the Bill as reported; said "it did not receive the formal assent of the Committee, though they thought it sufficient to bring the subject before the Senate." He accepted the substitute offered by Mr. WILLEY, and proposed this amendment; "that all slaves under twenty-one years of age, the 4th of July, 1863, shall be free on arriving at that age." Mr. WILLEY said "he greatly preferred, *if the State of West Virginia is to be admitted*, that it should be according to the Constitution, exactly as it had been approved by that portion of the people of Virginia, without any condition, and without any amendment; but, sir, feeling that the views, sentiments, and opinions of others in this body are entitled to all respect, I have viewed it but right to make concessions beyond what are personally agreeable to myself, and to accept the proposition by way of amendment, &c."

Mr. CARLISLE, at this point, became alarmed, and began to unmask. He opposed the substitute, contending the matter should be referred back for ratification, not only to the Convention, but to *the people also;* and charged upon his colleague that his motive for withholding from the people was that he knew they would reject it; and that the majority of the people did not want a new State, unless in the form proposed by the Constitution, or Bill, as reported; and

that his colleague was afraid to submit the question to the people. Mr. CARLISLE presented this point with great force and eloquence, and made, apparently, a decided impression upon the Senate; so much so, that the friends in the gallery sent one of their number to call Mr. WILLEY out, and urge him to so amend, as to refer the ratification to the people as well as to the Convention. This was done, and Mr. WILLEY consented to accept and substitute the Bill drawn by the Hon. WM. G. BROWN, of the House, with the advice of friends, and presented in the House as before stated. This was the Bill that became a law, amended in one particular only, on motion of Senator LANE, of Kansas, namely, "that slaves under ten, when the Constitution takes effect, shall be free at the age of twenty-one, and all over ten, and under twenty-one, shall become free at twenty-five."

The amendment proposed, was assented to by Messrs. WADE and WILLEY. The amendment proposed by Mr. SUMNER before stated, had before this, been voted down by twenty-four to eleven; and afterwards, on motion of Mr. CARLISLE, to amend, so as to admit the State, under the Constitution, as it came from the Convention, without any condition, it was rejected by a vote of twenty-five to eleven. This decided which of the parties had been right in their judgment in the Convention, and subsequently. For the discussion that afterwards occurred in the Senate, the reader is referred to the *Congressional Globe*, of 1861 and 1862, pages 3307 to 3320—with this one remark in regard to Senator WILLEY, and an extract from Senator WADE'S remarks, showing his opinion of Mr. CARLISLE, and how such a Bill came to be reported by the Territorial Committee.

Mr. WILLEY, before giving his vote for the rejection of the last motion of Mr. CARLISLE, to substitute the Constitution as it came from the Convention, thus remarked: "Although, as I have already stated, that would be more acceptable to me, yet having proposed the substitute in good faith, to meet my friends on the other side, I shall vote against the motion to strike out."

The vote on these two questions disclosed our strength in the Senate, when met by either of the extremes. Of course, the friends became confident of success in that body. Mr. CARLISLE, however, as his last effort to defeat, made a vehement speech in favor of postponing the matter till the first Monday of the next December. Mr. WILLEY, in his reply, seemed to have at last caught up with the ideas and sentiments, the loyal people of West Virginia entertained upon

the subject of gradual emancipation—ideas and sentiments that they had been, for nearly a year, expressing in all forms, and sought to have the Convention, of which he was a member, express in the Constitution; but were debarred by himself and confederates. But they did express themselves almost unanimously, on this subject by that separate poll, which, neither he nor his confederates had theretofore deigned to notice, or allude to. Nor would Mr. WILLEY probably have alluded to it, at this time, had he not found it expressly referred to in the Bill Mr. BROWN, of the House, had drawn and presented, and which he had borrowed and used in place of his substitute; and thereby as appeared to friends in the gallery, saved himself from certain defeat in the Senate. I here insert Mr. BROWN'S Bill amended, as before stated, that became a law.

"AN ACT FOR THE ADMISSION OF THE STATE OF WEST VIRGINIA INTO THE UNION, AND FOR OTHER PURPOSES.

"Whereas the people inhabiting that portion of Virginia known as West Virginia, did, by a Convention assembled in the city of Wheeling on the twenty-sixth of November, eighteen hundred and sixty-one, frame for themselves a Constitution with a view of becoming a separate and independent State; and whereas at a general election held in the Counties composing the territory aforesaid on the third day of May last, the said Constitution was approved and adopted by the qualified voters of the proposed State; and whereas the Legislature of Virginia, by an act passed on the thirteenth day of May, eighteen hundred and sixty-two, did give its consent to the formation of a new State within the jurisdiction of the said State of Virginia, to be known by the name of West Virginia, and to embrace the following named Counties, to-wit: Hancock, Brooke, Ohio, Marshall, Wetzel, Marion, Monongalia, Preston, Taylor, Tyler, Pleasants, Ritchie, Doddridge, Harrison, Wood, Jackson, Wirt, Roane, Calhoun, Gilmer, Barbour, Tucker, Lewis, Braxton, Upshur, Randolph, Mason, Putnam, Kanawha, Clay, Nicholas, Cabell, Wayne, Boone, Logan, Wyoming, Mercer, McDowell, Webster, Pocahontas, Fayette, Raleigh, Greenbrier, Monroe, Pendleton, Hardy, Hampshire and Morgan; and whereas both the Convention and the Legislature

aforesaid have requested that the new State should be admitted into the Union, and the Constitution aforesaid being republican in form, Congress doth hereby consent that the said forty-eight Counties may be formed into a separate and independent State: Therefore,

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the State of West Virginia be, and is hereby, declared to be one of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever, and until the next general census shall be entitled to three members in the House of Representatives of the United States: *Provided always*, That this act shall not take effect until after the proclamation of the President of the United States hereinafter provided for.

"It being represented to Congress that since the Convention of the twenty-sixth of November, eighteen hundred and sixty-one, that framed and proposed the Constitution for the said State of West Virginia, the people thereof have expressed a wish to change the seventh section of the eleventh article of said Constitution by striking out the same and inserting the following in its place, namely: "The children of slaves born within the limits of this State after the fourth day of July, eighteen hundred and sixty-three, shall be free; and that all slaves within the said State who shall, at the time aforesaid, be under the age of ten years, shall be free when they arrive at the age of twenty-one years; and all slaves over ten and under twenty one years shall be free when they arrive at the age of twenty-five years; and no slave shall be permitted to come into the State for permanent residence therein:" Therefore,

"SEC. 2. *Be it further enacted*, That whenever the people of West Virginia shall, through their said Convention, and by a vote to be taken at an election to be held within the limits of the said State, at such time as the Convention may provide, make, and ratify the change aforesaid, and properly certify the same under the hand of the president of the Convention, it shall be lawful for the President of the United States to issue his proclamation stating the fact, and thereupon this act shall take effect and be in force from and after sixty days from the date of said proclamation."

Approved, December 31, 1862.

EXTRACT FROM THE CLOSING REMARKS OF MR. WADE, IN REPLY TO MR. CARLISLE'S SPEECH FOR POSTPONEMENT.

"I want to say one word, and only one word, because I understand a motion has been made to postpone this bill until the next session. There is no gentleman who knows exactly when human nature is weak, just exactly the time to strike, like my friend from Illinois. He understands the weakness of human nature, and the persuasive argument towards dinner time of a motion for delay; and how arguments, otherwise without weight and without much reason, press upon men when they are pretty sure that they do no harm to anybody, when they have done no positive act. In accordance with our natural indolence, such an argument is very apt to have weight, and yet it is the most dangerous in a legislative assembly that is ever made. Nobody knows it better than my friend from Illinois.

"Gentlemen say that I have said enough. I suppose I have, and am not going to say much more. Gentlemen ought not to admonish me much, for I believe I never make long speeches. This is a very easy way for us to rid ourselves of this question, but it will not be so satisfactory to those who feel such a vital interest in it as the people of West Virginia, who have sent their population here almost *en masse* to urge it upon this Congress to pass this measure and relieve them from the alarm that they are under in consequence of the uncertainty that they may be left in the hands of their enemies. That there is to be a separation is a foregone conclusion, and no man has urged it upon the Committee more strongly than the Senator who now opposes immediate action, [Mr. CARLISLE.] He, of all the men in the Committee, is the man who penned all these bills and drew them up. He is the man who has investigated all the precedents to see how far you could go in this direction. It was to his lucid mind that we were indebted for the fact that there were no legal or Constitutional barriers in the way of this proposition. He submitted to the labor; he did it cheerfully; he did it backed by the best men of his State and section, and what did they say? They said, "we cannot live any longer with Eastern Virginia. Independent of the great controversy that has sprung up in the nation, we have a controversy of old standing that renders our connection with Eastern Virginia absolutely impossible." He is the gentleman who impressed their opin-

ions upon the committee as strongly as anybody else, and what change has come over the spirit of his dream I know not. His conversion is greater than that of St. Paul. He has persuaded us that the measure was right; he has appeared side by side with his able Governor, who urged this upon us as a measure vital to the interests of the State that he represents. All at once, after persuading us to bring the question before Congress, and when we expected his powerful aid to help us to push it through, we are brought up all standing by his powerful opposition. Why did he write, why did he investigate, why did he persuade the committee that all was right? Why did he persuade us that there was scarcely a dissenting voice in all that part of Virginia, if now he has discovered that it is all wrong? Why did he resort to books, why did he go back to the old Missouri compromise, and discover there the steps that were taken to initiate that State? Why did he go back to the Rhode Island case, and to other cases, and point them out to us? No gentleman urged the measure upon us more strongly than he, in connection with his distinguished associates, he acting as their chief and their spokesman, and yet all at once, when we become earnest and see that the people want this done, we have to encounter his violent, determined, persistent opposition. Sir, it is sheer trifling.

"There is no reason on God's earth why, if Western Virginia is ever to be a State, she should not be admitted now. The Senator from Illinois spoke of the present confused and turbulent state of affairs. Sir, amidst that turbulence is the very time to organize it. When we have lost State after State going out from the Union, and making war upon it, is it not good policy for us to seize upon the first State that offers her friendly hand to come back to us into the Union? Does he want them still to go, and never to hold out encouragement that they shall return? Is that good policy? He says many States have gone out, and, therefore, he argues, that when they want to come in, we should keep the rest of them out. That is about the argument he has made use of.

"If there is anything in such an argument as that, it is that this people, believing with us, being with us in sentiment, being with us in principle, being a powerful barrier between our enemies and our friends, should not be erected into a noble free State as a breakwater between the secessionists of the South and the great Northwest. Is there any time more favorable than this for the measure? If all was calm, if all was peace, if all was just as it should be, then to tear old

Virginia asunder might cause a commotion that would induce men to hesitate. Now it is one of those things that the exigencies of the times most eminently demand, and it does not make a ripple upon the waters. You can do justice now easier than you can begin to contemplate it in other times. Now is the time for great events, when you see that a commotion in the land has brought it within the compass of your power to do a great and mighty good, to perform it. To treat the fact of that commotion as a reason why you should not do it, is the narrowest statesmanship in the world. Sir, this is the time when you can do it without exciting passion. It is a time when you can do ample justice to this people, for which they have been laboring for years. They have been almost the slaves of their Eastern oppressors, and in ordinary times we should not have the hardihood to do them justice. They could not appeal to us then, because there stood powerful Eastern Virginia with her heel upon their necks, and we were without the courage to help them to rectify and to adjust their grievances. Now things are reversed. Their long-crying grievances are at our doors, easy to be redressed. Let us not postpone that redress. The task will be no lighter at the next session than now. Those who oppose it now will oppose it then. The whole subject is understood. After going as far as we have gone, to yield now to the argument of the Senator from Illinois would be trifling with the feelings and the cause of these Union men, who have sacrificed everything to maintain the integrity of the Union and maintain the principles which we all avow. Let us stand by them; let us not be carried away by this argument and deterred from coming up to the work of doing justice, and doing it boldly; not shrinking in a cowardly manner, and saying "although I see it is just, I would a little rather postpone it to some more convenient season." Sir, that is not the way for a statesman to act. That meed of justice which the exigencies of the times demand should be done here now. We are able to do it now. What time may bring forth we know not. It is wisdom for a Legislature, when they have the justice of the case before them, when they have the facts before them, when they see that nothing but good can result, to act promptly. Nothing but mere cowardice will drive a man from the exercise of the godlike principle of justice. Let us do it now and at once; let us reject this motion to postpone."

Mr. TEN EYCK, of New Jersey, remarked as follows:

"I shall not say that I want to say only a word, but I

am sure I shall not utter more than twenty words; I just wish to give my reasons. This question presents two aspects, one a matter of law, and the other a matter of policy. A year ago I voted with joy to admit the two Senators from Virginia to seats upon this floor. They had been appointed by the Legislature of Virginia, and this Senate recognized the legality of their appointment. The same power has agreed to the division of the State. I apprehend the Senate by the vote which it gave on that occasion has fixed the legality of the action of the Legislature of Virginia. That settles the legal question.

"Now, with regard to the policy. I understand and believe that a vast majority of the people of Western Virginia are looking here with tears in their eyes, if men shed tears, anxiously hoping that Western Virginia will be admitted as a State. I am not willing to postpone, and run the risk of having the whole of Virginia, by their Legislature, when this rebellion shall have been crushed out, repeal this act, and subjecting the free people, the freedom-disposed people of Western Virginia, to any further dictation and tyranny exercised over them by the people of Eastern Virginia. Having said thus much, I shall vote against the proposition to postpone.

"The PRESIDING OFFICER. The question is on the motion of the Senator from Virginia, to postpone the further consideration of the bill until the first Monday of December next.

"The question being taken by yeas and nays, resulted—yeas, 17, nays, 23; as follows:

"YEAS—Messrs. Bayard, Browning, Carlisle, Chandler, Cowan, Davis, Doolittle, Howard, Kennedy, King, Powell, Saulsbury, Stark, Sumner, Trumbull, Wilson, of Missouri, and Wright—17.

"NAYS—Messrs. Clark, Collamer, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Henderson, Howe, Lane, of Indiana, Lane, of Kansas, McDougall, Morrill, Pomeroy, Sherman, Simmons, Ten Eyck, Wade, Wilkinson, Willey, and Wilson, of Massachusetts—23.

"So the motion to postpone did not prevail."

The following were the yeas and nays on the final passage of the Bill by the Senate. (July 14.)

"YEAS—Messrs. Anthony, Clark, Collamer, Fessenden, Foot, Foster, Grimes, Hale, Harlan, Harris, Howe, Lane, of Indiana, Lane, of Kansas, Morrill, Pomeroy, Rice, Sherman, Simmons, Ten Eyck, Wade, Wilkinson, Willey, and Wilson, of Massachusetts—23.

"NAYS—Messrs. Bayard, Browning, Carlisle, Chandler, Cowan, Davis, Howard, Kennedy, King, McDougall, Powell, Saulsbury, Stark, Sumner, Trumbull, Wilson, of Missouri, and Wright—17.

"So the Bill was passed."

IT WAS a Triumph, considering all the untoward circumstances—with Messrs. SUMNER and TRUMBULL, among the recognized leaders of the Republican party in the Senate—the most active and uncompromising opposers.

It is proper here to mention who were our active and efficient friends in the Senate. First and foremost was Mr. WADE, the champion of the measure in the Senate. His most efficient co-workers were Senators COLLAMER, of Vermont, HALE, of New Hampshire, FESSENDEN, of Maine, TEN EYCK, of New Jersey, POMEROY and LANE, of Kansas, and WILKINSON, of Minnesota. What were the personal feelings and the aid the two Virginia Senators gave the measure, I shall leave the reader to infer from the facts before stated —whether they really, in this matter, worked for the Rebel portion of the State, or the Loyal portion, whose votes elected them—whether the Amendment finally adopted should not be called the WM. G. BROWN, or some other, rather than the "WILLEY Amendment!"—as subsequently christened by his friends, and by himself, with the honors and emoluments, unblushingly appropriated. The true explanation, I think, to be this: Mr. WILLEY was a prominent Class Leader in the Methodist Episcopal Church, North, which, at that time, had, and I think deservedly, great influence in the State of West Virginia.

The following just tribute of gratitude and respect to Senator WADE for his invaluable services in behalf of the new State, appeared in the Wheeling *Intelligencer*, of the 21st July, 1862:

"The Hon. BENJAMIN F. WADE and his lady passed *via* the Baltimore and Ohio Railroad on their way home Saturday morning. He chose this route for the purpose of seeing something of the scenery, land and people of West Virginia, whose cause he advocated with so much ability and zeal in Congress. We hope he found and will hereafter find them worthy of his noble and patriotic exertions in their behalf. He had promised, if time permitted, to pass by, and stop a short time in, Wheeling, where the people were prepared and

anxious to award the gratitude and honor he so richly merits at their hands. He, however, crossed the river at Benwood and proceeded homeward. To *merit* the approval and gratitude of a just and loyal people seems to content him."

THE friends, though filled with despondency when they went to Washington, returned with hearts full of gratitude and hope; and still all hope for a new State depended upon the National Government subduing the Rebellion. Congress, at that session, had called for 300,000 additional volunteers. West Virginia, no less than Ohio and other loyal States, was expected to raise her quota. In this work the loyal people, both sides of the river, acted in concert, as they had been doing before. It was about this time, that General M'CLELLAN'S army returned from the Chicahominy, and the second Bull Run defeat, under General POPE, occurred, and General LEE was marching his victorious army into Maryland and Pennsylvania; but whom, subsequently, our army, under General M'CLELLAN, repulsed and sent back, at the battle of Antietam. Union men were desponding and depressed, and the disloyal were correspondingly exultant. It was at this juncture I had the honor to submit the following remarks, at a meeting of Union people, from both sides of the Ohio River, August 5, 1862:

FELLOW CITIZENS: The Government, our great and good mother, is stretching out her arms for the aid, in some form, of all her loyal children, to rescue her from the bloody grasp of most cruel and unnatural parricides.

It is natural for our people, before engaging in any work, however urgent, to wish to understand the nature and extent of it; whether there are adequate means to carry it through, and the chance of final success.

This is right, and speaks well for our people; for whatever is undertaken with deliberation is most likely to be prosecuted with vigor and success. Before responding to this call therefore—though made by one whose beneficent and maternal care all have enjoyed, and must acknowledge, it is well to understand the present condition of the Rebellion we are called upon to suppress, the relative strength of the contending parties, the progress that has already been made

in the work, and the chance of final success. These enquiries I will endeavor to answer:

The raising of 75,000 volunteers for three months, and the signal service they rendered the country, are known to all. Five hundred thousand were then called upon to enlist for the term of three years, or during the war. These were promptly obtained, armed and equipped. The Government up to this day has issued its bonds to the amount of about $500,000,000, which are now above par in the market.

The eleven Rebel States, Virginia East of the Alleghanies, North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, Texas, Arkansas, and Tennessee, according to the census of 1860, contained 5,240,250 white, and 3,500,658 slave population. The border slave States, Delaware, Maryland, Kentucky, Missouri, and West Virginia, contained at the same time 3,043,449 white, and 437,841 slave population. More than half as many white population as the eleven rebel States.

These five border slave States have heretofore furnished more soldiers to the loyal than the disloyal army, and have now almost entirely ceased to furnish soldiers to the latter, while they respond with alacrity to the recent call of the President, and promise their respective quotas as soon as the free States. Tennessee, North Carolina, and others of the eleven rebel States, have responded to the call, and are in a fair way to furnish the quotas demanded. So stands the strength of the Government in the Slave States to-day.

The nineteen Free States had by the census of 1860, 19,169,147. *Over nineteen million* of white population. One-fifth at least are "able bodied" fighting men—or *four million*—and the 16,000,000 of men, women and children that will form the reserve at home, after the 4,000,000 men have gone to the field, will be *efficient producers, all accustomed to work with their own hands*, and can produce enough to support themselves and supply this immense army in the field with all that may be needed, and feed all the want-of-cotton-starving people of the old world at the same time. And this without taking into consideration the five Border States, which may safely be considered as unalterably attached to the loyal side.

Allowing to the enemy the same proportion of able-bodied fighting men, he will be able to bring into the field but *one million, or one fourth our number*, and have a reserve of white people at home of

only four million, men, women, and children; and these *unused to work with their own hands*, but educated to regard all manual labor as dishonorable, and accustomed from childhood to depend upon the slaves. *What a reserve of producers!* If deprived of their slaves, how can they support themselves, and much less their army in the field? Why, the other day one of the F. F. V.'s in making a last and irresistable appeal, as she supposed, to General VEILE at Norfolk, for the return of her slave, exhibited to him her delicate hands, roughened and soiled somewhat by household labor—but it was without success. Such casualities must serve to dampen the zeal of the *would-be* Dutchesses of the South.

By the recent Act of Congress the President is authorized, *and it is made his duty*, to seize all slaves of Rebels when it shall weaken the enemy, or strengthen the Government, and employ them in arms, in cultivating the fields, in digging entrenchments, in menial service about the camp, or otherwise, as the exigencies of the war may require; and as an encouragement to fidelity and industry, all such with their mothers, wives and children, are to become at once and forever free, and receive compensation for their labor. This Law if faithfully carried out by the President and his Generals, will very soon deprive the enemy of all his Slave labor, of any value, and transfer it to our side. What a difference this will make in the military strength of the contending parties, if wisely managed by the Administration! And if not so managed by the present servants of the people, the people will find other servants who will faithfully execute their will. The *capabilities* of our loyal people have, as yet, been but slightly tested; nor will it be prudent for any man, the President himself, to *create* the exigency that shall demand a *full exercise of these capabilities*.

Recent acts of Congress have also authorized the President to enlist for three years, or during the war, 300,000 additional volunteers; also to fill up the old Regiments, and accept, if required, 100,000 additional volunteer infantry for nine months—and, if found necessary to crush the Rebellion, to call out the entire militia of the country—making in all an army of *four million men*—by far the largest army ever known, and capable, under the management of competent commanders, of crushing the present Rebellion to powder, and repelling from our shores, both England and France combined.

But how for money—you will ask—which is "the sinew of war." The same Congress has appropriated $800,000,000—*eight hundred million dollars*—to defray the expenses.

We have a powerful Navy; we have the Government of Washington of 86 years standing, known and respected throughout the world, and enjoying to-day friendly relations with all nations. The head of no Government before, whether Republican or Monarchial, possessed such ample and complete war means and powers. Our own work-shops and the work-shops and ports of all nations are open to us; and our bills of credit are commanding a premium throughout the Free States, Europe, and lately in Richmond, the Capital of the bogus Government.

How stands the enemy? His bastard Government is not acknowledged by any power on earth. He possesses no Navy; but very few artisans or work-shops, and is cut off from all communication and succor with the world by our powerful blockade; without money and without credit. Thus stands the contending parties to-day.

How stood they when the enemy commenced the war by firing on Sumpter? He assumed to tear off more than half of our entire territory, to rend asunder, as suited himself, what the hand of the Almighty had woven into one indissoluble web, by its Rivers, Mountains, Marts, climate and productions; by all its geographical and physical features. He seized all arms, munitions of war and money, which were, or had been transferred by BUCHANAN, FLOYD & Co., while in possession of the Government, to within the limits of their anticipated Eldorado; all Forts and Arsenals; all Vessels, public and private, and all public property of whatever kind; confiscated debts due to northern men to the amount of $150,000,000, and all property of loyal men, whether living within or without the limits of "Dixie," and *without excepting the fee simple!* Also the most experienced Army and Navy Officers—and then quite complaisantly said—"let us alone." This reminds one of that other personage, who having plundered the houses of the living, and desecrated the sepulchres of the dead, "adjured" our blessed Savior "to let him alone, what have we to do with thee?" For it was the Devils that spoke, and they were legion. But our Savior cast them out, and sent them into the herd of swine, which ran down a steep place into the Sea, and perished by the waves; that is the swine, and not the Devils, for they are alive now, and as busy at work in the Rebels as they were 1800 years ago in that man, or the swine. Let us give them another cooling off in the Gulf of Mexico, not through so

worthy a medium as swine, but their more congenial media, rattlesnakes and copperheads.

BRECKENRIDGE, BRIGHT, and a host of other traitors retained their seats in Congress to watch, spy, and throw off the line, whenever their bullrush bottom would float, with its cargo of human bondage, bedecked with stars, garters, and diadems. But the new Officers of Government detected the character and intent of the craft, withheld the papers, and lashed it with chains to its moorings. BRECKENRIDGE and Company were sent to "Dixie;" but left others who are performing the same duty. Those also will have to take their departure before long, and the entire cargo as above described will most likely perish.

What has Mr. LINCOLN done since he came into power? He has raised and equipped an army of 600,000 or 700,000 men. Created a powerful Navy, suited both for Sea and Rivers, established a legal blockade from the Delaware Bay to the mouth of the Rio Grande—more than 2,500 miles of Sea coast; 5-6 of our entire Atlantic coast, which the enemy modestly propose to take, leaving to the 20,000,000 Free State people the remaining *one-sixth!*

We have effectually blockaded about as many miles as the entire Atlantic Coast of all Europe combined; retaken nearly all the Forts and Arsenals along this extent of Coast, and all the cities and ports of entry, including Norfolk, Portsmouth, and New Orleans; re-opened the great highways of the Mississippi River and its tributaries, and retaken the principal cities thereon; repossessed Missouri, Kentucky, and West Virginia; silenced forever the copperheads of Maryland; repossessed large portions of North Carolina, South Carolina, Georgia, Alabama, Louisiana, Arkansas and Tennessee; now command most of his great lines of Railroads; replaced the glorious old Flag on the soil of every State, and are slowly but surely contracting around Richmond with an anaconda's gripe.

All this has been done in sixteen months. It is herculean work! Unexampled progress! considering the total unpreparedness of the Government when Mr. LINCOLN took hold.

But there have been some reverses; and because of these our people seem to lose heart, and complain. This is weak and querulous, not to say impious—showing not only a want of proper appreciation of the vastly superior means placed in our power, but a want of proper confidence in Him our Fathers looked to, when they founded

the Republic—amidst the greatest deprivations and sufferings—and upon resigning the things of this world, piously commended the great trust with ourselves to His benign care. We have no right to expect ourselves, or our agents to be exempt from the imperfections of our nature. Reverses have always been incident to human warfare. Look at the world's greatest captains—to ALEXANDER, HANNIBAL, CÆSAR, and NAPOLEON the First. The Conqueror of Italy and half the world marches his victorious army of 350,000 men to the conquest of Russia. He thinks of nothing but success. He enters Moscow expecting to spend a comfortable winter, and commence a victorious campaign in the Spring. Nor are his hopes shaken until with utter surprise and dismay he sees the whole city "one vast ocean of flame!"—kindled and spread by its own inhabitants. Such *personal* sacrifice had not entered into his calculations, and all his bright hopes were in a moment dashed to the ground.

Nothing has occured with us that should, for a moment, discourage a brave people, engaged in so holy a cause, and possessed of such superior means—only arouse ourselves to the great exigency, and make the proper use of those means, and our Father's God will be with us, and speedy and complete success is as mathematically certain as it is in His economy, that Right shall triumph over Wrong, Truth over Error, or that ten pounds will outweigh one.

It cannot be disguised, however, that in one particular the policy on which the war has been conducted during the last six months, has been wrong, and at variance with all experience and the obvious laws which govern our nature. Everybody of ordinary intelligence must have understood the nature of this Rebellion, and the fixed purpose of a large majority of those engaged in it, more than six months ago; and if the object of the administration has been to subdue it and vindicate the Government, it has employed some means obviously calculated to produce the opposite result. There has been no room to doubt, during the last six months, but that the present Rebellion is the consummation of a conspiracy, that has existed for thirty years or more, to break up the Government and establish a monarchy on its ruins; or, failing to establish an independent monarchy, to transfer all the slave territory, to the rule, and protection, as Colonies or Provinces, of England and France; and as a condition for their gracious protection, the leaders have voluntarily offered *to abolish slavery within their borders.* Sixteen months ago these conspirators threw off the mask—threw down the Gauntlet by com-

mencing war in the most savage manner and defiant tone—Was there any excuse for the administration withholding its deadliest blows any longer than to gather sufficient power, learn the position and purpose of the monster, and his vulnerable points? There was none. Sympathy with the enemy, or extreme imbecility, could alone longer have withheld the blow, and to one or the other of these causes every loyal mind will ascribe all attempts afterwards to *conciliate* these premeditated traitors of thirty years standing. To crush an enemy and sustain one's self, is the first and universally recognized rule of all *earnest* warfare. Whoever annexes a condition of any kind to the maintenance and full vindication of the Government, be that condition the perpetuity or abolishment of Slavery, or any other thing, is disloyal, and disloyalty in any degree, *at this time, is treason.* We cannot serve heaven and hell at the same time. Whoever counsels peace, or dissuades enlistsments of volunteers, or proposes the organization of an anti-war party, or proposals for compromise, so long as the enemy is unrelentant and defiant—is a traitor, whatever he professes, and should be promptly dealt with as such.

I have always been a democrat, first voted for General JACKSON at his second election; was the supporter of Judge DOUGLASS, have always been for letting Slavery alone in the States, and for faithfully executing the fugitive slave law, as our Fathers intended. I went as far as the farthest to effect an honorable compromise, and would then have accepted the CRITTENDEN resolutions for the sake of peace, foreseeing as I thought I did, the terrible conflict that would ensue, in case of a resort to arms. New facts have since developed which have entirely changed my mind. I am now for war in its sternest and most terrible aspect; so terrible that before it all ordinary terrors shall tremble and quake. Motives of true humanity dictate this severity. The enemies of the Government can only be subdued by *terror*, and the quicker, and more overwhelming that terror, the sooner the Government will be vindicated, and the war cease.

The Administration *has changed* its policy. The President *must* come up to the *full exercise* of the powers the recent Congress has placed in his hands. If he fails or falters, the people who are the legitimate owners of this Government, will put some one in his place, who *will execute their will.* We must dash to pieces the Slave Oligarchs, "with face of brass and feet of clay," and strip them of all their possessions, and show their utter nothingness to the minds of their ignorant and deluded followers, and thereby break forever the

spell that has bound them; and these deluded followers will soon come to regard our government as omnipotent, grand, and dazzling, and seek shelter beneath its Flag. Such will necessarily be the effect of that sort of action, upon their ignorant and deluded minds; whilst the opposite course, the course heretofore pursued by the administration, only confirms the leading traitors in their own conceits and assumed superiority, establishes more firmly their infallibility in the minds of their deluded followers, and brings the Government and loyal army into universal contempt.

The people have decreed that the future policy shall be *no protection*, but death and utter destruction to all premeditated traitors, whether open or disguised. Seize and confiscate everything belonging to them, to support the Government and army, and remunerate loyal men.

Thus stands the work you are called upon to help finish, the vastly superior means and resources of the Government, and the policy that is to govern future action.

Nor has our great and good mother as yet *commanded* you to come to her aid, although she might with justice demand it of all her children, considering how much she has done for them. But with her accustomed benevolence she *entreats* you to come, and at the same time offers to pay your board and travelling expenses from the time of enlistment, $13 with $3,50 for clothing—$16,50 per month; $100 bounty, $25 of which with $13 of first month's wages—$38 she pays in advance; and the balance of the cash bounty, $75 and 160 acres of land at $1,25 per acre the Government price—$200, you will receive when honorably discharged, and in case of death these bounties, and any wages in arrear, go to your family or legal representatives. This is equal to $500 a year, or forty-one dollars and 66 2-3 cents a month, and found in everything except clothing—assuming the Rebellion to be crushed in one year from the time of your enlistment.

Besides, our soldiers are better clothed and equipped, better fed and housed, better doctored and nursed, and better cared for in every respect, than the soldiers of any other government in ancient or modern times. Not only our own citizens but foreigners attest to this fact.

But you must bear in mind that if you disregard her magnificent bounties, she can be as terrible in the exercise of her mighty power

as she is mild and beneficent in her entreaties. She will draft. *She will compel;* and how will he feel who shall hold back until drafted and compelled to go, without any bounty of either money or land; without any credit for patriotism, gratitude, or manly courage; without the sympathy or respect of his government, townsman or neighbors; or woman, who always loves and adores patriotic devotion and noble daring—or of your gallant *volunteer* comrades upon the tented field! Sad and desolate indeed must be his heart, if he can be supposed to possess any. I entreat you, my young countrymen, for the sake of your own peace of mind, honor, and happiness, not to suffer it. No man with an *American heart will suffer it*

You should also remember that it is to sustain our brave countrymen who have *volunteered* before you, and to guard and hold the vast tracts of country, cities, towns, forts, and arsenals that their valor has already conquered from the enemy, you are wanted mainly for now.

You should also remember that the land, which we have been accustomed in former days *derisively* to call "sacred," has now become so indeed by the graves of those we loved. Shall their deaths go unavenged? Shall the land that holds their cherished forms, and which has drank, and become fattened with their precious blood, pass forever under the rule of Traitors, who will desecrate their graves, mock and jeer, as has been their savage custom, over their sacred relics! The spirits of the recent heroic dead, the spirits of the great Founders and former Defenders of the Republic, oppressed humanity everywhere, and God himself—all watching our every thought and action in this great crisis—forbid it! and the Goddess of Liberty, hunted from every other spot by accursed tyrants, if we suffer her to be driven from this, the last of her earthly temples—will take flight to heaven, and bid farewell forever, to earth and to man!

The Almighty has placed the amplest means in our power to accomplish these great ends. Shall *we* prove craven and recreant? The enemy, having conceived his immense scheme of rebellion, like his great prototype, the Archfiend, in ambition, in a spirit to "rule or ruin," *must* end in a like fate. He has practised every crime and violated every law, human and divine, in sustaining so far his great antagonism—and has reached his highest point of strength. He can never become stronger, except through our dastardly inaction. One more such wave from the Free States, as the

gallant three hundred thousand will give him, and he is swept from the earth. He foresees the consequence, and is now laboring throughout the Free States, by such emissaries as VALLANDIGHAM, OLDS, CARLISLE and their like to prevent it. Shall he succeed? The 15th of this month the chance for *volunteering* ceases, and Drafting must supply the deficiency. Be quick then my valiant countrymen to enroll your names among the brave and gallant *volunteers* for the defense of the American Union. That great Roll of Union Volunteers, which will also bear your names, will be deposited among the Archives of the nation, and cherished as sacredly by a grateful country, as the Declaration of Independence; and the names it bears will become as immortal. Those on the one as the Founders, and those on the other as the Preservers, of American Liberty!

The desire, then, of large pecuniary gain with true Glory and Honor, instead of shame and disgrace; of a speedy and complete vindication of the best government the sun ever shone on; of inflicting condign punishment upon the blackest of traitors, and avenging the blood of fallen brothers and heroes, with the perpetuation of civil and religious liberty to man on earth—invite you to enroll your names *now*. You cannot be deaf to all these appeals.

WEST VIRGINIA, no less than Ohio, furnished promptly the quota assigned for her, of the 300,000 additional troops.

THE second Tuesday of December following (being the 9th), the Senate Bill that passed that Body the July previous, became the order of the day in the House at Washington. On that same day the Legislature of the re-organized Government of Virginia at Wheeling, that was so averse to annexing a gradual Emancipation clause to its consent the May before, being convened in extra session, passed the following joint resolution, copies of which were sent to our Representatives in Congress:

"Joint Resolution requesting the House of Representatives of the United States to take up and pass without amendment, the bill for the admission of the State of West Virginia, passed by the United States Senate on the 10th of July last. Passed December 9, 1862.

"*Resolved*, That feeling the greatest anxiety and interest in the successful issue of the movement for a new State in West Virginia,

we earnestly request the House of Representatives of the United States to take up and pass, without alteration or amendments, the bill which passed the Senate of the United States on the 10th of July last."

It was a new cause of gratulation to the friends to see this Body, though at the "eleventh hour," like some Virginia Congressmen, waking up to a just sense of the situation, and importance of the measure.

The Hon. WILLIAM G. BROWN opened the Debate by an accurate and lucid statement of the material facts. A lively discussion ensued, in which Messrs. CONWAY of Kansas, DAWES of Massachusetts, SEGAR of Virginia, and CRITTENDEN of Kentucky, were the principal speakers, in opposition. The main objection urged by the *first*, who at that early day with Mr. STEVENS and a few others, had espoused the theory of State annihilation—was, that all State Government in Virginia had ceased, and she had become simply Federal territory. The others contended that the Legislature at Wheeling that had consented to the erection of a New State, was not the constitutional Legislature of Virginia—as only a minority of her People had a voice in re-organizing the Government; and that the glorious Old Dominion ought not to be divided under such circumstances.

The principal speakers in favor, besides Mr. BROWN, were Messrs. BLAIR of Virginia, COLFAX of Indiana, STEVENS of Pennsylvania, EDWARDS of New Hampshire, OLIN of New York, SHEFFIELD of Rhode Island, NOEL of Missouri, MAYNARD of Tennessee, HUTCHINS and BINGHAM of Ohio—the latter having charge of the Bill.

The Debate continued for two days; but as I have given only the points of objection by the opposition, I shall give only the remarks of Mr. BINGHAM, who closed the debate, with the result; and refer the reader to the *Congressional Globe* of 1862–3 from page 37 to page 59, for the arguments pro and con. Whoever will take the trouble to read the arguments and facts adduced on that occasion, will not I think wonder at the result.

MR. BINGHAM'S SPEECH, CLOSING THE DEBATE.

"It seems to me, Mr. Speaker, that if the House were to adopt the position which has been assumed by some of the gentlemen of this body who have opposed this bill with great earnestness, that all

seeming and alleged constitutional difficulty to the admission of this State of West Virginia would vanish at once. The position, which has more than once been assumed in this debate, that there is no State there, but that what was once the State of Virginia is now only a Territory of the United States, within the limits of a former State organization, relieves this House of all constitutional difficulties upon the question of the admission of a new State organized therein. Sir, it is too late for any man in the American Congress to rise in his place and say that before the people of any Territory of the United States can organize and establish a Constitution and form of government, preparatory to admission into the Union as a State, an "enabling act" of Congress is necessary. There are too many States represented upon this floor, and in the Union to-day, which were organized into States and admitted as such by Congress without the authority of any enabling act, to admit of any such position being maintained in this House. If no State formed or organized within the Territory of the United States, could be admitted into the Union without the previous authority of an "enabling act," what becomes to-day of the Representatives upon this floor, and upon the floor of the Senate, from the State of Michigan? There was no enabling act there. The people, in the exercise of their inherent power to form their own local government, organized for themselves within that Territory a form of State government, by the adoption of a written Constitution, sent it to the Congress of the United States for their approval, and which approval was all that was needful to give full and legal effect to their act.

"The whole question which has been brought into this debate touching the necessity of an "enabling act" was, upon the application of Michigan for admission into the Union as a new State, ably discussed and fully and carefully considered in the Twenty-Fourth Congress. There was first on that occasion, if I recollect aright, the opinion of the Attorney General that no such act was needful, and which recited the precedent of Tennessee, which had been admitted as a new State without such an "enabling act." The question was brought to the consideration of the House and the Senate, and, after an exhaustive debate, a direct vote was taken upon it whether the new State could be organized and admitted into the Union without a previous "enabling act." If any one will consult the record of that vote in the Twenty-Fourth Congress upon the admission of Michigan, he will find that it was decided by a very strong majority in favor of the

right of the people to frame for themselves a State Constitution and Government preparatory to admission as a State into the Union without a previous "enabling act." This right of the people can no more be taken from them by Congress than can the right of petition. It was because this right is inherent in the people of every national Territory that Michigan was admitted as a new State into the Union against the objection that there was no "enabling act."

"I might go further in this connection, and remark that in the instance of the State of Michigan, while it was yet a Territory of the United States, and before admission by Congress into the Union as a State, the Constitution which the people had adopted was put into operation; the people under it organized their courts of justice, and assumed to exercise, and did exercise, the highest powers of sovereignty—the powers of legislation. Congress, by the act of admission, gave effect not only to their Constitution, but, by relation, gave legal effect and validity to all that had been done by that people under their new Constitution. With such a precedent unchallenged to this day no further word need be said in support of the proposition for which I contend, that the people of any Territory of the United States may, without an enabling act of Congress, frame for themselves a Constitution and State Government, and be thereby, with the consent of Congress, admitted as a State into the Union.

"What, then, becomes of the objection to the admission of the new State of West Virginia, because there was no enabling act, if, as the objector asserts, Virginia is to-day only a Territory? Why, sir, if Virginia is only a United States Territory, it results that the people of that Territory, who apply for admission into the Union under a Constitution adopted by themselves, are exercising only the right of petition—a right which no man can question. If the fact be as asserted, then the only question for this House to determine is, not whether it is Constitutional, but is it expedient to grant the prayer of the petition, and thereby give effect and validity to their Constitution. There is the end of the argument, so far as the Constitutionality of that question is involved, if we adopt the assumption that Virginia is but a Territory of the United States.

"I think it proper, before proceeding to consider the weightier questions which have been raised here, to notice the objections made by the Representative from the Accomac district, (Mr. SEGAR,) who has just taken his seat. His argument, in my judgment, was a *felo de se*—a self-destroyer. In one breath he says that the Convention

which met at Wheeling was a Constitutional Convention, and the Legislature there assembled a Constitutional Legislature; in the next breath he denies that these bodies are Constitutional or legal bodies. If it be the Constitutional Legislature of the State of Virginia which assembled at Wheeling, then it had the power to provide, as it did provide, for the action of the people touching the adoption or rejection of this Constitution, and the organization of this proposed new State within the limits of Virginia. And yet the gentleman, further on in his speech, came to the conclusion that this legislative body at Wheeling was informal; that it was unconstitutional; that it was tyrannical and oppressive; and he asks this House to interpose its shield between the outraged people of Virginia and this tyranny. A Constitutional Legislature who, by a Constitutional act, authorized the people to vote for or against a Constitution framed by their own delegates to enable them, if they see fit, to organize for themselves a new State, and to petition the Congress of the United States for its admission into the Union, a tyrannical body!

"It is the first time I have ever heard a Representative upon this floor venture so far as to say that an act authorized by the Federal Constitution, and within the express reserved rights of the people of every State, is an act of tyranny. The gentleman says that in the Convention which convened the Legislature of Virginia, eleven of the Counties within the proposed State were not represented. What of that? Does the gentleman mean to say that it makes invalid all that has been done under that Convention? Let him remember, if he pleases, when he makes an argument of that sort, that that Convention, which was an original act of sovereignty of the people themselves in Virginia, appointed the very Governor of Virginia under whose proclamation he ventured to become a candidate for a seat in this House, and under whose certificate he ventured to present himself here for admission. He cannot be allowed to blow hot and cold in this way upon a question of this sort. If the Convention was invalid, then their appointment of a Governor was invalid, and his proclamation for the election, under which the gentleman claimed his seat, was also invalid. The election proclamation of Governor PIERPONT, if I recollect the record aright, was issued before the people of Virginia were permitted to speak by ballot on the question whether Governor PIERPONT should be their executive or not. It was the act of the Convention itself that appointed the Governor of Virginia under whose proclamation the gentleman was elected; of that very

Convention which the gentleman from Virginia (Mr. SEGAR) stands here this day to repudiate.

"There was one other objection in the gentleman's argument—if it may be called an argument—which I desire to notice, and that was that there was not a sufficient number of votes given at the election to justify the House in concluding that this Constitution is the act of the people. It is the first time, I may be permitted to say, that I have heard any man say that the neglect or refusal to vote of part of those duly qualified to vote invalidates an election which in other respects is legal. If that were so, then it would be impossible for the people in the State of Virginia, as long as these rebels choose to remain rebels, to reassert their rights. As to the way in which the minority may assert their rights against a majority of rebels, I shall have something to say hereafter.

"If the gentleman honestly entertains the view of the subject which he has expressed, and to which I have just referred, that an election legally held is made invalid because the great majority of the voters choose not to attend and vote, then with what propriety did the gentleman come here from a district in which there are fifteen or twenty thousand voters, backed by the pitiful vote of only twenty-five citizens, and ask a seat upon this floor? (Laughter.) A man capable of playing that role might be capable of betraying in his place, after he is admitted, the reserved rights of the people whom he represents.

"Mr. Speaker, I come now to the other question that has been raised in this debate. No one could be more surprised than I was to see the venerable gentleman from Kentucky, (Mr. CRITTENDEN,) upon whose head time, with its frosty fingers, has scattered the snows of more than seventy winters, and who, for nearly half a century of public service, has had so much of opportunity to learn the true theory of our Government, come here and ignore its very first principles altogether; and that, too, in the teeth of his own manly utterances made no longer ago than at the last session of this House. He uttered a great truth at the last session, in speaking of the reserved rights of the people of Virginia, when he said that the Convention of that people to re-organize their State government was an original act of sovereignty. It has always been so held. The very Constitution under which the American Union exists this day; the very Constitution under which every Representative upon this floor

holds his seat this day, came to be by virtue of that original sovereignty in the people which they have not surrendered, which they could not surrender if they would, and which they should not surrender if they could. There is not a man familiar with the history of this Government but knows the fact that the Constitution of the United States was formed and ratified by the people, and put into full operation and effect in direct violation of the written compact between the several States of the Confederacy. By what authority? Let him who is called "the father of the Constitution" answer that question himself.

"When the Constitution was on trial for its deliverance before the American people, the enemies of that great instrument pointed to the fact that if it were adopted, it would be adopted in direct contravention of the written compact of perpetual union between the thirteen States; because it was provided in the instrument itself that the ratification of nine States, no matter if every man in the four remaining States protested against it, should give effect to the instrument, and make it the supreme law, to the entire exclusion of every provision of the Confederation within the limits of the States adopting it. The question was asked, how can you abrogate the compact without the consent of all the parties to it? What was the answer to this question given by MADISON, and addressed to the listening people of all the States of the Confederacy who were about to pronounce judgment upon the Constitution? He said:

"The question is answered at once by recurring to the absolute necessity of the case, to the great principle of self-preservation, to the transcendent law of nature and of nature's God, which declares that the safety and happiness of society are the objects at which all political institutions aim, and to which all such institutions must be sacrificed."

"And thus was the question raised by the enemies of the Constitution answered; and by acting upon the great principle of "self-preservation," the people ordained the Constitution and superseded the Confederation.

"There is nothing in the Federal Constitution to take away or limit this right of self-preservation in the people; nor is there anything in that instrument that is contravened by this action of the people of Virginia. Need I stand here to argue that there is not one line or letter in the Federal Constitution that pretends to grant any power to the people of any State to organize a State government for them-

selves, especially the original States? Their State governments existed before the Constitution was made; they continued after the Constitution was made—not by the grant of the Constitution, but by the inherent power of the people themselves, a power which they have never surrendered, and which they can never surrender. No truer utterance was ever made on the floor of the American Senate than that of the late Mr. BENTON, when he said that the people of any State might alter and amend their Constitution at their pleasure, without consulting anybody outside of the State.

"Mr. DAWES. Provided it be republican.

"Mr. BINGHAM. Certainly, provided it be republican. There is that limitation. And provided further, if you please, that it does not contravene any of the guarantees of the American Constitution to the citizens of the United States, or any of the restrictions upon the States. I agree that there are limitations imposed by the Constitution beyond which the people of a State may not go; but I am speaking of the *power* of the people in the States to re-organize their State governments at pleasure, always in subordination to, but not by grant of, the Federal Constitution. My position is, this power is inherent in the people, and does not exist by virtue of grants of the Constitution. It is a right in the people themselves. We come now to the great point in discussion here. Who constitute the State of Virginia? I beg leave here to thank my friend from Massachusetts (Mr. DAWES) for suggesting what was essential to the line of my argument. The gentleman from Pennsylvania (Mr. STEVENS) said the majority of the citizens of the United States within any State are the State. I agree to that, sir, subject to this limitation, that the majority act in subordination to the Federal Constitution, and to the rights of every citizen of the United States guaranteed thereby.

"But, sir, the majority of the people of any State are not the State when they organize treason against the Government, and conspiracy against the rights of its citizens. The people of a State have the right to local Government. It is essential to their existence. To-day, as the law stands in this country, and by the uniform construction of the powers of this Government, there is no law by which the midnight assassin of a mere private citizen can be brought to judicial trial, to conviction, and to judgment, within any State of this Union, save the law of the State. Your Federal tribunals under existing laws have no cognizance of the crime if committed within a

State on a private citizen, and can do nothing in the punishment of it judicially.

"Now, sir, I beg leave to ask, can the minority of the people of a State, by the act of the majority committing treason, and taking up arms against the Federal Government, be stripped of their right within the State of protection, under State laws, in their homes and in their persons, even against the hand of the assassin? Am I to stand here to argue such a question as that with intelligent representatives? I say, that if the majority of the people of Virginia have turned rebels, as I believe they have, the State is in the loyal minority, and I am not alone in that opinion. I repeat, where the majority become rebels in arms, the minority are the State; that the minority, in that event, have a right to administer the laws, and maintain the authority of the State Government, and to that end to elect a State Legislature and Executive, by which they may call upon the Federal Government for protection "against domestic violence," according to the express guarantee of the Constitution. To deny this proposition is to say that when the majority in any State revolt against the laws, both State and Federal, and deny and violate all rights of the minority, that however numerous the minority may be, the State Government can never be re-organized, nor the rights of the minority protected thereby so long as a majority are in the revolt. In such an event, the majority, being rebels, must submit to the law of the minority, if enforced by the whole power of the National Government. That is no new idea, even. It is as old as the Constitution. I ask gentlemen to refer to that remarkable letter of the Federalist, addressed by Mr. MADISON to the American people, wherein he discusses the fourth section of the fourth article of the Constitution of the United States, to wit:

"The United States shall guarantee to every State in the 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."

"As if that great man had been gifted with the vision of a seer, standing amidst his own native hills of Virginia, he foretold that it might come to pass that a majority of the people of a State might conspire together to sweep away the rights of the minority, and break down their privileges as citizens of the United States. In that paper Mr. MADISON says:

"Why may not illicit combinations, for purposes of violence, be formed as well by a majority of a State as by a majority of a County or a District of the same State? And if the authority of the State ought, in the latter case, to protect the local magistracy, ought not the Federal authority, in the former, to support the State authority?"

"That is precisely the question here to-day. That is precisely the condition of things in Virginia. The majority have become traitors. When the Representatives whom they had elected, who were required by the existing Constitution of Virginia, as well as by the Federal Constitution, to take an oath to support the Constitution of the United States, went to Richmond, joined in this conspiracy, lifted up the hand of treason and rebellion against the Government, foreswore themselves, and, in short, entered into a deliberate article of bargain and sale with ALEXANDER H. STEPHENS, Vice President of the Southern Confederacy, transferring the State of Virginia to that Confederacy, they surrendered all right to represent any part of the people of Virginia; as a Legislature they utterly disqualified themselves to execute that trust. But, sir, what are we told? According to the logic of some gentlemen, it would seem that because the Legislature at Richmond turned traitors, because every man of them, except those few who escaped for their lives from that doomed city—as I trust it is a doomed city—joined in this red-handed rebellion, therefore the people could have no legislation. I appeal to the immortal words of the Declaration in refutation of that conclusion. "The legislative powers, incapable of annihilation, have returned to the people at large for their exercise." No matter, sir, who turns traitor, the legislative powers are incapable of annihilation. Now, what but this power remained to the people of Virginia? Their Governor and Legislature had turned traitor. You say that no special election could be had under the Constitution of Virginia without a proclamation from the Governor, in vacation, or without a writ of election issued by the Legislature. What was to be done? I say that the power remained with the loyal people of that State to call a Convention and create a provisional government, which they did. On the 23d day of May, 1861, the people of the State of Virginia, invited by an original Convention of the people themselves, met at the time and place specified in the existing law of that Commonwealth, and elected a Legislature.

"Is it said that a majority of those chosen on that day, including those chosen by the rebels, took the road to Richmond, and took the

oath of treason against the Government of the country? Then I tell gentlemen who make that remark that these members elect never became part of the Legislature at all. The original Convention of the people declared, in 1861, that only those who were elected, and who qualified, should be the Legislature of the State. I might go somewhat further with this argument. I say that the ultimate power to decide that question, "which of these bodies is the Legislature of Virginia?" is in the Congress of the United States. What is the lawful Legislature of the State? Although they were literally chosen under the amended Constitution of Virginia, (adopted in 1851,) and the statute of the State, nevertheless I say that it is competent for Congress to say—and it is not only competent, but it is the imperative duty of Congress to say—that not a man of them who refused to take the oath prescribed by the Federal Constitution, and who took the oath of that treasonable conspiracy at Richmond, ever became a member of the Legislature of the State of Virginia. Who then are the Legislature of Virginia? Only those who qualify in pursuance of the requirements of the ordinance of the people themselves, by taking the oath prescribed by the Federal Constitution, and by the Virginia Constitution. If those gentlemen had chosen to observe that form they might have constituted a majority of the Legislature; but they did not do it, either at Wheeling or at Richmond. They violated the Constitution of their own State, as well as the Federal Constitution, when they went to Richmond and took the oath of treason.

"Now, who are the judges of this matter? I intend, if I can, to strip from every member of this House all attempts to disguise his responsibility here. I am not going to quarrel with good friends if they differ with me as to final conclusions, but I am not going to stand here and allow the Representatives of the people, on a question of this magnitude, to shirk their responsibility. I say it without the fear of contradiction, because it has been affirmed by every branch of this Government, Legislative, Executive and Judicial, more than once, that when the storm of revolution shakes the civil fabric of a State of the Union, the ultimate and final arbiter to determine who constitute the Legislative and Executive Government of that State, and hold its great trust of sovereignty, is the Congress of the United States, or the President acting by authority of an act of Congress. The great case of LUTHER and BORDEN must be fresh in the mind of every Representative of the people, and that was the very

question which was then and there decided. What did the court decide in that case? LUTHER brought his action for trespass to his domicile in the Circuit Court of the United States for the district of Rhode Island. He charged the defendant in that case with having broken open his residence, which every man knows is, under our laws, his castle. He charged in his declaration that defendant not only broke into and entered his house, but went through all his rooms, from garret to cellar, in search of his person; that he had violated, if you please, his sacred right of domicile.

"Now, I may be pardoned for reminding gentleman here that there is no right known to the citizen, under the American law, or under the law of any country beneath the sun where the principles of the common law obtain, which is looked upon as more sacred than the right of domicile. You know that by the common law it is held so sacred that he who invades it without the leave of the owner, and especially menacingly, is not entitled to the benefit of the rule that the party whom he assails must flee to the wall, but he may suffer instant death, and the owner is justified before the law, because his hearth-stone is not to be violated by a malicious intruder against his protest and against his consent. There was a strong case against defendant on that record if he had not justified the act. But he did justify—and how? Rhode Island had been in revolution. Two opposing governments had been in operation. Who was to decide which was the lawful government? They first said that the Courts were to decide. They asked the Courts of Rhode Island to sit in judgment upon the question whether the government under which they held their commission was a government at all. The Chief Justice of the United States, with bitter irony and sarcasm, remarked that he did not "see how the question could be tried and decided in a State court;" for that, whenever they arrived at the conclusion that the government to which they owed their existence was no government at all, the court itself ceased to be a court, and could not pronounce the judgment. The breath of life would go out of its body instantly. This action, however, for trespass, was instituted in the United States Circuit Court for the district of Rhode Island.

"The defendants, by their plea, justified the trespass on the ground that plaintiff was engaged in insurrection, together with others, against the State; that the State was, by competent authority, declared under martial law; and that defendants, being in the military service of the State, by command of their superior officer, broke and

entered plaintiff's house. The plaintiff denied the authority, and replied it was defendants' own proper wrong. In other words, was the government against which the plaintiff was in insurrection the government of Rhode Island?

"The case finally came up to the Supreme Court of the United States. The Chief Justice (TANEY) in delivering his opinion, said that it was a political question, and that the decision of it by the Federal Executive, under the authority of Congress, was binding on the judiciary. He also said the power to decide the question which of two governments in a State is the true government is in Congress.

"That decision amounts to just this, and that is what gives importance to it in the discussion of this question: if the Congress of the United States solemnly decide, as they are the ultimate arbiter of this political question, that the people of Western Virginia have no right to maintain the government which they have established, and under which they have made this new Constitution, and apply here for admission, they thereby decide that it is void. All that remains is for the Executive to follow your example, and leave that people to their fate.

"What is the effect of such a decision by Congress and the Executive? It is to bind your own judiciary to hold the legislation of that people for the protection of their lives and property void. You bind the judiciary of the State itself. You bind everybody who is appointed to execute the laws within that State. While you pretend to be for the Constitution as it is, you say to this people, that inasmuch as they are in a minority, and inasmuch as the majority have taken up arms against the Government of the United States and of the State of Virginia, they are without the protection of local State law; that their representatives duly elected are not and cannot be called the Legislature of Virginia.

"I think I have said enough to satisfy the gentlemen who have done me the kindness to attend to what I have said, that the Legislature which assembled at Wheeling, Virginia, was the Legislature of the State of Virginia; and that it remains with you alone to determine whether it shall be or not. If you affirm that it is, there is no appeal from your decision. I am ready, for one, to affirm it, and upon the distinct ground that I do recognize, in the language of Mr. MADISON, even the rights of a minority in a revolted State to be protected, under the Federal Constitution, both by Federal law and by State law. I hold, sir, that the Legislature assembled at Wheeling,

then, is the legal Legislature of the State; that it had power to assent to this division of the State of Virginia; and that it is wholly immaterial to me whether a majority of the counties of that State refused, by reason of their treason, to co-operate in the election of Delegates and Senators to that Legislature. On the subject of granting the admission of the proposed State, to which that body has assented, it is enough for me to know there is a sufficient number of loyal men within the limits of the proposed State to maintain the machinery of a State government, and entitle them to Federal representation. That is the only rule heretofore recognized by Congress in the matter of admitting new States duly organized.

"It may be urged here that this Legislature, before assenting to the division of the State, should have met at Richmond. It is hardly worth while to follow out such an argument. Gentlemen might as well allege that if the forces of the rebellion took possession of this capital, the American Congress could not meet and lawfully exercise its functions in Philadelphia. I do not expect to argue any such question. I undertake to assert that the power exists—that there is nothing either in the Constitution of the United States, or in the laws of the United States, to make invalid the meeting of Congress elsewhere within the limits of the Republic than the city of Washington. If you assert the contrary conclusion, then all JEFFERSON DAVIS has to do in order to annihilate the legislative power of the Government is to take possession of this capital. I am not ready so to stultify myself.

"Now, this Legislature of Virginia has passed an act, in due form of law, assenting to the erection of a new State within the limits of that State; that is all which is required by the Constitution of the United States on the part of the State of Virginia. It remains to be determined then whether Congress will grant its consent.

"This State, which it is proposed to admit into the Union, is three times as large in territorial extent as the State of Massachusetts. It has an area of 24,000 square miles, and a free population of 340,000. The question then comes up whether the Congress of the United States ought to grant the prayer of the people of Virginia. Will Congress admit the new State upon the Constitution as framed and proposed by the bill to be amended?

"The gentleman on the other side who professes to represent Virginia in this matter, (Mr. SEGAR,) says that we should not admit this new State because there were eleven counties in which there was not

a single vote for the Constitution. Well, there were fifty-two counties which voted. But he has not informed us how many votes were cast against it. It so happens that there is a return of some 19,300 on the adoption of the Constitution in the form as it originated in the Convention, and only 500, in round numbers, cast against it. You must consider that at the time this vote was taken a large portion of the male population were in arms, protecting the frontiers against the inroads of this armed rebellion. Yes, sir, my friend tells me not less than seventeen regiments, in other words, 17,000 men, were in the field.

"That objection is easily answered, however; for it is expressly provided in the Senate bill, which is now before the House for consideration, that the new State shall not be organized nor the Constitution adopted until there shall be another election by the people. They will have an opportunity then to vote it down. You give it the sanction of law by passing the Senate bill, which provides that it shall not take effect until an election be held, and that the Constitution as amended by this bill shall be ratified by the people. They will then have an opportunity to determine, by ballot, whether they will come into the Union as a free State, or whether they will remain in the State of Virginia as now organized. I submit that I am justified in saying that the objection raised by the gentleman from Virginia falls to the ground, unless he is indeed unwilling to trust the people. That is precisely the difference between him and myself. I have an abiding confidence in the people, and that confidence shall remain unshaken until that sad day comes, which I trust never will come, when a majority of the people in every State shall imitate the bad example of a majority of the people of the State of Virginia. That would indeed be a calamity for which our matchless Constitution provides no remedy, and for which "no possible Constitution can provide a cure." The people will then have consented simply to national suicide and self-destruction.

"It is because I have confidence in the people that I am willing to send this bill to them. I want to see them vote on it, from the base of the Alleghanies to the beautiful waters of the Ohio. I have been among that people. I know something of their character. I have seen eight or ten thousand of them in Convention assembled, for the laudable purpose of holding up the arm of the Government against this unmatched treason and rebellion. I believe that they are loyal. I believe that they are the friends of free institutions. We have

some evidence of it in the Constitution now before us; and we will have additional evidence in that instrument as they will amend it, if you pass this bill. If it be urged that this bill, because it imposes conditions on the State, is without a precedent, I beg leave to say that it is not without a precedent. There is scarcely a single bill which has passed the Congress of the United States for the admission of a new State without conditions annexed, and without the future acceptance of which by the people of the proposed new State the State could not come into the Union.

"The question has been asked, is it expedient to admit this new State? Is it expedient to unite the people of that Valley as one man in support of the Government? Is it expedient to give validity and legality to the acts of her lawful Legislature? That is an important question for us to consider. I trust that all men in favor of liberty regulated by law, will say that it is expedient for the American Congress, if possible, to sanction their action and give force to their laws. I fear that the chief objection, at last, to the organization of this new State, and to its admission into the Union, however gentlemen may disguise their thoughts, and shrink from a manly avowal of them, is not that there is any Constitutional objection to it—that there is anything inexpedient in it, when you take into consideration the whole interests of the whole people of the Republic—but simply that it is an inroad, which will become permanent and enduring if you pass this bill, into that ancient Bastile of slavery out of which has come this wild, horrid conflict of arms which stains this distracted land of ours this day with the blood of her children.

"I have no doubt—I have no authority from any of their representatives to say it—but I have no doubt from what I know of that people, that if you give them the authority by passing this bill, that they will not only ratify this Constitution, but that they will be glad to accept the terms of the President's emancipation proclamation. I believe that many moons will not come and go before the Commonwealth of West Virginia will stand amongst the free Commonwealths of the Union.

"I have no doubt about the general sense of the people of Western Virginia, and that if this bill passes in its present shape there will be no slave born there after the 4th day of July next. I am not ashamed to say that I esteem liberty as above all price, and that I count it a great privilege to be able to secure to any man who is guiltless of crime his liberty, though he be a slave. I would con-

tribute to that great end of our free institutions—freedom to all, and personal security to each. Without this men, may as well not be.

"Under this bill, it is provided that no person born in that State after the 4th of July next shall be a slave; that all persons held in slavery within the limits of that State under the age of ten years shall be free at the age of twenty-one, and all over ten and under twenty-one at the age of twenty-five years. God knows, I would have preferred that this House had the courage to have said that every human being should be free now and forevermore within the proposed State, upon the adoption of the Constitution. I intended, at one time, to have offered an amendment to the bill, but I had not the opportunity given me. I choose to follow the express will of a majority in that respect.

"If I could not give liberty to-day to all the slaves in Virginia, I consider it my duty to give liberty ultimately, as this bill does, to nine tenths of the slaves within that State, and to forbid the increase of slavery therein in the great hereafter. I think he would be a poor Representative of free men and free institutions who would stand here and say, upon an occasion like this, that because he could not secure liberty to every slave within the State, therefore he would refuse liberty to nine tenths of them, especially when he has the opportunity at the same moment to declare that no person born within the limits of that State after the next anniversary of our independence shall be held as a slave.

"I trust, then, the bill will pass; I trust it will pass, as I said before, because I have an abiding confidence in the people themselves, that they not only will ratify what you will do, but speedily avail themselves in their legislation of the opportunity presented to them by the President's proclamation to inaugurate immediate or ultimate emancipation for every slave within the State.

"Refuse to pass this bill, and if they attempt, by their present Legislature, to adopt the emancipation policy of the President, you will have the argument thrown back into your faces that that is not the Legislature of the State, and has no power to consent to the proclamation of the President of the United States; and therefore you will be required to repudiate it. Pledge yourself to this. Declare that the Legislature of the State, and upon that hypothesis admit the State, and, of course, once admitted, its own Legislative Assembly will be beyond question; and when the new Legislature

under the new State of Virginia shall accept the President's proposition, as stated in his proclamation of the 22d of September, all doubters about the Constitutionality of the act will be silenced; and whether they be silenced or not, there will stand the record of the majority of this House to give validity to their act, and from which there can be no appeal."

"The SPEAKER. The hour of two o'clock having arrived, debate is closed by order of the House, and the question recurs upon the third reading of the bill.

"The bill was ordered to be read a third time; and it was accordingly read the third time.

"Mr. WICKLIFFE. I call for the yeas and nays upon the passage of the bill.

"The yeas and nays were ordered.

"The question was put; and it was decided in the affirmative—yeas 96, nays 55; as follows:

"YEAS—Messrs. Aldrich, Arnold, Babbitt, Baker, Baxter, Beaman, Bingham, Jacob B. Blair, S. S. Blair, Blake, Wm. G. Brown, Buffington, Burnham, Campbell, Casey, Chamberlain, Clark, Clements, Colfax, Frederick A. Conkling, Covode, Cutler, Davis, Duell, Dunn, Edgerton, Edwards, Eliot, Ely, Fenton, Samuel C. Fessenden, Thomas A. D. Fessenden, Franchot, Frank, Goodwin, Gurley, Haight, Hale, Harrison, Hickman, Hooper, Horton, Hutchins, Julian, Kelley, Francis W. Kellogg, William Kellogg, Killinger, Lansing, Lehman, Loomis, Lovejoy, Low, McKnight, McPherson, Maynard, Mitchell, Moorhead, Anson P. Morrill, Justin S. Morrill, Nixon, Noell, Olin, Patton, Timothy G. Phelps, Pike, Pomeroy, Porter, Potter, John H. Rice, Riddle, Edward H. Rollins, Sargent, Sedgwick, Shanks, Sheffield, Shellabarger, Sherman, Sloan, Spaulding, Stevens, Stratton, Trimble, Trowbridge, Van Horn, Van Valkenburgh, Van Wyck, Verree, Walker, Wall, Washburne, Whaley, Albert S. White, Wilson, Windom, and Worcester—96.

"NAYS—Messrs. William J. Allen, Alley, Ancona, Ashley, Bailey, Biddle, Cobb, Roscoe Conkling, Conway, Cox, Cravens, Crisfield, Crittenden, Delano, Delaplaine, Diven, Dunlap, Gooch, Granger, Grider, Hall, Harding, Holman, Johnson, Kerrigan, Knapp, Law, Mallory, Menzies, Morris, Noble, Norton, Odell, Pendleton, Price, Alexander H. Rice, Richardson, Robinson, James S. Rollins, Segar,

Shiel, Smith, John B. Steele, William G. Steele, Stiles, Benjamin F. Thomas, Francis Thomas, Train, Vallandigham, Voorhees, Ward, Chilton A. White, Wickliffe, Wright, and Yeaman—55.

"So the bill was passed.

"During the call of the roll, Mr. DAWES stated that he had paired off upon this vote with Mr. WALTON, who would have voted in the affirmative, while he should have voted in the negative.

"Mr. FRANCHOT stated that his colleague, Mr. WHEELER, was absent on account of sickness in his family.

"Mr. BINGHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

"The latter motion was agreed to."

WE received little active aid from Massachusetts in either House. They seemed to be sore at the remarks published in the Boston *Courier*, in December, 1860. Senator WILSON rudely repulsed myself and friends, though he subsequently voted in our favor. Many of her papers, however, especially the Worcester *Spy*, spoke very kindly and decidedly in our favor. There was no General BUTLER representing her in Congress at that time.

The bill then went into the President's hands for approval or veto. The opponents followed it there with unabated zeal. Many of the papers said Mr. LINCOLN would veto it. He required the views of each of his Cabinet, then in Washington, to be given in writing. Messrs. SEWARD, CHASE and STANTON, the brains of the Cabinet, expressed themselves strongly in our favor; while Messrs. WELLES, BLAIR and BATES, (the latter still adhering to the views expressed in his letter to Mr. RITCHIE, in 1861) expressed themselves opposed—Mr. HARLAN being absent. Numerically, therefore, the President received no aid from his Constitutional advisers, but he could justly appreciate the arguments and reasons given. It may be then, to the honest, hard sense, and wisdom of ABRAHAM LINCOLN, that we are indebted for the new State; for if he had vetoed, we could not have hoped to command a two-thirds vote of Congress.

The Hon. JACOB B. BLAIR seems to have been most alive to the critical situation at this time, and his efforts were untiring; and his honesty and earnestness had effect, I have no doubt. I happened to be in New York on private business, at this time, and gathering

from the papers the critical situation, I went to Washington the 31st of December, called on Mr. BLAIR that evening, who informed me that he had just come from the President, who had told him to call next morning and receive a New Year's gift. We both slept well that night. In the morning, Mr. BLAIR, as he afterwards told me, called at the Presidential mansion before the doors were opened, went in at a window, met the President, who had just got up—he went immediately to a drawer, took out, and showed him the Bill, with his signature affixed—as the New Year's gift he had promised—manifesting the simplicity and joyousness of a child, when it feels it has done its duty, and gratified a friend. I soon after left for home.

The 14th of February following Mr. CARLISLE introduced the following in the Senate:

"AN ACT

Supplemental to the act entitled "An Act for the admission of the State of West Virginia into the Union and for other purposes;" approved December 31st, 1862.

"*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress Assembled*, That the proclamation authorized by the second section of the act entitled "An Act for the admission of the State of West Virginia into the Union and for other purposes," approved December 31st, 1862, shall not be issued by the President until after the following counties in said act, viz: Boone, Logan, Wyoming, Mercer, McDowell, Pocahontas, Raleigh, Greenbrier, Monroe, Pendleton, Fayette, Nicholas and Clay, now in the possession of the so called Confederate Government, and over which the restored Government of the State of Virginia has not been extended or expressed, have voted on and ratified the conditions contained in said act.

"SEC. 2. *And be it further enacted*, That said Proclamation shall not be issued unless the conditions of said act shall have been ratified by the people, after an opportunity to vote upon the same has been afforded to the voters in each of the counties named in the said act—nor shall it be issued if it shall be made to appear to the President by satisfactory evidence that the people have been prevented from having the same freely canvassed before them, or that they have

been deterred from voting by the presence of military force, it being the intention of Congress to secure to the voters of every county named therein the free exercise of the right of suffrage thereon."

It was read twice by its title and referred to the Judiciary Committee, who reported adversely. February 26 Mr. CARLISLE moved that his supplementary bill be taken up and considered, which motion the Senate refused by the following vote:

"Mr. SHERMAN. Before the vote is taken I desire to say that my colleague (Mr. WADE) is detained at his lodgings by illness. That will explain his absence on several votes.

"The question being taken by yeas and nays, resulted—yeas 12, nays 28; as follows:

"YEAS—Messrs. Bayard, Carlisle, Davis, Kennedy, Latham, Nesmith, Powell, Rice, Richardson, Saulsbury, Turpie, and Wilson of Missouri—12.

"NAYS—Messrs. Anthony, Arnold, Chandler, Clark, Collamer, Dixon, Doolittle, Fessenden, Foot, Foster, Grimes, Harding, Harris, Hicks, Howard, Howe, King, Lane of Kansas, Morrill, Pomeroy, Sherman, Sumner, Ten Eyck, Trumbull, Wilkinson, Willey, Wilmot, and Wilson of Massachusetts—28.

"So the Senate refused to consider the bill."

MR. CARLISLE and his confederates continued to push their opposition to the new State, until he stood in the Senate supported only by eleven rebel sympathizers, it would seem.

In pursuance of previous summons by the Commissioners, the Convention re-assembled the 18th of February, 1863, to approve, or reject the gradual emancipation clause. The opposition had become greatly softened, in view of the unanimous expression of their constituents for a gradual emancipation clause, by their informal vote in the Spring of 1862, and the action of Congress and President, and concluded there was to be a new State in spite of their opposition. Still some contended that the assent of the Legislature to the Amendment was indispensable. But after referring to the Acts touching

the subject, which the recently adjourned Legislature had passed before and after Congress had passed and published its action, they concluded that Legislature had already consented to the Amendment, and so the United States Supreme Court afterwards decided in the case of Berkeley and Jefferson counties, I think. To put themselves in shape, to monopolize the offices in the new State, became the absorbing question with them, *then*. The Hon. JOHN HALL, being necessarily absent, the Hon. A. D. SOPER, of Tyler County, was elected President. Senator WILLEY appeared in his seat, and opened the proceedings by a long speech, containing a re-hash, indorsement and recommendation of the ideas and sentiments the friends had been proclaiming and contending for during the past year; but which he and his confederates had persistently opposed and ignored, both in, and out of the Convention, and Congress. To these sentiments, I think, none dissented; though some, I know, who were conversant with antecedent facts, gauged, and weighed, the man. This speech was printed and widely circulated, at the State's expense, I think, and helped much, to secure to him the honor and emoluments of the "WILLEY Amendment!" The opposition moved that the Convention had the power, and should ratify only, upon condition loyal slave owners were compensated for the pecuniary sacrifice it would occasion, or that the Convention should simultaneously pass a Resolution declaring it the duty of the Legislature to make such compensation. The motion was warmly discussed. In the course of which I submitted the following remarks:

THE repeated definition by members of their position, in relation to the measure under consideration, admonish me to define mine; which I will briefly do. In answer to the suggestion of the gentleman from Kanawha, Mr. RUFFNER, that he considered the matter compromised and settled last winter by the clause already in the Constitution, I would say, that I voted for that clause then, but at the same time expressed my firm conviction it would not satisfy Congress, and secure our admission. That that body would not consent to make two slave States out of one. From the commencement I have been for a new State, and have been willing to use all necessary and honorable means to get it. No man in his senses could have expected to attain the end without using the necessary means; and however loud any one may have been in his professions for a new

State, if he was unwilling to use the obviously necessary means to secure it, I am bound to regard the acts of such a person rather than his professions, and set him down as an anti-new State man. It is now obvious a majority of the Convention erred in judgment, to say the least, as to the sufficiency of the clause. But we are all liable to err, and I am the last to remind others of failings I am obnoxious to myself—believing a consciousness of having been in the wrong a sufficient punishment to all honorable minds, without being told of it. But as the gentleman had seen fit to revive what its friends characterized at the time as a compromise in a manner to imply, if silent, my acquiescence, I have felt it my duty to say this much upon that point.

In regard to the subject now under consideration—the Act of Congress provides that West Virginia shall become a State, and member of the Union under the present Constitution upon the fulfilment of a certain condition, viz: that the Convention shall make, and the people ratify a certain prescribed Amendment to that Constitution. If less than this be done, the condition will not be complied with; if more be done, if other amendments than the one specified be made, then a simultaneous ratification by the people, will give life to the specified amendment, and also such additional ones, which Congress must afterwards see and assent to, before the President will issue his Proclamation. All agree this should not be done.

But this Convention being the only organized body of West Virginia, is not precluded from doing any other act which shall neither add to, nor take from, the Constitution with the amendment prescribed, but which shall aid in giving practical effect to the amendment specified, and in accomplishing its object—the getting of a new, and Free State. The object sought to be attained by the amendment specified, requires a sacrifice of certain property in Slaves, owned by some of our loyal people, securing thereby a new and free State with the immense public benefits which all agree are to follow: as the doubling of the value of real estate—thereby increasing its valuation from *ninety-three* millions, its present valuation—*to one hundred and eighty-six millions* as one item, and other things in proportion. This creates the public exigency, or necessity for taking private property for public use, contemplated in the Federal and new State Constitutions, namely: "that private property shall not be taken for public use without just compensation." A public

exigency must exist to justify by this provision the State taking private property; otherwise the State could appropriate the property of all its citizens, as the caprice or ambition of rival political parties might dictate; which would be obviously inadmissable in a Republican Government. But I conceive it to be immaterial to what use this private property is to be applied, provided it be clearly of *public use*, and for the *public good*. Private property may be taken for a public road, public navigation, for a bridge, or a mill, of public utility; and buildings may be torn down in cities to stop the spread of fire. Whether there be an actual *user*, or sacrifice, of such private property, is immaterial, I conceive, if it be clearly for the public good.

But I submit that it has never been *judicially* settled that the right to, or in slaves, or that the abolition of such right as is proposed in the present case, is such "private property," constitutes such "public exigency," or is such "public use" as the Constitutional provision contemplates, as entitling the owners to "just compensation." These are still debatable questions. Those who hold to what is called the "higher law," deny that property can exist in a human being. The gentleman from Taylor denies that the abolition proposed is such "public use" as will entitle the owner to "just compensation." These, therefore, are open and debatable questions in this country as neither has been judicially settled by a competent Court—the only tribunal that can authoritatively settle the question with us. But it is true, nevertheless, that the action of the Executive and Legislative branches of the Government, in similar cases, is entitled to great weight, and the action of other enlightened nations, in similar cases, as England, France and Russia, are important. Every member knows what Congress did last year, when it abolished slavery in the District of Columbia; what the Chief Magistrate's views are; as well as what England, France and Russia have done—and still all will admit the public mind, in its present excited state, in relation to the subject of slavery, will differ on these points. Fortunately, every member of this Convention, except the gentleman from Taylor, who, I hope, will become converted, agrees that it is such "property," such "public exigency," and such "public use" as will entitle the loyal owner to just compensation, within the meaning of the Constitutional clause, before stated.

Now, our loyal slaveholders, being a small minority in the State, before they vote in favor of the proposed amendment, ask a public

and solemn declaration by this body that has made the Constitution, that in its judgment it is such property, that the public exigency exists, that the sacrifice proposed is such "public use," as is contemplated by the Constitution, and entitles the loyal owners to "just compensation." And they ask it, as I understand, for these reasons:

FIRST. Because it will place upon record the deliberate judgment of this body upon these disputable points; carrying home to the minds of our constituents, slave-holding and non-slave-holding, *what we all agree to be the truth*, and the legal rights and duties of all. So that our constituents shall have, when they vote on the important measure, all the light which true and faithful representatives can give on the subject. Will this be anything more than doing our duty to our constituents? Shall we do our whole duty if we withhold it? Shall we withhold, because rebel demagogues may try to abuse and prevent it?

SECOND. Because it will enable every loyal slave-holder to vote for the amended Constitution, without any apprehension that by a silent vote, without protest, he may waive his right to claim pay.

THIRD. Because it will satisfy all slave-holders that have continued loyal in spite of this interest, and at the same time afford no just ground for complaint to honest non-slave-holders—and secure the largest vote, and serve thereby to remove existing differences from among our loyal people upon this subject.

FOURTH. Because it will be a cotemporaneous and solemn declaration of the intention of the *makers* of the Constitution, and serve in some measure to guide the action of future Legislatures.

FIFTH. Because it will show to the world that we have been honest in our professed desire to have a new and Free State, by showing a readiness to use the necessary means, and make any necessary sacrifice, to attain it.

LASTLY. Because it will place the new State upon that high, moral ground, where our friends everywhere expect her to stand; where the Mother stood, so long and so gloriously—"till from herself she fell"—and entitle the new State, not only to the maternal motto: "*Sic Semper Tyrannis*," but that far grander motto: "Justice and Equity to All!"

I believe our constituents are prepared to sustain us in doing whatever is honest, just and right, though it shall involve a small additional tax; and also in declaring whenever, and wherever, the oc-

casion shall demand, that such is the fixed purpose of this body. I am sure that mine will. I believe the present occasion calls on us publicly to declare that the amended Constitution secures to loyal slave-holders just compensation for any sacrifice required to be made by the prescribed amendment. "Let us be just and fear not," leaving with God the consequences.

THE motion in both aspects was rejected, and the amendment as proposed by Congress was unanimously adopted. The Convention, however, passed a resolution commending such claims to the consideration of Congress, and moreover recommending it should make an appropriation of $2,000,000 for the purpose; which recommendation has not as yet, I think, been acted on by Congress—the ratification of the Thirteenth Amendment to the Federal Constitution having annulled the claim.

The only thing that remained for the Convention to do, was to arrange for taking the sense of the people, who, nearly a year before, had unanimously declared, by the informal vote, in favor of gradual emancipation, and instructed their Representatives accordingly. This, therefore, became merely a matter of form, in order to comply with the requirement of the Bill, as passed by Congress, and as soon as the people had approved, and the President of the Convention certified to the President of the United States, it was made his duty to issue his Proclamation, stating the fact, and sixty days thereafter the new State became consummated, and a member of the Union; not "the bastard child of a political rape," as the redoubtable General WISE called her (unless he and his confederates were the political rapers,) but by a procedure as legitimate in all respects as any State in the Union.

The opposition, led at this time by the late Mr. VAN WINKLE, whose health had become invigorated by his summer recreation in New York the year previous—had become furious to monopolize the offices under the new State; and in the schedule for taking the sense of the people, the 26th of May, then next, they proposed to elect the officers at the same time. I submitted this question: whether citizens of the State of Virginia, as our people clearly were until the new State became consummated, could legally elect officers for another State, as distinct in law as the State of Ohio was. The

greed for office, however, readily disposed of the question in the affirmative. Mr. VAN WINKLE prepared an Address of some sixteen pages, to our constituents, which, like Mr. WILLEY'S speech, was a rehash of the ideas and sentiments our constituents had entertained, and instructed their Delegates upon, about a year before. It was quite amusing to the friends to witness the buncomb efforts on the part of these recent converts. The Address was voted, and large quantities printed and circulated. In the Convention as re-convened, were Prof. W. R. WHITE, in place of Rev. GORDON BATTELLE, delegate from Ohio county, deceased; and Rev. SAMUEL YOUNG, delegate from Pocahontas county.

The Constitution as amended was, of course, ratified by the people, by a vote nearly unanimous, and officers elected—the recent zealous converts taking care to secure the most lucrative to themselves, as is usually the case. I was requested by my constituents to become their Representative, in the first Legislature, but declined. Nor have I ever sought, or held, any office under the State of West Virginia since; and four dollars per day, while in the Convention, and mileage there and back, is all I have received, in any form, for my time, services, personal expenses and disbursements, about the new State. My brother, Dr. WILLARD PARKER, of New York, was my only pecuniary aider. I did "cast my bread," such as it was, "upon the waters," and I have not a single regret. My only desire is that her people will make of the new State what she merits. To do this, they have to *go to work*, and develop her resources, and not calculate on supporting themselves and families by sucking the poor thing dry in the form of fees derived from petty offices, while they impart, by personal production, no reparative aliment, or she will become as juiceless as a forest leaf in December. The Government and its officers, in our system of polity, are only the agents and servants of the *individual citizens*, who alone are the sovereigns, the rulers, and should be the *producers*. From them, as *individuals*, the political body requires not the will only, but a contribution of *produced* and *created* increment, indispensable to its existence and growth. Suppose all citizens were to become officers or servants, which means suckers upon the dear people—with us the body politic—how long, think, before she would be sucked dry? This *cacoethes* for office is at present, the bane in both the Virginias, and other recently slave States. *Productive slave labor* has ceased to supply the indispensable aliment for a prosperous State.

ARTHUR I. BOREMAN, of Wood county, a zealons *Southern* Methodist when elected to the Richmond Convention in 1861—after his return from that body, an equally zealous *Northern* Methodist, and President of the first Wheeling Convention, was elected Governor, and J. EDGAR BOYERS, Secretary of State, CAMPBELL TARR, Treasurer, SAMUEL CRANE, Auditor, and EPHRAIM B. HALL, Attorney Gen'l; JAMES H. BROWN, R. L. BERKSHIRE and WM. A. HARRISON, Judges of the Supreme Court of Appeals—of which Judge BROWN became the first President; and for Circuit Judges, E. H. CALDWELL for the First; JOHN A. DILLE for the Second; THOMAS W. HARRISON for the Third; CHAPMAN A. STUART for the Fourth; ROBERT ERVINE for the Fifth; JAMES LOOMIS for the Sixth; DANIEL POLSLEY for the Seventh; HENRY J. SAMUELS for the Eighth, of the Judicial Circuits. Gov. PEIRPOINT and some other Executive officers, at the time, of the re-organized Government of Virginia, preferring to retain their present offices, and when the establishment of the new State superseded their jurisdiction to the extent of its boundary, they withdrew the Virginia archives, and removed to Alexandria, which became the Capital of Virginia, and *neucleus* around which Unionism rallied, until the Rebellion was crushed, when they removed to Richmond, and the re-organized Government was submitted to throughout the State. And let me say here, that, in my opinion, the re-organized Government of Virginia had in FRANCIS H. PEIRPOINT, one of its boldest, most self-sacrificing, and patriotic supporters, and in that way the Nation also; though averse to a new State, especially in the form the Bill finally passed, as I have always thought.

The officers elect met and organized the Government of the new State, June 20, 1863. Mr. VAN WINKLE and Mr. LAMB were members of the House of Delegates, and their services, in moulding the existing laws of Virginia to conform to the new Constitution, were invaluable. The Virginia greed for office was everywhere rife, from lowest to highest. The United States Senatorships overtopped all others; two Senators were to be chosen by that Legislature. Messrs. WILLEY, VAN WINKLE, LAMB, and A. W. CAMPBELL were the principal aspirants. The Methodist Episcopal Church, then dominant and aspiring, secured for its great Class leader, Mr. WILLEY, one of the Senatorships with little opposition; and then, or theretofore, substituted his for Mr. CARLISLE'S name wherever the latter existed. The camp upon Wheeling Island, where the brave and patriotic KELLEY, THOBURN and DUVAL recruited and rendezvoused the First Virginia

Union Infantry, while the genius of CARLISLE inspired—and Mr. WILLEY—was where?—was changed from Camp CARLISLE to Camp WILLEY. The other Senatorship lie between VAN WINKLE, LAMB and CAMPBELL. Neither, I think, were ostensibly allied with the then dominant Church, though it was thought to be its influence, that enabled superiority of physique and brass to triumph over superior merit, in the choice of the other United States Senator. It was about the same time, I think, the Legislature appointed Mr. LAMB a Commissioner to codify the laws.

It was about this time when GRANT and SHERMAN promised soon to take Vicksburg, and repossess the entire Mississippi and its tributaries, the rebels commenced another invasion of the loyal States. JOHN MORGAN, with his marauding band, advanced into Kentucky, and thence into Ohio; while LEE's army advanced into Maryland, making for Philadelphia, Washington and New York, by way of Gettysburg. With what results, history shows. The surrender of Vicksburg, the defeat of LEE at Gettysburg, and the fate of MORGAN and his band, changed the future policy of the rebels. They had got to *divide* the people of the loyal States, or ultimately be conquered. To accomplish this end, all the Copperheads and Rebel sympathizers throughout the loyal States and Canada were summonsed to act with promptness and vigor—but entire secrecy—through all their secret organizations, of whatever name. VALLANDIGHAM, whom the Government theretofore, had banished to Dixie, stealthily returned through Canada to Ohio, and announced himself as candidate for the Governorship of that State—an election was to take place that fall. The Copperheads and Rebel sympathizers made him their candidate, and rallied around his standard. His platform was the Constitutioual right of States to secede, the impossibility of ever conquering the Rebel people, however much of blood and money should be expended, and that the only thing left was to cease hostilities, and either let them go, or settle on the best terms we could. This was a taking argument with the people of Ohio—the key-stone of the loyal arch, both civil and military—as her people, generally, were getting tired of war. It was a critical hour. The loyal people of Ohio nominated for their standard bearer the brave and patriotic JOHN BROUGH. I was at that time, residing temporally at Proctorsville, Union township, Lawrence county, of that State, and felt keenly the supreme importance of the issue, and submitted to my fellow-

citizens, orally and through the press, the following remarks in answer to treasonable statements put forth in our midst, and throughout the loyal States, at the time.

THE NATURE AND EXCELLENCE OF OUR POLITICAL SYSTEM—THE DISTURBING ELEMENT.

FELLOW CITIZENS: It is well for us to be here. In Council there is wisdom and safety. What can we do to help restore our distracted Government, and remove the disturbing causes; and thereby insure for it future health, peace, prosperity and happiness, is the absorbing question that ought to occupy all loyal and earnest minds, the citizen and citizen soldier, alike? The man that is not prepared to sacrifice himself, and all mere personal considerations to this paramount object, is unworthy the era and country in which he lives, and more especially, the confidence and suffrage of loyal men.

It may be well to consider the *nature* and *value* of our Institutions, which are imperilled by the apparently causeless and unnatural rebellion; the results these Institutions had produced before the breaking out of the war, the causes that produced the terrible strife, and what are our present and future duties.

And first, as regards the origin and nature of our Institutions, about which there has been, and is now, a wide difference of opinion—one party contending for the supremacy of the Federal, within the scope of its delegated powers, over the State Governments; and the other party, the reverse, with a right in each State to secede, and leave the Union, at pleasure. This matter, in issue, I will endeavor to explain.

Prior to the 4th of July, 1776, the Thirteen Colonies, afterwards the Thirteen original States, were united by a common allegiance to the British Crown. On that day, for causes publicly declared to the world, this allegiance was forever dissolved. These Thirteen Colonies thereupon became Thirteen separate and Independent peoples—though practically acting together in resisting the Mother Country. Very soon these Thirteen separate peoples, formed for themselves respectively, State Governments. In 1777–8 written "Articles of Confederation" were entered into by and between these Thirteen Independent State sovereignties. The Federal, or Central Govern-

ment formed thereby, called the Congress, was composed of Committees, or Delegates, elected by the *Legislatures* of the Thirteen State Governments, which were the parties to this compact or league, and not the people themselves. This Congress could pass laws, but had no power within itself to enforce them; but was obliged to supplicate the Thirteen State Governments to have them compel their respective citizens to obey its laws; and if any State refused, the other States had to compel by declaring war against her. This was exactly the structure and powers of the "old Confederation" we have heard so much talk about. And the results were what might be expected. During the war, and pressure of the arms of the Mother Country, the States generally obliged their citizens to obey the laws of Congress.

But as soon as peace took place in 1783, and the outside pressure was removed, the States generally refused to obey the laws of the Congress. No money could be raised to pay the debt the war had created: nor even the interest; nor could money be raised to pay the current expenses of the Government. Disputes, rivalries, and jealousies sprung up among the several States in regard to Trade, Commerce, and other subjects; and the whole fruits of the Revolutionary struggle were threatened with immediate ruin.

It was at this crisis that Mr. MADISON wrote: "I hold it for a fundamental point that an individual sovereignty of the States is utterly irreconcilable with the idea of an aggregate sovereignty. I think, at the same time, that the consolidation of the States into one single sovereignty is not less unattainable than it would be inexpedient. Let it be tried, then, whether any middle ground may be taken which will at once support a due Superiority of the National authority, and leave in force the local authorities so far as they can be subordinately useful." Mr. EDMOND RANDOLPH wrote: "Government should be able to defend itself against incroachments, and that it should be paramount to State Constitutions, and have power to call forth the force of the Union against any member of the Union failing to fulfil its duty." Mr. PINCKNEY, of South Carolina, wrote: "That the States must be kept in due subordination to the Nation. That if States were left to act for themselves, in any case, it would be im possible to defend the National prerogatives."

These were the views entertained by the first minds in the South of the insufficiency of the "Confederation," as well as of the kind of Government required.

The giants of the Revolution aroused anew to make secure forever the precious boon their valor had won. The 25th of May, 1787, the Delegates representing the *people* of the several States, met in Convention at Philadelphia, and with GEORGE WASHINGTON in the Chair, matured, and drafted our present Constitution. There were in that Convention the first intellects of the country, and of the age. Men that had cleared a place in the wilderness for a great Nation, expelled the red men, resisted the murderous attack of the French and Indians, and finally, after wrestling for seven years with the British lion, had expelled, and brought him to acknowledge their Independence. Think these men did not know what they were doing? Think they would not cure by their new form of Government the fatal evils they had found during eleven years trial to exist in the "Confederation?" Think they came together, and after deliberating for months, made no material change to remedy the manifest radical defects? Well, the present position of the Rebels and Copperheads assume they did not. They assume the great Fathers left the States altogether sovereign, with power and right to secede from the Union whenever they please!

Let us see for a moment what the Fathers did do. They drafted, and the people afterward ordained and established a *Constitution* and *Government*, self-acting, self-executing, and complete; with its Legislative, Executive and Judicial departments—placing its foundation on the *people* in their individual capacity—not a mere compact or league between the Thirteen States sovereignties, as the old "Confederation" confessedly was. It begins thus: "We the PEOPLE of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty for ourselves and posterity, do *ordain* and *establish* this Constitution for the United States of America." Then follows the various provisions—and it was afterward submitted to the people of the Thirteen States, and was by them ratified. Article sixth reads thus: "This Constitution, and the Laws made in pursuance thereof, and treaties made, or which shall be made, under the authority of the United States, shall be the Supreme Law of the land; and the Judges of every State shall be bound thereby, anything in the Constitution, or laws of any State, to the contrary notwithstanding."

Gen. WASHINGTON, in his letter accompanying the draft of the Constitution to Congress, wrote thus: "In all our deliberations on

the subject, we have kept steadily in our view that which seemed to us the greatest interest to every true American—the *Consolidation of the Union*—in which is involved our prosperity, felicity, and, perhaps, our National existence."

Now, this Instrument discloses four great facts, intended by the drafters, first, that it is to be a Government; second, that the People of the Thirteen States are to ordain and establish it; third, that thereby all the People are to become Consolidated and become *one* People to the extent of powers granted; fourth, and when established was, with the laws and treaties made in accordance therewith, to become the Supreme Law of the Land; and all Constitutions and laws of the States were to become subordinate thereto.

The Convention requested the Congress then in session, under the "Articles of Confederation," to submit this Instrument to the people of all the States, to be convened through their delegates in each State to ratify the Instrument, which was done; and the people of the several States ratified it in the following order, viz: Delaware, the 7th December, 1787; Pennsylvania, 12th December, 1787; New Jersey, 17th December, 1787; Georgia, 2d January, 1788; Connecticut, 9th January, 1788; Massachusetts, 6th February, 1788; Maryland, 28th April, 1788; South Carolina, 23d May, 1788; New Hampshire, 21st June, 1788; Virginia, 25th June, 1788; New York, 26th July, 1788; North Carolina, 21st November, 1789; Rhode Island, 29th May, 1790. The Instrument provided, that as soon as the people of nine States had ratified, it should take effect as to them, and authorized them to proceed to organize. The people convened in their respective States for the purpose of ratifying because it was more convenient than for all to meet in one general Convention.

Now, can there be any doubt that the Instrument was *intended* to be the act and deed of the people of the Thirteen States? If we take up a newspaper to-morrow, and find a Proclamation reading thus: "I, ABRAHAM LINCOLN," &c., and bearing his signature at the bottom, should we hesitate in saying it was Mr. LINCOLN'S proclamation? No more can we hesitate to say our present Constitution is the act and deed of the *people* of the United States, acting in their individual capacity. The people of each State became consolidated, and bound, as fast as they ratified, in the manner the signers to a subscription paper, headed: "we the undersigned," &c.—the obligation attaches as the parties adopt by subscribing their names.

There being no question that such was the intention of the transaction, the only remaining question is, had the people *power* to establish such a Government? Of this, there can be no doubt. They at the time *possessed* or *controlled all* sovereign power, and could apportion this power between their State and Federal Government as they chose; and if, in erecting the Federal Government it became necessary to resume or take back powers previously conferred on their respective State Governments, they had the unquestionable right to do so, and thereby place their State Governments as WASHINGTON, MADISON, RANDOLPH, and PINCKNEY had proposed: in *subordination* to the Federal Government to the extent of its delegated powers.

I have been thus particular, on this point, because secession starts here. The Rebels say the present Constitution, like the "Articles of Confederation," is only a "compact, or league" between the State Governments, and does not subordinate or abridge the State sovereignty or its right to secede—which, as stated before, contradicts the plain language of the Instrument, and stultifies its Framers.

The next inquiry is, how did the people in fact apportion or distribute the powers? (Article 9th and 10th Amendments) clearly defines this. Article 9th: "The innumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." Article 10th: "The powers not delegated to the United States by this Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

To determine our Governmental duties and rights, therefore, we have first to look to the Federal Constitution and see what powers have been granted to that Government; and to these, and the laws and treaties made in accordance therewith, we owe our first and highest duty and allegiance. Next, we should see what rights and powers that Instrument has prohibited to State Governments; and if our respective State Government undertakes to exercise any of these prohibited powers our *paramount* duty to the Federal Government requires us to keep our State Government to its sphere and place. We will then examine our respective State Constitution and Bill of Rights, and whatever powers we find conferred on it which have not been conferred on the Federal Government, nor prohibited by its Constitution to the States, and State laws made in accordance with this lawful State authority we are also bound to obey—all other powers by the Amendments before quoted are reserved and belong to the

people, the rightful owners and controllers of *all* sovereign power—whether delegated to their Governmental agencies, or not. Questions of conflict that arise between the powers of the two Governments it is the duty of the Supreme Court of the United States to decide; which forms the key-stone of the arch, without which the whole structure would sink into anarchy. It is a system which seems to have been generated and formed by the circumstances which surrounded its great Founders, who were but fit instruments in the Almighty's hand.

We are, then, citizens of two distinct Governments, the Federal and our respective State Government; and owing allegiance to each to the extent of the powers each possesses. Both of these Governments are equally original, springing from, and resting upon, the people. Each is self-acting, independent, and mandatory within the sphere of its powers—having its Legislative, Executive, and Judicial branches. The constituency of each State Government are the citizens of the United States residing within such State; the constituency of the Federal Government are the citizens of the thirty-five States, united as *one* people to the extent of the Federal powers granted. The Judges of the Supreme Court of the United States, Congress, and the President, represent all the people in their aggregate National character. It is made the express duty of the President "to preserve, protect and defend" this Government to the best of his ability; "and take care that the laws are faithfully executed"—all which he is bound by solemn oath to perform.

To enable the President to perform these, the highest of earthly duties, he is made Commander-in-Chief of the Army and Navy of the United States, and the Militia of the several States when called into the actual service of the United States. It is made the express duty of Congress to make laws for calling out the Militia "to execute the laws of the Union, suppress Insurrections, and repel Invasions." It is also made the duty of Congress to make all other laws necessary and proper for carrying into effect "the powers granted to the Government, and to any Department or Officer thereof," which includes the President. Congress declares war and concludes peace. But when war is once declared, the President, as *Commander-in-Chief*, is bound to conduct it subject only to the established "Articles of War," as his judgment and oath-bound conscience shall direct, in order to best "preserve, protect and defend" the divine Edifice. As Commander-in-Chief he is subject only to the established "Articles of

War"—beyond that, in conducting a war—he is absolute. He can suspend the writ of *habeas corpus*, whenever in his judgment the public safety requires, and thereby declare martial law, and shut all Civil Courts. The powers of the Government are self-adjusting, and flow to the military head, in proportion to the eminency of the danger to the Government. As the storms rise and press, he rises in power, until he becomes another "flaming sword," turning every way to guard this new "tree of life;" and as these subside he must also. Both Rebels and Copperheads will find before they get through the present war that the Fathers were not fools, but had sense enough to construct a Government, able to defend itself, against all enemies—even monsters as unnatural and God-forsaken—as the Rebels themselves.

But what fruits and results had these Institutions produced up to the breaking out of the present rebellion—during seventy-two years? Political institutions, like men, are best judged of by the results produced.

Our Territory had expanded from narrow strips along the Eastern and Western slopes of the Alleghanies to the Pacific, and the River Del Norte; from thirteen feeble Colonies to thirty-three States; our people from three to thirty-one million; our Cities from one, Philadelphia, (then numbering 40,000 inhabitants) to one hundred and thirty, with New York the third and soon to become the first in the World; our Commerce has become second only to Great Britain; the tonnage of our Vessels from a few inferior Coasters and Merchantmen, to over 5,000,000 tons measurement; our Exports had reached the enormous aggregate of $300,000,000 annually; and in fact the increase of everything else that makes a People great, prosperous and happy, had been equally wonderful, and hitherto unexampled in the world; our Flag known and honored by all Nations; and even the isolated and hitherto sealed up People of the East had been recently allured to our shores, asking our friendship and alliance!

Nor had the rapid extension of our Government, over new Countries and new Peoples, created any injurious competition in the working of the great and vastly diversified Industrial Interests under this wonderful System; but the whole had been characterized by the perfect harmony and reciprocity shown in the working of the vital functions of a healthy animal body—no where too much, and everywhere enough; each part giving and receiving vigor and nourishment; blest with plentiful harvests and general health; at honorable peace with

all Nations, and our People everywhere apparently full of hope and happiness. Such was our National aspect in 1860. How like the Garden of Eden on the morning of the Fall, while the Archfiend remained masked in the wily serpent, or squatting toad!

I will now introduce to you the testimony of Mr. A. H. STEPHENS, of Georgia, the brightest and clearest intellect by far of the whole South; and had he possessed the courage and strength, would to this day, I believe, have remained unchanged; but he long since swooned we all know, and fell—into the chair of the Vice Presidency of the so-called Southern Confederacy.

He opposed the going out of Georgia the 14th of November, 1860, before the Legislature in a masterly speech; and again in the Convention that passed the ordinance. In his speech before the Legislature he said: "Our model Republic is the best the history of the world gives any account of. * * * That this Government of our Fathers comes nearer the objects of all Good Government than any other on the face of the Earth is my settled conviction. * * * Compare our Government with Spain, Mexico, the South American Republics, Germany, Ireland, Prussia, Turkey, China, and wherever you go following the sun in his track around the globe, to find a Government that better protects the liberties of the People, and secures to them the blessings we enjoy." And in his subsequent speech before the Convention he said, inquiring for their motives for wishing to overthrow the Government: "Is it for the overthrow of the American Government, established by our common Ancestry, cemented and built up by their sweat and blood, and founded on the broad principles of Right, Justice and Humanity; and as such I must declare here as I have often done before, and which has been repeated by the greatest and wisest Statesmen and Patriots in this and other lands—that it is the best and freest Government, the most equal in its laws, the most just in its decisions, the most lenient in its measures, and the most inspiring in its principles to elevate the race of man—that the sun of Heaven ever shown upon!"

No motive could have induced Mr. STEPHENS to have thus stated, but the deep conviction of his entire nature that it was true, and his great intelligence and long and large experience as a public man, had eminently qualified him to know and judge. I have dwelt thus long on this branch because I have felt that the excellence, the inestimable value and blessings of our Institutions are

not correctly understood by many, and are adequately appreciated but by few. Their blessings have been so constant and so bountiful that like the pure atmosphere we breathe, they have lost hold on our attention, and ceaseed to interest.

I fear we do not any of us sufficiently estimate the importance of the right kind of Political Institutions to the growth, development, and happiness of a People. "Look at Greece—the same fertile soil, blue sky, inlets and harbors; the same Ægæan and Olympus;" the same land where HOMER sung, and PERICLES and DEMOSTHENES spoke; and SOCRATES, PLATO and ARISTOTLE, unaided by direct Revelation, pierced the arcana of nature, and "looked through it up to nature's God." The same SALAMIS and THERMOPYLAE. It is in nature the same old Greece, "but living Greece no more"—and why? Because its Political Institutions, the divinely moulding matrix, have departed. So with Rome, the "Eternal City" and so long the "mistress of the world," and all other ancient cities and States we read of. Men grow and develop like the plant, according to the circumstances and the nature of the aliments that surround them. Individuals at first give shape to the Institutions, and by Divine aid as our Fathers did, impart to them a developing form and quickening spirit; and afterwards the Institutions will for a long time act upon a People with most happy and marked results—the action becomes reciprocal.

All Governments heretofore have had their youth, their maturity and decline, like individuals. Ours is in its youth—and is it to die thus prematurely? Humanity, nature and God, the spirits of the great Founders, and of the recent heroic dead, the spontaneous impulse of every true and loyal American heart—answer, No! The present disease is abnormal, superinduced by excess of health, growth and prosperity, both in the North and South. Our unexampled prosperity was greater than we could bear. We in a measure forgot God, and have departed from the counsels and wisdom of our Fathers. We had become ambitious, vain, and proud. But the same beneficent Being that bids the foul pool and tainted atmosphere, be purified—bids this young nation purge itself—and it will do it, and not die; but come out cleansed and possessed of sounder health than it has ever enjoyed, and yet fulfill the high mission Heaven has allotted it.

We will now inquire for the principal and immediate cause of the present seemingly unnatural and causeless Rebellion against this best of Governments, as has been abundantly proved by such an array

of facts, and the clear and repeated admissions of the first intelligence, and one holding the second office in this unique political monstrosity; which could have had its origin and growth only from the coming together of the greatest contrarieties in nature; and nothing short of that system of absolute, legalized servitude, which has been cankering and festering at the very core of a Government, whose corner stone and political starting point was that "all men are born free and equal!" The great law of nature that "like begets like," forbids that anything short of such an antagonism could have produced it.

But it is not left to inference alone; there exists positive evidence that establishes the facts beyond question. The Fathers would never have left this disturbing element in the system had they not firmly believed the causes then at work would soon eradicate the evil. But the discovery by WHITNEY of the cotton gin soon after the Constitution was formed, gave an enlarged merchantable value to the article of Cotton, and rapidly increased the consumption and demand for it. This consumption and demand continued constantly to increase until in 1860 it had become the clothing of the world, and as the slave oligarchs vainly thought its "lord paramount," and that thrones and principalities rested upon it. The Slave States through their peculiar system of labor, and perhaps peculiar fitness of soil and climate, had mainly monopolized its growth. The value of slaves and slave labor rapidly advanced, till in 1860 their value had increased fifteen or twenty fold. The Fathers, counting its existence to be only temporary, and thinking it would soon die out of itself, made little room for Slavery in the Constitution. But as the value and importance of this property increased, Southern Statesmen early saw their straitened condition in this particular, became sensitive and nervous, and began to *make room* for it. Here as early as 1819 the conflict began, which has continued to wax warmer and warmer, till it culminated in the present terrible Rebellion.

Mr. CALHOUN, the most subtle Statesman and captivating sophist the country ever produced, early foresaw the embarrassments and difficulties that would likely attend so immense an interest as the slave interest was fast becoming in a Government, whose genius was Freedom, and whose Framers had never contemplated or provided a place for so large and hostile interest therein. He early saw that to elevate and give undue prominence to "State Rights" over Federal or National, was the only means to guard and foster the growing

interest; he also saw the necessity for consolidating the entire slave interest into a *political unit;* and then, by securing the co-operation of Northern *dough-faces*, by the emoluments of office, to take, hold and control the Federal Government, and use it for the advancement of the slave interest and power. His plan was by these appliances to give full scope to the extension of the slave interest within the Union, and whenever checked in this to have the Southern mind educated and prepared to withdraw from the Union and establish a monarchy with Slavery for its basis. The State Rights doctrine was everywhere inculcated in the South. The Resolutions of 1798 and 1799, which JEFFERSON and MADISON had originated as a basis, for their "strict construction" doctrine of the Constitution in opposition to the "Alien and Sedition Laws" of JOHN ADAMS' administration, and for establishing the Republican party, as opposed to the Federal—and on which JEFFERSON became President in 1801, and he, MADISON and MONROE continued to hold the office until 1824, when JOHN Q. ADAMS succeeded. I say CALHOUN dug up these old Resolutions, and making additions to suit his purpose, set the whole South to committing them to memory. In 1830 ROBERT Y. HAYNES, his pupil, broached his "State Rights" doctrine in the United States Senate, on FOOTE's resolution, assailing the North, and Mr. WEBSTER answered in his celebrated speech and demolished him. CALHOUN soon after resigned the Vice Presidency, and was returned to the Senate to defend South Carolina against the iniquitous Tariff, as he termed it, and try the strength of his State Rights doctrine by nullifying the laws of Congress. General JACKSON happened then to be about, and by the "great eternal JOHN C. CALHOUN had to back out, or he would have hung as high as Haman!"

This was in 1832–3. Mr. CLAY brought about a compromise of the Tariff question, which settled that for some time. In 1835 Mr. CALHOUN applied all his power for forcing the slave issue on the North. In 1837 VAN BUREN succeeded to the Presidency by assuming, reverentially and circumspectly, to walk in the foot steps of his "illustrious predecessor." This was the era of "loco-focoism." In 1840 the Whig party out-demagogued VAN BUREN by their log cabins, hard cider, and coon skins, and HARRISON and TYLER were elected. In 1841 HARRISON died, and TYLER became a nondescript in politics. In 1844 VAN BUREN broke upon the Texas annexation question, and POLK was elected. Texas, the Mexican war, and the acquisition of the Mexican territory followed in 1848. In all these

measures CALHOUN and the Slave power ruled. The South took the lead in all these measures with a view to acquire territory over which to spread Slavery, either in, or out of the Union, as circumstances might dictate. The newly acquired territory happened to be *free* by the laws of Mexico; and the conflict became fierce. CALHOUN went for "forcing the slave issue," as he termed it, on the North. General TAYLOR was elected President. The Free Soil party was organized. VAN BUREN aided by his son JOHN, out of spite to General CASS, who worked against him in 1844, became its candidate, and CASS was defeated. The famous WILMOT proviso arose; gold was discovered in California, and that State rapidly settled; and in 1850 applied for admission to the Union as a *free* State—one-third of its territory lying South of "36°–30," the line fixed by the Missouri compromise in 1820. The compromise of 1850 took place. California was admitted as a *free* State, and the Fugitive Slave law passed, as a part of the compromise. The rebel MASON exulted at the stinging points he had got in the Fugitive Slave law, as it would force the slave issue on the North more rapidly. In the Spring of 1850 CALHOUN died; in June 1852 CLAY, and in October 1852 WEBSTER, died. Their mantles fell upon smaller men. In 1852 FRANK PIERCE was elected President, (a perfect tool of the slave power) and took CALEB CUSHING and JEFF. DAVIS as his controlling advisers. In 1854 the Kansas-Nebraska act passed, and the Missouri compromise was openly abrogated, and the "squatter sovereignty" adopted. PIERCE makes efforts to purchase Cuba. In 1856 BUCHANAN and BRECKENRIDGE were elected on the "squatter sovereignty" platform. FREMONT gets a large vote. The "Personal Liberty Bills" are passed in the free States. Bleeding Kansas becomes the field of conflict between the "border ruffians" and the "emigrant aid societies." The latter in spite of all the efforts of the administration, prevailed; and the forepart of 1860 the slave oligarchs conclude the Southern mind had become sufficiently moulded, and the Southern heart fired, to strike for separation, and the setting up of an independent monarchy. The plan was to split the Democratic party, secure the election of Mr. LINCOLN, and then strike for a separation. The facts that have taken place since are familiar to all.

Subsequent facts have developed the most extensive and extraordinary conspiracy that the world ever witnessed. It had been in existence for thirty years, ever since General JACKSON demolished CALHOUN in 1832–3. The rapid increase in the number and value

of slaves and the wealth, consequence and luxury they brought to their masters, early changed entirely their moral and religious views of the Institution. Instead of regarding the subject as the Fathers did, a moral, religious and political evil, they had come to regard it as a Divine Institution, enjoined by both natural and revealed law; and the only safe and sure foundation on which human government could rest. When all other parts of christendom were fast emerging from it into a higher civilization and purer christian light, they were descending to its darkest and most revolting depths. What in the beginning was only a nervous initability at the peculiar and embarrassing condition of this antagonistic element, increasing instead of dying out on their hands, they had become arrogant, insolent, and bullying—exhibiting the qualities of the gladiator, or brigand, rather than the amenities of the gentleman. Being reared from infancy to spit on and beat at pleasure the African, they have naturally come to think they can treat the white man in the same way. The influence of the Institution tends to destroy their purity, and corrupt throughout their moral and religious character; and on the whole, make very uncomfortable members in a Republican family.

The means used to bring to maturity this gigantic conspiracy have been various. One was with CALHOUN and his disciples since his death, to force the slave issue on the North—that is, to insult, taunt, irritate, "shake the red flag," and thereby provoke the North to do and say imprudent things, which they would at once snatch up, parade, distort, and magnify before their deluded followers at home, and thereby "fire the Southern heart." And too many of the Northerners suffered themselves to be betrayed into saying and doing imprudent and some unconstitutional things, as passing the "Personal Liberty Laws" in particular. Their Southern Commercial Conventions were another means. But the "Southern Rights League," which merged in 1858 into that mystic, secret, thoroughly organized, wide spread and powerful order known as the "Knights of the Golden Circle." This was the last and crowning form the conspiracy took before the Rebellion began, and is to-day in full blast. As to the existence of this order, its nature, and purpose, its magnitude, and terrible wide spread influence at this hour throughout the Free States, none can doubt; and which clearly explains the conduct of men among us otherwise inexplicable. Nearly all the Copperhead and Butternut leaders belong to one of the three degrees of this order. Their Knightly allies in the Free States had promised their Southern

brothers large aid in holding the Free States still, while they of the South broke the South off, and they were then to join the South, and share the plunder—the stars, garters and diadems! Their conduct admits of no other explanation.

The Southern leaders thought these political Judases controlled the People of the Free, as they did the "poor whites" of the South. They expected a "*coup d'etat*" without much fuss. But when their guns opened on Sumpter, and the masses of the Free States awakened, the Southern knights became undeceived; and their Northern allies became terribly frightened—some renounced their "knighthood" and went for the Government; but more ran into their holes and hid. The Southrons became disgusted at their cowardly conduct, and have placed no confidence, or shown respect for them since; but only let them do any dirty work that may aid their getting off their bulrush bottom, freighted with human bondage, and bedecked with all the insignia of royalty. The third, or governing order, consist of about forty. The leaders of the Rebellion are of them. So are BRECKENRIDGE, BRIGHT, and probably FRANK PIERCE, CALEB CUSHING, FERNANDO WOOD, and brother, VALLANDIGHAM and others in this country, and abroad.

BRECKENRIDGE stayed as long as he could at Washington, and driven from thence—where did he go? Their business is to paralyze the Government in the Free States. There are hosts of lesser lights all round among us, that belong to the lower orders, who are not permitted to enter the "inner temple."

Now these disguised rebels can have no hope of compromising the South back into the Union after what JEFF. DAVIS and the Richmond *Inquirer* have said. Hear it. JEFF. DAVIS in a speech at Richmond, January last said: "He would rather combine with hyenas than with the people of the North." And in a speech at Jackson, Mississippi, soon after: "That under no circumstances would he ever consent to *re-union*." And the Richmond *Inquirer*, the official organ, said recently: "On no terms whatever will the South consent to political association with the North; we would not consent to hold the Northern States as provinces." This then, is the solemn and deliberate declaration of the fixed purpose and wish of the Rebels in arms, made by the President and official organ of their Rebel Government. Can we have any higher or better evidence of their purpose to adhere to the scheme they have been thirty years maturing and getting ready?

However culpably slow our authorities may have been to take the Rebels at their word, our brave volunteer soldiers early understood their purpose, and accepted the issue, "Victory or Death"—and a million by a common impulse of patriotic devotion resigned the comforts and duties of civil life, and rallied around the Nation's Flag. They have understood all along that there was to be no compromise; that to *conquer* or *be conquered* was the fixed and unalterable issue the South had made up, and tendered—and they had accepted it. And down to the present moment these noble Patriots that are daily baring their bosoms to the storm, to war, and death—are conjuring all at home, by all that is sacred and valuable in country, in kindred, in liberty, to *stand firm*, and the Victory *will* be ours. Cannot these soldiers judge better than the "knights gallant" at home, these traitors in disguise? These are the greetings and assurances sent us by our noble brothers without exception, from the camp, and battle-field. If further evidence be asked of our steady and certain advance to Victory, hear the wail of the Richmond *Whig* in a recent article headed, "Belt of Desolation."

"Day by day the tract of the Destroyer becomes broader. Two-thirds of Virginia, two-thirds of Tennessee, the coast of North and South Carolina, part of Georgia, nearly all of Florida, Northern Mississippi, Western and Southern Louisiana, a great part of Arkansas and Missouri have already been laid waste; and every hour brings news of fresh destruction. * * * The Belt of Desolation widens hourly; nor is there much prospect of an abatement of the evil. Citizens complain of the Government, while in turn, the Government complains of the citizens; and every day the enemy remains in our territory will add to the width of the Belt of Desolation; and they who now fancy themselves safe, will soon discover their mistake.

"As the months wane, and the years roll on, the South—unless something can be done, will become in the language of scripture, the 'abomination of Desolation.'"

This gives us a good insight to the interior of Rebeldom. It tells clearly they are getting hurt; but their brother "Knights" among us, say "it is too bad—and gross violation of the Constitution." It shows they are "caving in;" that they are human and can be conquered, just as other bedevilled human beings during the last six thousand years, have been whipped soundly, and made to behave themselves—still the "Knights gallant" insist that this can never be done to the "Southern Chivalry." I hope this evidence will dispel

all doubts in loyal men's minds at least, as to what is to be the final result of this conflict; and that our cause is as certain to triumph ultimately, as Right is to triumph over Wrong, or Truth over Error.

But how hold out the relatives and friends our brave soldiers, that have gone to the field, have left at home? Do we not see parents bending beneath the weight of years, that have sent their young and promising sons, the pride, hope and joy of their declining years, to die if need be, for their country—and still the countenances of these parents are beaming with hope and that joy, which lofty patriotism and conscious right alone can give? The aged widow, cheerfully toiling on alone, having given up her noble sons to the cause, and sighing only that "she has no more to give?" The wives, the young and anxious, and the middle-aged—amidst their children, and prattling infants, toiling on uncomplainingly—consoled by the thought that there is *such* a country *to be saved*, and that they have given their natural supporters, guardians and protectors—their best gifts—with their strong arms and manly courage to help save it? The loving and trusting sister, who has without a murmur, given up that brother whose society she so much enjoyed, and whose gallant and manly form she used to gaze upon with pride and delight? Nor do the tidings of the sacrifice of these loved ones at any time upon the altar of their country, overwhelm them; but the hope of a country, and of rewards promised to all that shall "continue faithful to the end," still bears them in triumph onward! So stands our brave soldiers in the field, and our loyal people at home; and so stands Rebeldom.

But lo! this grand, solemn, steady and determined advance of the loyal Armies in the field, and People at home, is marred and somewhat disturbed by "Peace Patriots" or "Democrats," among us! By the "Knights Gallant" and their few deluded followers. I am unable to see that the leaders have at present any standing or place at all, either North or South. The North has already ejected some of them into Rebeldom, which is making efforts to cast them back in order to avoid their personal proximity, and have them resume the part and work allotted for them to act in the Rebellion, when it commenced. I shall not insult your understanding by offering additional evidence or argument, to prove that these Leaders are Rebels, confederate with JEFF. DAVIS and Company, and aiming to accomplish under disguise, what cannot well be done openly. They are as much worse

than JEFF. DAVIS, as the spy is worse than the open enemy; and while the laws of civilized Nations treat the one as prisoner of war when captured, they hang the other as a Felon. They have *professed* to be in favor of saving the Government—when all their acts and measures proposed if allowed to have effect, must inevitably destroy it. To all the acts and conduct of the Rebels, and repeated statements of their head officers, generals and papers, that in no event whatever, will they consent to any compromise or re-union—they have opposed—what? Why, no coercion, no Army, no Navy, no War—but Peace and Compromise! which is acknowledgment of their Bogus Confederacy.

And still they have the brazen impudence to stay among us, and say they are for the Union *as it was!* And still the Government tolerates them; and we have men among us who are at large, and without legal guardians as yet, who adhere to, and follow these Leaders. This, to my mind, is the strangest thing in all the broad field of the Rebellion. The motives of the Leaders I can understand, but their followers, now the guise and mask of their Leaders have become so transparent, is what astonishes me. I began and continue a Jacksonian Democrat, and cast my first vote for that old hero (in Massachusetts where he was unpopular), and gave him my feeble support when he vindicated the Government so triumphantly, by demolishing CALHOUN and his nullification in 1833. I am now as I was then, though I did not vote for Mr. LINCOLN—for sustaining the President by all the means in our power, and through him, our transcendantly wise and beneficent Government.

July, 1863.

[Letter to the Ironton (O.) Register.]

HON. REVERDY JOHNSON'S LETTER TO THE NEW YORK COMMITTEE—POLITICAL ARRESTS—THE FREEDOM OF SPEECH AND THE PRESS.

I find going the rounds of some of the copperhead journals the following, with other extracts from the letter of REVERDY JOHNSON, of Baltimore, to a committee in New York City, dated July 2d, 1863—the time when it was expected by the enemy that General

LEE was to take Baltimore, Washington, and Philadelphia; Governor SEYMOUR, FERNANDO WOOD and Company, the city of New York; and JOHN MORGAN and Company, the rest of the United States; viz:

"Our rulers should consider another subject. The public sentiment respecting it is too strongly exhibited to be mistaken, *To defy it will be madness.* Arrests on mere suspicion in the loyal States, where the course of justice is unimpeached, must cease. Their very safety and the success of our arms demand this. And arrests for alleged specific causes, of civilians not under military rule, must be disposed of as provided by the legislation of the last Congress. Whatever differences of opinion as to the extent of the executive power of the President, no one can doubt that it is within the scope of the authority of the legislative department of the Government to pass the laws referred to. It is, of course, the duty of the President to obey them. To disregard them himself, or to permit his subordinates to do so, (as has been done,) is a clear violation of that duty. Even if the power of Congress was questionable, a decent respect, for Congress, and for public opinion, requires that this conduct should not be repeated. Freedom of speech, and of the press, too, must not be abridged. *This is provided for by an express constitutional provision, which it is an impeachable offense to disregard.*"

I have not seen the entire letter; but, in view of this and other extracts that I have read, decrying the character of certain officers in the army, and imputing to Mr. LINCOLN partisan motives for appointing and employing them, to the exclusion of others of different political views; and also the *time*, the *occasion*, and the characters of the persons to whom the letter was addressed, and the facts that have since transpired in the city of New York—no *loyal* man can hesitate where to place REVERDY JOHNSON. His high reputation as a lawyer, his former employment by, and confidential relations with the Administration, made his opinion of great value to his copperhead friends in New York, *at that time.* No one can doubt he had his part assigned in the great tragedy to be enacted about that time, any more than that LEE, MORGAN, SEYMOUR, WOOD, ANDREWS, VALLANDIGHAM and JEFF. DAVIS had theirs. The signal failure has probably admonished him to wrap close about him his *loyal* guise, hoping to escape detection, and perhaps enjoy again the confidence and patronage of the Administration. This facility of change is among the chief merits of the "Knights." Such men differ from

DAVIS and LEE, as the spy differs from the armed enemy. The sentiment of the civilized world treats one as a prisoner of war when captured, while it hangs the other as a felon.

Mr. JOHNSON'S charge against Mr. LINCOLN is a grave one. Whether true or false, it is our highest interest to know.

I will endeavor to demonstrate that Mr. LINCOLN has full warrant *in*, without going *outside*, the Constitution for every thing he has done, as well in his civil capacity, as President, as in his military, as Commander-in-Chief of the Army and Navy of the United States. These are distinct capacities—as distinct as though the powers pertaining to each were vested in separate individuals; as for instance in A. B., who acts as President, and discharges the civil duties—approving or vetoing the action of the two houses of Congress; and as sole executive of the civil side of our Government, discharges all the duties appertaining to that side; and in C. D., as Commander-in-Chief of the Army and Navy of the United States, who administers and directs the military side of our Government, which must of *necessity* be administered according to the laws of war, which are not *municipal*, but public, or international; for parties at war are always *alien* to each other, in respect to the war at least, be these parties at the commencement distinct and independent Governments, or part of one and the same Government, as is the case in our present war. In case the belligerents are separate and independent Governments, neither has the right to require of the other that the war shall be conducted in conformity to the municipal law of either, but only in conformity to international law, the public law by which all civilized warfare is conducted. Nor have the Rebels any more right to require the Federal Government to conduct the present war with any regard to its municipal law, but only in conformity to the public law of war—for by their Rebellion they have abjured the government, and become completely alien, so far as the war is concerned; so in effect has every person who has so far connected himself with the open Rebels, or their cause, as to become what the Constitution and public law of war regard *a public enemy*. Our own Constitution and international law make "the levying of war, or adhering to the enemy, giving him aid and comfort," the "overt acts" which constitute a public enemy. Neither say anything about where the persons shall reside, whether within the lines of one or the other of the belligerents. Are they *public enemies*, within the definition before stated, is the question to be ascertained. And if they are such, and not belonging to the

organized army, they become liable to be arrested by the civil or military power of the Government they are hostile to—according to the necessities and exigencies of which, the assailed Government is the judge, to be guided by public law; and if it violates this law, in its decision, the injured party must seek redress through the Government he *then adheres to*, regardless of former relations.

Have Mr. VALLANDIGHAM and his confederates, by speech, writing or other action, become, in the sense of the above definition, adherents to the rebel side, "giving them aid and comfort?" If they have not, then they are in the right, as neither the Constitution nor public law interfere with a person for opinion's sake, unless such opinion be expressed by word or action. Mr. JOHNSON, their apologist and defender, contends that the Constitution expressly guarantees the freedom of speech and of the press to *all* living within its limit, regardless of the fact, whether such speech or writing be friendly or inimical, or the authors adherents to the Government, or the enemy. This construction would allow the enemy to send and quarter in our midst as many of its emissaries and adherents as it might choose, to slander and traduce the Government, its officers, and cause, through newspapers and upon the stump, without restraint and with entire impunity. This is too absurd to be believed for a moment by any sane man; much less by so eminent a lawyer as Mr. JOHNSON. He knows full well that it has uniformly been held by the Courts of our own and all civilized nations, that mental adherence to a power at war with our Government, and publicly advocating by speaking or writing under any guise or form, the enemy's cause, constitutes such person our public enemy, and gives to our authorities the unquestionable right to treat him as such, without regard to his antecedent relations, or present place of residence.

Now, why has not the war power of our Government as much right to crush this public enemy, operating in our very midst, as one operating beyond our lines? Is a former member of my household, that has turned assassin, and, seeking my life, conceals himself in my bed-chamber, the better to effect his purpose, to be preferred to the bold highwayman, against whom are my strongly bolted doors, and a watchful patrol? And what right have these self-constituted public enemies in our midst to complain of the effectual action of the military power upon them, and to claim a slow, and as they know, ineffectual trial by our civil courts, when their plottings and machinations

demand as prompt and summary suppression, as other spies, found within our lines? It is preposterous.

But the same eminent jurist contends that it would be "madness" for the military power of the Government to arrest, in the loyal States, upon mere suspicion, when the civil courts are open, and that such "*must cease!*" and that arrests for alleged specific causes, of civilians *not under military rule*, (by which he must mean not in the regular service,) must be disposed of as provided by the legislation of the last Congress, "which it is the duty of the President to obey." It is the duty of the President, as the *civil* executive head of the Government, to see such laws of Congress as are Constitutional, faithfully executed, and to obey them himself. But I deny that any such legislation unless the established "Articles of War," is *absolutely* binding upon him when acting in his *military* capacity as Commander-in-Chief of the Army and Navy, in the midst of the present civil war. It would be utterly impracticable for Congress, which meets but once a year, to foresee and provide for the great and sudden changes that are daily occurring in such a war. The Commander-in-Chief will of course be guided by any legislation of Congress, in the conduct of the war, *as far as practicable;* but by following it *strictly*, regardless of the events daily occurring, would most likely result in defeat, the overthrow of the Government, and violation of his solemn oath—which is "to the best of his ability to *preserve, protect* and *defend* the Constitution of the United States"—and not that he shall do this *according to the laws which Congress may see fit to pass;* but absolutely according to the best of his ability, which indeed makes him, as the head of the military power, absolute, subject only to the "Articles of War," so far as the *conduct* of the war is concerned, though there are many limitations in other respects. The framers meant, doubtless, to apply this portion of the oath to him as Commander-inChief of the Army and Navy, and the portion preceding, viz: "I do solemnly swear (or affirm) to faithfully execute the office of *President*, of the United States," was meant to apply to his civil duties, in the discharge of which, I admit he is bound to conform to the legislation of Congress, when Constitutional. The provision that constitutes him the military head of the Nation is this: "The President shall be the Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States." There is this further clause, also: "The President shall take care that the laws

are faithfully executed;" which means constitutional laws of Congress throughout the entire nation, including the portion in rebellion; thus showing more clearly the high and important duties imposed on him—and not *unconstitutional* laws which cripple, if not destroy, his military power, which is essential for discharging these high duties, by removing all obstructions to the due execution of the civil law. There is this further provision in article 1: "The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it." Of course the framers intended to confide the decision of the question—"when the public safety may require its suspension," and the power of suspending the writ, to the President, acting *as Commander-in Chief, as necessarily incident* to that office. The high and *constant* duty the Constitution devolves on the President, as Commander-in-Chief, to uphold the Constitution and laws during the *recess* of Congress, no less than when that body is in session, *necessitates* that *he* should possess these powers, and if the framers had meant to confer the exclusive power of deciding and suspending this writ on Congress, they would have said so.

These are the high and essential powers the framers meant to confer on the President, when acting in his capacity of Commander-in-Chief of the military power of the nation, and the forces necessary to execute them. Nor have they failed to provide for supplying all other necessary means. Article 1, Section 8, Clause 18, provides that: "Congress *shall* make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any *Department or Officer* thereof." This *obliges* Congress to sustain, by necessary and proper legislation, the President in the discharge of his high duties as Commander-in-Chief.

A careful survey of the foregoing provisions cannot fail to vindicate the wise framers against the supreme folly imputed to them by rebel sympathizers, that these framers, after having spent their whole lives amidst foreign and domestic wars, and learned from experience the vicissitudes of Governments, they should have erected one without lodging somewhere the power necessary for self preservation and defence, both in time of peace, and war, whether foreign or domestic. Every day's experience proves the body politic they framed and bequeathed to us possesses self-adjusting powers, which flow to the military head in exact proportion to the eminency of the danger,

making that head, if the other Departments do their duty, equal to all emergencies, and more omnipotent in self-defence, self-preservation, and public good, than any monarch of Europe; while the moment he attempts to use the power for evil, he is made to become, involuntarily, as weak and harmless as a child. As the storms rise and press, he rises in power, until he becomes another "flaming sword, turning every way to guard this new tree of life;" but as they subside, he must also. How different it would be if obliged, as Mr. JOHNSON thinks he is, to go before Congress once a year and get a copy of its laws to govern his military operations during the ensuing year!

I hope I have succeeded in demonstrating that MR. LINCOLN has warrant *within* the Constitution for all he has done, without resorting to powers resulting *ex necessitate rei*, from the necessity of the case, outside of the instrument; that our wise Fathers foresaw the evils that must befall us in common with other nations, and amply provided for every emergency; that the President, in his military capacity as Commander-in-Chief, is clothed with the amplest powers for successfully conducting foreign wars, and suppressing rebellion and insurrection at home; that whoever, within the limits of the Republic, becomes in the sense of international law and the Constitution a public enemy, that moment forfeits all part and lot in the Government he has turned traitor to, and to its protection, and is liable to be seized by the iron hand of military power, and dealt with accordingly; that he is liable to be arrested anywhere in the country on just suspicion, and his guilt established or disproved before a court martial, or in the civil courts, as the military power, in view of the public exigency, shall determine. Mr. JOHNSON doubtless bases his conclusion that freedom of speech and of the press cannot be Constitutionally abridged, either by the civil or military power of the Government, on this clause in Article 1, (of the amendments) viz: "Congress shall make no law abridging the freedom of speech or of the press." This cannot by any possibility be construed to deny the military head the right of abridging or suppressing both, in time of civil war, if the public safety requires it—and his conclusion that military arrests "on mere suspicion in the loyal States where the course of justice is unimpeached must cease," and that arrests for alleged specific causes (meaning acts of disloyalty of course) of civilians not under military rule must be disposed of agreeably to the legislation of Congress, upon this clause of the Fifth Article, (amendment three,) viz: "No

person shall be held to answer for a capital or otherwise infamous crime, unless on presentation or indictment of a grand jury, except in cases occurring in the land and naval forces, or in the militia when in actual service in time of war or public danger."

It is clear the framers meant this provision should apply to the civil and not to the military proceedings of the Government. And the inference that might at first sight seem to arise—that the provision extends to *all* who are not embraced in the exception—is controlled in this case by the *unqualified* right given to the war power by the clause before quoted to suspend the writ of *Habeas Corpus*, (*which is the only process known to the law whereby the civil can take out of the hands of the military power any person arrested*,) whenever "in case of rebellion or insurrection the public safety may require it." The war power, then, clearly has the right, on the before named exigency occurring, *to withdraw the privilege of this writ from all the people*—whether in or out of the military service, or from any portion of them as the public safety in its judgment may require. This in effect substitutes martial law for the civil; and it is not to be presumed that the framers meant to give an absolute civil right without a corresponding civil remedy. Beside, the inherent necessities of domestic war, like the present rebellion, require it. Traitors are everywhere, in the Slave and Free States, co-operating in all forms to effect a common end, the overthrow of the Government—some in organized armies, others in giving aid and comfort by fermenting mobs, as recently in New York city, others in secretly furnishing provisions and munitions; others, information; others, like VALLANDIGHAM, SEYMOUR, WOOD and their like, too numerous to mention, are laboring with equal zeal by speaking and writing, and the use of every secret machination and appliance that treason can invent, including the order of the "Knights of the Golden Circle," in order to detach the loyal army and people from and turn them against the Government, and thereby help to accomplish its overthrow. And still Mr. JOHNSON would have Mr. LINCOLN, the head of the military power, and bound by his oath before God, to the best of his ability, to defend and uphold the Government, not by any line of conduct Congress shall prescribe, but as his own judgment and oath bound conscience shall direct—commit all these confederate traitors in the States that have not passed the secession ordinance to the slow, feeble and uncertain action of the Civil Courts! The same men who claim this to be Mr. LINCOLN's duty, claim that all the Courts in the

country, State and Federal, have the right to hear and discharge on writ of habeas corpus every soldier in the army! Concede this, and who doubts but that Judge PADDOCK and his like would fill the air with their writs of habeas corpus, the army become paralyzed, and the soldiers when wanted to fight the enemy, would be—where? Why, "attending court!" Such may find adherents among copperheads and a slave besotted people, but none I trust among live and unconditional loyal men, anywhere. The other clause in the Fifth Article "nor be deprived of life, liberty or property without due process of law"—Courts martial have their "due process of law" no less than civil courts; and the clause applies equally to both. The Sixth Article (amendment) applies in times of peace, and can have no application to limit the military power in a time of rebellion like the present, which seeks the overthrow of the Government. No, the errors of the Administration, if errors there are, consist in excess of leniency, not severity—in not coming up to the line of Constitutional right and duty, not in going beyond it. And if other copperhead leaders had been seasonably arrested and dealt with, even with no more severity than VALLANDIGHAM, the New York riots would not have taken place. G. PARKER.

PROCTORSVILLE, September 19, 1863.

THE editor of the *Register* made the following remarks in noticing the above letter:

"A CONSTITUTIONAL ARGUMENT.

"Especial attention is called to the article on our first page, from the pen of Mr. G. PARKER, of Proctorsville, relative to arbitrary arrests, and the powers of the President in times of civil war. Certain disappointed, self-vaunted Constitutional lawyers hereabouts have been doing their utmost to mislead the people in relation to these matters; and we are happy to be able to have them set forth so correctly and ably, by a man fresh from among themselves, who has no animosities towards the Government on account of political disappointments and jealousies. We can add nothing to the argument of Mr. PARKER, but advise all our readers to give it an attentive perusal."

[Letter to the Ironton (O.) Register, October 8, 1863.]

THE LOYAL PEOPLE OF WEST VIRGINIA TO THEIR FRIENDS IN OHIO.

FRIENDS AND FELLOW CITIZENS: The importance we attach to your approaching election, and the vast influence its results will be likely to exert upon yourselves and us, the country, and through that, upon civil and religious liberty throughout the world, is our reason for asking your attention at this time.

You, being of the elder and stronger offspring of a common mother, whose past glory is equaled, in degree, only by her present self-abasement, while we approach with respect, it is with the confidence and lively interest a common origin and common destiny naturally inspire.

We are in the midst of the greatest rebellion the world has ever witnessed. The loyalty of West Virginia, you all know, has already passed through terrible ordeals, and expects and is prepared to pass through more. Meanwhile, true loyalty in Ohio has watched and guided our infant steps with more than a sister's care and sympathy; and seconded by that of the country, who have regarded our efforts, though comparatively small, as the first signs of recuperative loyalty and life in a rebellious and paralyzed member; and by the world, as the re-illumination of liberty's last hope on earth—that the young Republican Nation was to *purge* itself, and not prematurely die.

It has become your turn now to pass through a somewhat similar ordeal, but with results vastly more important, as it is to solve, in no small degree, *man's capacity for self-government!* We have gained experience which you lack. We have wrestled with the archfiend in his own den, where he has unmasked and appeared *himself*. You, as yet, have seen him comparatively but in blandishments and smiles. He now appears before *you* in the guise and dress of Democracy, whose name and principles, he well knows, a JACKSON, DOUGLAS, and other apostles of liberty, have enshrined in our hearts; and promises conciliation and peace with the very enemy for whom the great JACKSON prescribed powder, lead and hemp, as the only effectual remedy. He at first appeared before us in the form and dress of "States Rights," "State Pride," and promised us a most glorious and happy future, if we would follow him. Behold how many were seduced, be-

trayed, and ruined! The wail of his victims, famishing and repentant, already come to us from every part of his ruined abodes. Behold his ragged, lousy and God-forsaken soldiers, as they come, as prisoners or deserters, within our lines, and listen to the story of their sufferings. Listen, we beseech you, to the letters, the entreaties, of your own sons and brothers, as they daily come to you from the glorious band of heroes who are bearding the monster in his den. Do they not, to a man, tell you that the issue is *unalterably* made up between them and the arch-enemy, and that it is, "to conquer, or be conquered;" and which they accept; and if the friends at home but stand firm, united and true, the victory is certain. And do they not tell you that conciliation and compromise are entirely out of the question. Will you disregard *their* voice, who are "bone of your bone," and who are daily "baring their bosoms to the storm," and "pouring out their generous blood like water," and follow VALLANDIGHAM & Co., whose acts and confessions, and the admission of every rebel journal, have shown to the satisfaction of all minds, that they are but confederate co-workers with the archfiend himself, whose only remaining hope is to *divide* the people of the Free States? Every just sentiment of our nature, the spirits of the great Founders of the Republic, the spirits of the recent heroic dead, oppressed humanity everywhere, and God himself—all watching our every thought and action in this great crisis—forbid it!

Behold the vaunting enemy, that in the beginning claimed that *one* of his "chivalry" could whip *five* of the "mud-sills" in equal combat—instead of invading the Free States, daily contracting his lines at home before our victorious armies, and seeking to accomplish his hellish purpose through confederate co-workers in the Free States! Behold the enemy, that at first vaunted his superior humanity, now plundering unarmed citizens of everything, even to dirty shirts and baby clothes, to relieve his destitute and famishing followers and their children! Behold him who in the commencement claimed, through "King Cotton, to have the nations of Europe paying him homage"—now a cringing supplicant at every despot's feet, offering to give up his kingdom and ruined people for—a bare recognition!

Remember, moreover, we beseech you, that the land we have been accustomed, derisively, to call "sacred," has now become so *indeed*, by the graves of those we loved. And shall the soil which holds their cherished forms, and has become fattened with their precious blood, pass forever to the desolating rule of this arch-enemy, who will dese-

crate their graves, and mock and jeer, as has been his savage custom, over their sacred relics! God, nature, and country—forbid it!

But now the charms and exciting novelty of the war have passed, there are those who incline to listen to the copperhead's pleasing song of Democracy and promises of peace! Did not the same arch-enemy make the like pleasing promises to our first parents in the garden?—to our Saviour on the mount?—to his present victims, whose wails already fill our land? But how do they propose to accomplish this purpose? Why, by withdrawing and disbanding our armies; and then, they say, JEFF. DAVIS & Co. will at once lay down their arms, and come back into the Union, prepared to behave themselves! What folly! As well might the crew of a boat, when nearing the suction of Niagara Falls, expect deliverance by laying down their oars and folding their arms!

The proud State of Ohio, hitherto so peerless among a glorious sisterhood—voting for a convicted and banished traitor for her Governor! This State, that has one hundred and fifteen thousand of her noble sons in the loyal army, who, to a man, will vote against the traitor, and who are warning and entreating their fathers and brothers at home to shun him as their deadliest enemy; and still, it is believed, some of these fathers and brothers will vote for VALLANDIGHAM! What inconsistency! A father sending his son to meet and fight a *professed* enemy, and then himself opening fire on that son from the rear! Posterity will never credit, but will believe, as we and all truly loyal men must now, that such a father loved his country's enemy far more than his own *loyal* son! That Heaven may avert so sad a spectacle is our fervent prayer; and that every Ohioan may stand up, in this great crisis, to duty, to his country, humanity, and God—and if there shall be others, then—

"Who would be a traitor knave?
Who would fill a coward's grave?
Who so base as be a slave?
Let HIM TURN AND FLEE!"

WEST VIRGINIA.

THE election in Ohio took place the 13th of October. The Waterloo defeat of VALLANDIGHAM and his party, throughout the State, is known. VALLANDIGHAM was defeated by over 100,000 majority,

when the year preceding, the Democrats carried the State. The vote of Lawrence county was 3,095 for BROUGH, and 863 for VALLANDIGHAM. Included, was the vote of the soldiers from Lawrence county, members of various regiments stationed at different points. Their vote was 827 for BROUGH, and 7 for VALLANDIGHAM. The vote in Union township was 238 for BROUGH, and NONE for VALLANDIGHAM. No other township having done as well, she was regarded as the *banner* township of the State, and on the —— day of November following was presented with a beautiful Flag, bearing this motto: "All hail the township where treason finds no resting place."

A Commission, comprised of gentlemen of Ironton, viz: Dr. B. F. COREY, JOHN CAMPBELL, H. S. NEAL, Adjutant GILLEN, S. G. JOHNSTON, C. T. MCKNIGHT, and J. VEASEY, met the Trustees, a Committee with CHARLES WILGUS, Esq., as its Chairman, and the citizens of the township and surrounding country assembled, and organized with Col. A. C. KOUNS in the Chair; and their Chairman, Dr. COREY, presented the Flag, with an eloquent and complimentary speech—to which, by kind invitation of the Trustees and Committee, I had the honor to submit the following remarks in reply:

MR. CHAIRMAN, AND GENTLEMEN: In behalf of the Trustees, Committee and citizens of Union Township, I tender to you, and through you, to the donors generally, our profound thanks for the gift—this beautiful Emblem of our Country. It is not the elegant and costly material of which it is composed, nor the delicate taste and skill displayed in the workmanship—both indeed admirable—but the high merit you have been pleased to ascribe to us in the motto: "All hail the Township where Treason finds no resting place," that awakens in us feelings of gratitude and honest pride. To have performed a work, at once so consonant with our own feelings and sense of duty, and so approved by a people as patriotic and appreciative as the citizens of Ironton—is gratifying indeed. Nor is this the first evidence of the kind regards of your People. For the last two years, ever since the war began, their strong arms, together with those of brave and patriotic men from adjoining townships—have been seasonably and repeatedly extended, to shield us from every threatened danger. For this too, we would tender to you and to them all, our grateful acknowledgments.

We cannot think it is any peculiar merit of our own that elicits the present gift. True, we were fully aroused to the transcendant importance of the *issue* in the recent *election*, and that the eyes of the world were upon the People of Ohio—still we feel we only did our duty, and that our fellow citizens elsewhere, would have done as well, had they been situated, and witnessed what we have. In common with many others, we live upon a border that becomes a line of blood, if the Rebellion should succeed; and in addition to this circumstance—we have had experiences which others have not. We were aroused on that quiet Sunday evening (November 10, 1861) by the murderous yells of CLARKSON'S and JENKIN'S Raiders, by the shrieks of butchered Loyalists, and the din of battle. We witnessed the retaliatory burning the next day. A year ago we confronted for six weeks the left wing of the rebel LORING'S army, stretching through Guyandotte, to the mouth of Sandy; and for one week of the time, guarded 12,000 bushels of oats which the Government wished kept safely, and so moored at our bank at Proctorsville; and during the six weeks there was only a foot of water on the bar or ford of the river, that separated us from the enemy, then in great need of oats, as well as other things, we had in abundance, on our side of the river. To have thus seen and felt what *we* have of the Rebellion, and not to have voted to a man against VALLANDIGHAM, would have been extraordinary indeed!

Yes—it was our proximity to, and practical knowledge of the monster, that made our vote *unanimous* against one of his sneaking and whining whelps!

You gentlemen, by presenting this token to us, attest your high regard for unwavering fidelity, *everywhere, and under all circumstances*—to Duty, to Country, and Truth! And in this sentiment the People of Union Township, join you with one accord.

Gentlemen, I need not remind *you* that our People have been equally responsive to Duty, in promptly furnishing her quotas of Soldiers to the Army. Her chosen sons have mingled with nearly every corps of the loyal army since the war commenced; and have participated with untarnished honor, and signal courage, "in many a well fought field;" and some, alas! have attested their devotion to *this* sacred Emblem, by yielding up their lives. These, gentlemen, with the ever cherished and honored memories of her heroic dead, will constitute her jewels!

We observe with peculiar pleasure, that you have given to West Virginia, the youngest born, "the child of the storm," which the enemy disowns—her star in the Nation's Galaxy. Its brightness—may she never lesson, but continue to add to it, new lustre.

Assuring you, gentlemen, that we fully appreciate the value and sacredness of the trust committed to our charge—we will guard and preserve it unsullied, and transmit it, together with its history and a similar injunction—to our children.

SEVERAL gentlemen, among them Major DAVIDSON, of Burlington, who was at home on furlough, Hon. H. S. NEAL, and Rev. Mr. DILLON—contributed much to edify, encourage and amuse the assembly; while the bountiful tables prepared by the daughters of the Banner Township were, in all respects, in keeping with the valor and patriotism of her sons.

THE progress made by our army, under Generals GRANT, SHERMAN, and SHERIDAN, towards crushing the Rebellion, destroyed the last hope of the Rebels, unless they could *divide* the loyal people at the approaching Presidential election, and thereby get control of the loyal government. In concert with their friends in France, England, Canada, and in the loyal States, they arranged for the Chicago Convention, (to be held on the 4th of July, but subsequently postponed to the 29th of August, in order to avail themselves of intervening events,) formed the platform it adopted, and fixed on the candidates for President and Vice President that it nominated.

It was, indeed, an alarming crisis. The Rebel leaders, through their sympathizing friends, headed by VALLANDIGHAM, strained every nerve, and employed every means that desperation and the worst passions of our nature could suggest; while their armies appeared to be holding ours, at a "deadlock."

The first marked defection to the proceedings of the Baltimore Union Convention, its re-nomination of Mr. LINCOLN and his policy, appeared among prominent political leaders of our party. Secretaries SEWARD and CHASE, Senator WADE, HORACE GREELEY, HENRY WINTER DAVIS, JOHN C. FREMONT, and some others, who I think, had been equally *original* Abolitionists. The cause assigned, and

doings of each, are matters of history. The popular strength of Mr. LINCOLN, shown by the State elections that occurred soon after, and the success of our arms, wheeled them back into line, before the day of election came, the 8th of November; and in season, fortunately, for them to give the Union ticket their aid and influence. It signally showed however, the *littleness of individuals*, of whatever antecedents, when opposing the popular current in a crisis like that, under our Institutions. Fidelity to truth, requires me to say, that in my judgment, the conduct of the war theretofore, furnished much to justify defection in the most patriotic minds. And still, Mr. LINCOLN'S entire honesty, which none disputed, his sympathetic nature, earnestness, and simplicity of manners, had endeared him to the people, as no other. His seeming mistakes and short comings, had but allied him the closer, making sure that he was *one of them*, and the fittest person to be the leader in such a storm. The simple anecdote he told of the Irishman's advice "not to swap horses while crossing the river," went home to the popular heart.

As touching the Chicago Convention, its platform and candidates, I published the following remarks in the Wheeling *Intelligencer:*

[Letter to the Intelligencer, September 6, 1864.]

THE CHICAGO PLATFORM OF 1864—WHAT IT IS.

We have read it carefully, and taken in connection with the known characters and sentiments of its makers and their cotemporaneous acts—all being legitimate aids to a true interpretation—it is nothing more nor less than the Rebel heresy, a *Constitutional right of Secession.*

Resolution First expresses an "unswerving adherence to the Union as a framework of government equally conducive to the welfare and prosperity of all the States, Northern and Southern." Now this we agree to, provided it be such a Union as our Fathers intended, viz: A Union of *all* the people of the United States in *one* Government to the extent of the powers granted by the National Constitution to our National Government; and not a mere confederation or compact between the several States as independent sovereign powers. Now

it is this latter Union that is contemplated in this resolution, as is manifest from what follows.

Resolution Second declares that it is not only the sense of the Convention, but the sense of the American People, (a pretty bold assumption,) that by the war so far, "the Constitution itself has been disregarded in *every part*, and that immediate efforts should be made for a CESSATION OF HOSTILITIES, with a view to an *ultimate* Convention of all the States—(not the *people* of "the States") "or other peaceable means to the end that at the earliest practicable moment Peace may be restored on the basis of the *Federal* Union of these States. Now if they had said on the basis of a new Federal or Confederate Union of the States they would have expressed their exact meaning and wish, viz :—that our armies should at once be withdrawn, which would be a virtual acknowledgment of the "Southern Confederacy" by our Government, to be immediately followed by acknowledgment by other powers, and then the offer on our part of such terms as should induce the "seceded" States to enter into a Treaty or League similar to the Articles of Confederation. But let us examine further:

In Resolution Third they declare the direct interference of the military authorities of the United States in the elections held in Maryland, Kentucky, Missouri and Delaware shameful violations of the Constitution, and that a repetition will be resisted by force. Now it is well known that the only interference of the military in elections held in these States has been at the express request of loyal voters and the Executives of these States to protect them from the violence of open and armed rebels. And this they pronounce to be such a shameful violation of the Constitution "as will justify resistance by all the means and power under their control."

In Resolution Fourth they expressly declare the aim and object of their party to be "to preserve the *Federal Union* and the *Rights of the States unimpaired*"—that is the Rights of the sovereign and independent States united only by a league or confederation from which each will have the right to secede at pleasure; and with that view they proceed to declare the acts of the administration "usurpations of extraordinary and dangerous powers not granted by the Constitution." And instance the exercise of military power within the limits of States not in insurrection by arresting, trying, sentencing and imprisoning American citizens in States where civil law exists in

full force; the suppression of freedom of speech and the press; the denial of an asylum; *the open, avowed disregard of State Rights*, and denial of the right of the people to bear arms. These they regard as "calculated to prevent a restoration of the Union and the perpetuation of the Government, deriving its powers from the consent of the governed." This of course refers to the arrest of VALLANDIGHAM and other Knights of the Golden Circle, American Knights, and Sons of Liberty, who reside and work for the "Southern Confederacy" in the loyal States, because they can effect more here than elsewhere, and at the same time keep out of the reach of Federal bullets, and, as they contend they have the right, without interference or molestation from the general Government.

But it cannot be supposed for a moment that men of their intelligence would deny the same power in the Government to stop JEFF. DAVIS' co-workers and confederates while working in Ohio or Indiana, as it has those working in Virginia or Georgia. The only difference is, the former are far more dangerous to the Government, for they act secretly and under disguise. It can therefore be reconciled only with their theory that the States are sovereign and independent, and the armies of the National Government have no authority in any case to invade the soil of a sovereign State, and in this view they are probably right in saying that the interference of the Government in arresting the Knights and seizing their arms and ammunition has delayed and helped to prevent the Government of Washington being converted into a mere confederation of thirty-five independent States, all at war with each other.

In Resolution Fifth, they denounce the Administration for disregarding our soldiers now languishing in rebel prisons. While we believe the loyal people generally think the Administration has not done all it might to relieve these sufferers, we cannot but observe with what ill grace the complaint comes from these men to Mr. LINCOLN'S Administration. He can do nothing but retaliate upon the rebel prisoners in our hands, and this the Knights most vehemently condemn. They even go so far as to admit these rebel prisoners into their Orders of Knighthood, 400 from one prison. Certainly, the Knights would not suffer any retaliation to be practiced on them. The members of that Convention would have attested their sincerity far better if they had addressed their complaints to their confederates at Richmond, who alone have the power to give immediate and direct relief.

In the Sixth and last Resolution, they profess to extend their sympathy and regards to our soldiers in the field, assuring them that if their party can only get the control of the government, they shall be very kindly treated. Their chance of getting this control is too remote to influence any one; and their past conduct toward these soldiers who have *volunteered* to fight, suffer, and die in aid of what the Convention is pleased to call "an administrative usurpation of extraordinary and dangerous powers, not granted by the Constitution," will not be likely to be soon forgotten. General McClellan volunteered for and fought for the same alleged usurpation.

Mr. Long—of unenviable notoriety—thinking doubtless, the cat to be too much concealed by meal, moved to amend the first resolution by adding the famous "Resolutions of '98," which is the universally acknowledged foundation and authority upon, and out of which Calhoun and his followers constructed their entire secession doctrine. Mr. Long desired to give the text as well as the commentary. Mr. Cox seeing that this would wipe off the meal which they had worked ingeniously to put upon the cat, applied the gag by moving the previous question.

More daring and impious than all was the resolution offered by Mr. Lawrence, of Rhode Island, to the memory of the lamented Douglas, stating that their devotion to his memory was the cause of the Convention being held in Chicago. And that the belief that had he survived he would long since have restored the power of the "Federal Compact." He certainly could not have forgotten that Mr. Douglas always regarded our present as a Federal or *National Government* and always spoke of and treated it as such. The term "Federal Compact" belongs exclusively to the Calhoun and Jeff. Davis school. If the great statesman and patriot whose last words (after the firing upon Sumter) were, "There can be but two parties, open friends to the Government and traitors," had been living, does any one believe such a Convention would have been held in Chicago? Now artfully disguised treason concocts its schemes with impunity in sight of his grave! And if further or higher evidence were wanting of Mr. Lincoln's too great leniency and moderation in the exercise of the powers confided to him, the holding of such a Convention unmolested, certainly supplies it. And if George B. McClellan, of whom we once had a very good opinion, covets the fate of Benedict Arnold, he will secure it by accepting the nomination. Neither the prestige of his name nor that of the Democratic party

can rescue from obloquy and execration a political heresy that has had so much to do in inaugurating and continuing the present rebellion. It will sink them and whatever else touches it, to the bottom of its own loathsome pit.

LOYAL STATE OF WEST VIRGINIA,

Which has the singular honor and gratification of having been ignored by this Convention.

P. S.—We see the New York *Herald* and its like are laboring to fix the impression that VALLANDIGHAM, the WOODS, and other *known* Knights had no influence in framing the platform. It is such an one as JEFF. DAVIS will accept without the dot of an i or crossing a t—then why not suit his employees? It concedes the right of secession, which is all DAVIS ever asked. By cessation of hostilities we yield all. They mean an unconditional surrender on our part—nothing less, and a change of our National Government to a mere confederation of sovereign, independent States, with a right in each to secede at pleasure. It was upon this theory the Convention ignored the State of West Virginia, to wit: Because the ordinance of secession passed at Richmond legally transferred in their view the entire State from the National Union to the Southern Confederacy; and to have erected a new State we should have got the consent of the Legislature and Congress sitting at Richmond. They ignored or rejected the delegates from Louisiana and other States where secession ordinances had been passed solely on the ground that they regarded these ordinances as legal and valid. The theory and purpose we have ascribed to them, reconcile all their acts and doings, and wipe the meal from their cat. No other will.

[Letter to the Intelligencer, September 9, 1864.]

THE CHICAGO PLATFORM OF 1864—FURTHER EVIDENCE THAT THE PLATFORM MEANS JUST WHAT WE STATED IN OUR FORMER COMMUNICATION, A RIGHT IN THE STATES TO SECEDE AT PLEASURE—WITH GEN. JACKSON'S VIEWS UPON THE SUBJECT.

No one who has read the proceedings of this Convention can doubt but that VALLANDIGHAM was its master spirit, though studiously kept out of sight, around and to whom all revolved and conformed their views. He stated before going into the Convention he would have a peace or unconditional surrender platform, or he would have none. He was first as the leading man on the committee to frame it. A disagreement was expected by the public, and no one attributes the want of disagreement to any surrender or yielding of VALLANDIGHAM or his known satellites. It may be affirmed then, that the platform is meant to conform to his views, whatever may be its outward guise, else would he have acquiesced in silence? Nay, more, would he have given it his express sanction by moving that the nomination of MCCLELLAN be declared unanimous? None can doubt on this point. Now what are his views on the great political heresy of Secession, that has caused already so great a sacrifice of blood and treasure?

In his speech in Congress February 20, 1861, he said: "It is vain to tell me States *cannot secede*—seven States *have seceded*. In three months their agents and commissioners will return from Europe with the recognition of Great Britain and France, and of the other powers of the Continent."—*Record, page* 76.

Again—"Secession has been tried, and has proved a speedy and terrible success. The practicability of doing it and the way to do it have been established."—*Record, page* 87.

Again—"If any one or more of the States of this Union should secede *for reason of the sufficiency of which* before God and the great tribunal of history *they alone may judge*—much as I should deplore it—I never would, as a Representative in the Congress of the United States, vote one dollar of money whereby one drop of American blood should be shed in civil war."—*Record, page* 91.

Again—"There is not a man in the House fit to be a Representative here who does not know that the South cannot be forced to yield obedience to your laws and authority again."

Again—"Accordingly I have not voted for any army or navy bill, nor any army or navy appropriation bill, since the meeting of Congress on the 4th of July, 1861."—*Record, page* 147.

Again—"Stop fighting, make an armistice—*no formal treaty*—withdraw your armies from the *seceded* States, recall your fleets, break up your blockades."—*Record, page* 200.

And what then, but to abandon the Union altogether, or reunite on such terms as JEFF. DAVIS & Co. should be pleased to propose?

These were VALLANDIGHAM'S views in 1861, and we know they are the same now. He has preserved his consistency, and has embodied the same views in the Chicago platform. HORATIO SEYMOUR, and the WOODS, who raised the mobs in New York just at the fearful crisis of Gettysburg; and MARSHAL KANE, who headed the mob that made the first resistance on behalf of JEFF. DAVIS and the independent sovereignty of States, to the Federal army in the streets of Baltimore, were the next prominent members in this Convention; and they also continue unchanged in their views.

Compare the views of this Convention, which professes to represent the Demoeratic party, with the views of General JACKSON, the *founder* of that party, expressed in his memorable proclamation issued against CALHOUN and nullification in 1832, and none can doubt but that the members of the Convention have "stolen the livery of Heaven to serve the Devil under." "I consider," says the old hero and patriot, "a power to annul a law of the United States, assumed by one State to be incompatible with the existence of the Union, contradicted expressly by the letter of the Constitution, unauthorized by its spirit, inconsistent with every principle on which it is founded, and destructive of the first object for which it was formed."

Again—"To say that any State may at pleasure *secede* from the Union is to say that the United States is not a Nation; because it would be a solecism to contend that any part of a Nation might dissolve its connection with the other parts to their injury and ruin, without committing an offense."

In speaking of the right and duty of the other States to use *force*

to crush every attempt at secession, he makes use of this language: "Every one must see that the other States *in self defense must oppose it at all hazards.*"

We would recommend a careful perusal of this proclamation, and his message of January 17th, 1833, to this new JEFF. DAVIS school of Democracy.

LOYAL STATE OF WEST VIRGINIA,

Which has the singular honor and gratification to have been ignored by this Convention.

WELLSBURG, W. VA.

[Letter to the Intelligencer, September 12, 1864.]

THE CHICAGO PLATFORM OF 1864—AN UNCONDITIONAL ADOPTION OF IT BY GEORGE B. McCLELLAN.

So another cat, hitherto the most wily of them all, in wearing the disguise, stands revealed to all in his true character. He *has adopted* the secession platform in each and every part. It is vain to suppose that he really means by the sweet sounding generalities and frequent professions of devotion to the national government and other stale and threadbare expressions of *bunkum*, contained in his letter of acceptance—that he intends or desires to change it. *He no where intimates such a wish.* But in the summing up paragraph and the closing, except the expression of his realization of the responsibilities that await him, if elected, and his appeal to the Ruler of the universe to help him—a very remote contingency for Divine help—he uses this language: "Believing that the views I have expressed are those of the Convention" (to-wit: VALLANDIGHAM, WOOD, SEYMOUR, Marshal KANE, PENDLETON, COX, VOORHEES and Company) "and the people you represent" (that is, all armed rebels and their aiders and sympathizers in this country and in Europe,) "I accept the nomination." The Committee presented him the platform with the notice of nomination, so of course he had just read that, and must have known it to be the embodiment of the views of the Convention. We observe on the same day he was waited on by AUGUST BELMONTE, (a name that smacks of dignities and titles) who is the agent of the ROTHSCHILDS and LOUIS NAPOLEON in this country, and charged with accomplishing

with *their money*, what the rebels have failed to do by arms. DEAN RICHMOND, his (BELMONT'S) chief of staff, and a PETER CAGGAR, who if the one we once knew, cheats the Penitentiary, if not a worse place, out of its dues every hour he is at large. There is no safer rule, especially in these times, than to judge men by the company they keep.

This is the denouement of "little MAC," so long suspected by his countrymen. It establishes the truth of reports of his repeated intercourse with rebel leaders before and since the war commenced, as well as a complete justification to the administration for laying him on the shelf.

And this is the Democratic party of 1864, its platform and candidates—MCCLELLAN and PENDLETON, who has been the *open* and *avowed co-worker with* VALLANDIGHAM in the service of the Rebellion since it began.

Suppose the old hero and patriot who founded the party should wake and come forth from the Hermitage, would he not exclaim, with all the energy and patriotic indignation which used to characterize him when traitors menaced the Government, "Ye have made my house a den of *Traitors*, and by the great Eternal if you don't leave the country I'll hang you as high as HAMAN!" Aye, he would do it, too, and very soon vanish from "little MAC'S" dreams the nervous responsibilities he sees awaiting him, and make him invoke Heaven to forgive and save his own traitorous soul, rather than help him to destroy the Government! Would to God we had a General JACKSON!

But the damnable scheme has become too much exposed to meet with support from our loyal people. The severe experience and sacrifice they have undergone the last four years has too much awakened them to bold and independent thought and action to be now cajoled, or seduced by such transparent folly and knavery, as a "cessation of hostilities" and withdrawal of our army and navy just as a complete victory is at hand, over a defiant and unrepentant foe. The land of ETHAN ALLEN has spoken; and soon the people of the other States will speak in like manner, only louder. SHERMAN and Atlanta have spoken, and GRANT, Petersburg and Richmond will soon speak in still bolder tones; and in November, loyal hearts everywhere will speak in a voice more discomfiting to little MAC and his pandemonium, than even the ghost of the old hero and founder of the party would be.

Let the loyal people stick fast to "*honest* Old ABE," and let him

only put in the blows heavier and faster; save and protect the friends of the Government, though it has to be done at the sacrifice of its enemies, and all will be well, and he will be re-elected by the largest majority ever known.

More men are wanted in the field *now*. If the draft be necessary to bring them, the Administration should at once apply it, without fear or favor, regardless of all threats, and meet the consequences. This, the true genius and safety of the government and true loyalty everywhere, demand at its hands. If it fails or falters, all may be lost.

LOYAL STATE OF WEST VIRGINIA.

P. S. We believe the leading rebels have given up all hopes of establishing a separate Confederacy by the present efforts, and are directing their energies to secure the next best thing in their view, to-wit: A *Confederation* of all the States, which will carry with it a right in each State to secede at pleasure. And under this new arrangement, JEFF. DAVIS is to be the Captain, or he will secede and set up for himself. This is the kind of Union "Little MAC," the Convention, and rebel leaders are at work for now.

I ALSO published, in the same paper, during the campaign, the following, touching "the approaching Presidential election."

[Letter to the Intelligencer.]

THE APPROACHING PRESIDENTIAL ELECTION.

FELLOW CITIZENS:—And by the term I mean to include all that still maintain to me and to each other that dearest and tenderest of earthly ties which an unwavering attachment to a common country and flag implies. No matter in what State you may live, whether native born or naturalized, or what guise or external appearance you may be constrained by external circumstances temporarily to wear, *if at heart you are now unconditionally loyal.* It behooves all such, in view of the momentous issues now at hand, to confer freely together, in order to adopt the measures most likely to advance a common interest, and that no less important than the maintenance and preservation of the Government which our Fathers purchased at so great a sacrifice of blood and treasure, aud bequeathed to us in trust, to be

transmitted unimpaired to our children. I wish it were practicable to meet all of you in person and confer together before the election; but this being impossible, I propose to confer with you through the Press as the next best mode. I trust our common interest in so important a matter will furnish for me a sufficient apology.

Taking it for granted that all earnest and patriotic people regard the excellence and value of our Government as A. H. STEPHENS, Vice-President of the Southern Confederacy, did, in 1861, when he pronounced it "the best Government the sun of Heaven ever shone on," I shall proceed at once to consider the following propositions:

First—That the Government can be maintained and preserved only by vanquishing the rebel armies through a vigorous prosecution of the war.

Second—That the people of the loyal States, if they act *unitedly*, are as competent and certain to do it as a three pound weight is certain to weigh down one.

Third—That the only way to accomplish it is to elect LINCOLN and JOHNSON, and that we have no choice left as affairs now stand.

I shall proceed to discuss these propositions with that candor and scrupulous regard for truth which a just sense of the importance of the subject naturally inspires. If I err it shall be an error of the head and not the heart. Then "censure me in your judgment, that you may the better judge."

I assume as a fact now conceded by all earnest and patriotic men, that the rebel leaders, who govern and control their armies, aim either at breaking up the Government and establishing a new one within its domains, or, failing in this, to reconstruct what, in their minds is already a broken and disrupted Government in such manner as to embody therein the right in each State to secede at pleasure. That the hope and determination in them to accomplish the former has existed for more than thirty years. Mr. CALHOUN first conceived the scheme as early as 1828; and in 1830, while presiding over the Senate as Vice President of the United States, he induced ROBERT Y. HAYNES, then regarded as his ablest disciple, to broach the doctrine of secession in that body, in the celebrated discussion on the FOOTE resolutions, whom Mr. WEBSTER answered, demolishing HAYNES and his secession doctrine, as honest men supposed, forever. Mr. HAYNES died soon after, but not the secession doctrine. Mr. CALHOUN, mortified and not a little enraged at this defeat, resigned

his office of Vice President in order to be returned a member to the Senate, where he could in person take charge of the new bantling. He continued to advocate and push its pretentions till it culminated in 1832 in Nullification by South Carolina and a total demolition of it again by General JACKSON, and the near escape of CALHOUN's neck from the halter. This second signal defeat, while it suppressed in CALHOUN further overt acts of treason, only served to increase his anger and strengthen his determination. Soon after this he substituted the Slave for the Tariff question as the fittest subject for uniting the entire South and "firing the Southern heart." At this time the present leaders of the rebellion were his young disciples, sitting like PAUL at GAMALIEL's feet, and imbibed the maddening draughts of treason. They dug up the now famous "resolutions of '98–9," and grossly perverting their meaning from what their authors declared they intended, they succeeded by thirty years constant labor in educating the Southern mind, as well as many of the Northern democrats into the belief of the secession doctrine, and all the while were "firing the Southern heart" by preaching to the Southern people the insecurity of their slave property under the National Government. JEFFERSON DAVIS imbibed not only CALHOUN's poison, but his inordinate love of power and ambitious aspirations. CALHOUN's sun set while giants yet stood on our country's watchtowers, and without consummating the great scheme of his life—the breaking up of the government and establishment of a monarchy on its ruins. He took care to bequeath the consummation of his scheme with the avengement of his personal griefs with minute instructions to his disciples—the most trusted of whom and principal executor of the trust was JEFFERSON DAVIS. What has occurred since CALHOUN's death in 1850 is too painfully familiar to all to justify repeating. It may be safely said that the disciple has far excelled his master in boldness of execution, if nothing more. Amid all the changes and terrible threatenings that have taken place during the present war, and as late as his interview with Colonel JACQUES and Mr. GILMORE, DAVIS has declared his purpose to be "absolute independence for the Southern Confederacy, and that it was useless for the government or any one else to approach him with any other purpose." He still holds in his hands the shattered remnant of an immense army, he has worked incessantly ever since his master's death to organize, discipline and make ready. So stands our armed enemy to-day, and the man whose will and power governs and controls it.

Now how is this enemy to be gotten rid of? This is the question. The Chicago Convention informs us that the only way it can be done is for the Government to declare at once a "cessation of hostilities," which necessarily implies a withdrawal of our armies from the territory he claims; call in our navy, raise the blackade, and then propose to JEFF. DAVIS that a Convention of delegates, to be chosen in all the States, to whom the settlement of the matters shall be referred. Now, knowing what we do of JEFF. DAVIS and his constantly avowed determination, can any man in his senses believe he would accept the offer at all, or if so, with any other view but to accomplish by diplomacy and fraud what he despairs of obtaining by arms, if the Government continues vigorously to prosecute the war? And suppose he should accept the offer with the view mentioned, and it would certainly be with no other, it would place the Government completely in his power. To elect the delegates and get them together from Oregon, California and other distant parts would require five or six months at least. And after the Convention should assemble, the Southern delegates would have it in their power to prolong the session twelve months more, making eighteen months, and then break up in a row. This would give to DAVIS time to repair his losses. His army would not be disbanded, but go to work in all forms, strengthening and repairing, still preserving their organization, so as to be placed in line of battle at any time at the mere tap of the drum or sound of the bugle. The blockade being raised and Commerce restored, with the Government of the Southern Confederacy in full operation all the while—with the implied consent at least of the old Government—can any one doubt that in such a case England and France would acknowledge their independence, form an alliance, offensive and defensive, and if not openly so, the rebels' friends and confederates abroad would supply them with everything needed, including men. So they would, at the end of twelve or eighteen months, be as strong as at the commencement of the war.

Now how would it be with the old Government? Our armies would have to be withdrawn from the Southern soil, all territory that we have re-possessed during the war relinquished, most of our soldiers' times would have expired, and until then the whole to be allowed their pay and rations, at the expense of a million or two a day, and all such as remained would become hopelessly demoralized.

This is the exact state of things that must occur if the plan pro-

posed by the Chicago Convention and endorsed by McClellan and Pendleton, should be carried into practice; and I challenge any rebel or copperhead to show that the plan they propose can be carried into practice with any different results. The Convention proposes this plan, because the war so far has been in violation of the Constitution "in every part," and an "Administrative usurpation of extraordinary and dangerous powers not granted by the Constitution," in all of which McClellan *volunteered* to participate for over two years as Commander-in-Chief, or as Corps Commander, until shelved contrary to his wish, and still retains his commission and accepts his pay; and in his letter of acceptance he avows that he believes his views agree with the views of the Convention in every particular! Taken as a whole, I am brought to the painful conclusion that it is no more nor less than a branch of Jeff Davis' great scheme of fraud, violence and treason, and that all connected with it are as guilty as Davis himself, with all the meanest passions of our nature superadded.

Would Jeff Davis, think you, consent to lay down his arms on such a surrender on our side and go into Convention with men he rates worse than "hyenas" for the purpose of arranging terms on which he is passively to surrender up the great work of his life and sole object of his ambition? Did Calhoun, his great prototype and master, act in that manner? Do you think Gen. Jackson could have been *conciliated* out of his opposition to the United States Bank, or to John C. Calhoun and his nullification? Or do you think Calhoun would have knocked under if he had had the army and people Jeff. Davis now has, and General Jackson had been as powerless as the Government would be with the Chicago Platform carried into practice? Grim terror alone ever turns such men from a great and cherished purpose. But to bring it nearer home, can you hope to conciliate or persuade your neighbor passively to surrender to you the fruits and hope of his whole life's labor? No, fellow-citizens, it is contrary to every principle of our nature—"trust it not, it will prove a snare to your feet."

I aver, therefore, without fear of contradiction from any loyal man, that the only way left for getting rid of the rebellion and saving the Government is to crush and scatter its army by a vigorous prosecution of the war, which Lieutenant General Grant and his gallant army are now doing most effectually. The heaviest blows

by our army upon the leaders, and all who adhere to them—with President LINCOLN'S Amnesty standing wide open for the full forgiveness and pardon of all below the rank of Colonel, is the true and only way to get rid of the rebellion and its leaders, and in this way it is soon to be accomplished. A CITIZEN.

WELLSBURG, W. VA., October 7, 1864.

[Letter to the Intelligencer.]

THE APPROACHING PRESIDENTIAL ELECTION.

FELLOW CITIZENS:—The people of the loyal States possess the amplest ability and power to wipe out the last vestige of rebellion, and that speedily. That the enemy has got to the end of his tether, both as regards men and money, is a conceded fact by all, even the enemy himself. His armies, under HOOD and EARLY, are either killed, captured, scattered or demoralized. The army of LEE is all that remains of importance, and that is far inferior to our forces about Richmond; and our army under SHERMAN was never in better condition. Besides, we have not yet called more than one-third of our fighting men to the field. Visit our cities and villages, and travel upon our railroads, and we are scarcely able to miss any. Our money, the "sinews of war," advanced in the last few days 100 per cent.—the last sale being $1.85—and the price of goods have already begun to fall in the market correspondingly—which is owing solely to the recent brilliant success of our arms. Compare our's with the enemy's currency, which has become nearly or quite worthless. A common calico dress costs in their money at Richmond $175; a pair of women's shoes of ordinary quality $125, and a pair of children's $105, and other necessaries of life in like proportion.

This we know from unimpeachable evidence. Behold the swarms of deserters and refugees naked, famishing and pennyless, flocking to our lines from the land of Dixie, and listen to their story of suffering, destitution and oppression that hold universal reign there; and then bear in mind that this is the bastard Government, the author of all this suffering and woe—that the Chicago Platform now summons twenty million of freemen to lay down their arms and make an unconditional surrender to, and become as deplorable as its present

subjects are. Here let me ask the attention of the hypocritical partisan croakers among us (generally propertyless and humanityless) that are constantly *whining* about the magnitude of our Government debt, and the shedding of blood. This debt in June last amounted to only $72.91 to a person, when equally distributed among the people of the loyal States, leaving out of account the people in Rebellion, who ought to be made to pay the whole when vanquished, as they began the conflict. Is any one so white-livered as to be frightened at this? If there is and I should appeal to him to get out of such a shameful predicament and stop whining, I should expect such an answer as the valorous husband gave to his wife, after she had driven him with her broom under the bed, and bade him under pain of further brooming not to peek out from under the hanging coverlid—firmly and resolutely declared that "he *would peek* so long as he had the spirit of a man in him." All such as stop now to talk about the magnitude of the debt, I would ask to look and consider the ways of that man who after getting a charter and having expended only one-eighth of his ready means in constructing a toll bridge to within a few feet of the opposite shore—should all at once stop from fear of the expense, and decline to make the completion which would render the whole outlay highly remunerative, and save himself from becoming the laughing stock of all. Such as have all at once expressed their horror at the further shedding of blood, I would ask what they think of the humanity of the frontier settler who had been endeavoring for years to destroy an old she wolf that prowled about his premises, and had devoured not only his pigs, poultry and sheep, but some of his children, should, upon being advised that his neighbors had at last denned the monster, and requested that his boy or himself should bring a gun to dispatch it, he should decline the request and open fire upon his neighbors, instead of the wolf, from the rear. And of those who approve the Chicago Platform, and sympathize with its candidates—I would ask, how they would regard the inhabitant of a dry and combustable prairie, who, on discovering, at the windward of his house, a fire kindled and spreading, summoned his household, and rushed to the spot; and after getting it under control and encompassing it with an impassable girdle, but leaving open a small space opposite his dwelling, he and his household folded their arms, retired to their house and passively surveyed the approaching and spreading flames until prairie, house and all were consumed! Does not "the cessation of hostilities" as

proposed by the Chicago Convention invite JEFF. DAVIS and his consuming hosts to every peaceful house in the loyal States as unmistakably as this prairie settler invites the general conflagration in his case? Or, do they really think to extinguish JEFF. DAVIS and all his guerrillas, desperadoes and robbers with *conciliation*, and their other warlike water gruels of the same sort.

The people of the loyal States possess then the amplest ability and power to speedily crush the rebellion and vindicate the government if they will but unite and make the proper use of the means they have.

But suppose our loyal people fail to unite, and thereby sacrifice our glorious free government, not only to ourselves and posterity, but to the oppressed lovers of freedom throughout the world, will the broad record of our race furnish an example of such self-abasement and voluntary destruction? And before God, I believe the election of LINCOLN and JOHNSON, with the defeat of the Chicago Platform and its candidates, is the only event that can save us.

A CITIZEN.

WELLSBURG, W. VA., October 10, 1864.

[Letter to the Intelligencer.]

THE APPROACHING PRESIDENTIAL ELECTION—REASONS WHY WE SHOULD VOTE FOR LINCOLN AND JOHNSON.

FELLOW CITIZENS:—In the third place let us consider the reasons why we should vote for LINCOLN and JOHNSON. The President, as you all know, is made by the Constitution the head of the civil government, and also Commander-in-Chief of the Army and Navy of the United States, that is, the head of the military side also. In times of war like the present, as such military head, he possesses unlimited powers so far as the management and conduct of the army and navy are concerned, subject only to the established articles of war. He has the power to proclaim a "cessation of hostilities," withdraw our armies from Southern soil, recall our navy, raise thereby the blockade, and open a free Commerce between other Nations and the Southern Confederacy, standing all the while clothed with the essentials that constitute an independent Nation.

This would be virtual acknowledgment by us. Foreign powers would at once acknowledge, and there would be the end of the matter, and end of us also.

This is exactly what the Chicago Convention promises when it proclaims a "cessation of hostilities." Presidents we know are as liable to die as other people, and in that event the Constitution devolves all these powers upon the Vice President, that is, upon Mr. PENDLETON, if their ticket should be elected, who thereby becomes the President. Now what earnest patriotic man is there, who would not rather trust JEFF. DAVIS than PENDLETON? The record of the latter establishes as full and clear proof of disloyalty as DAVIS' does. DAVIS stands open and above board in his true character; while PENDLETON attempts to cloak his no less hostile sentiments with the professions of loyalty—the one an open public enemy—the other an enemy in disguise—a spy, which the usages of war hang as a felon. And the recent acceptance by MCCLELLAN of the Chicago Platform, after the high trusts and favors he has received, places him in the minds of honest men far below either.

Now let me lift the cloak of Democracy and show you the leaders of the Chicago Convention. There is VALLANDIGHAM, the martyr, as the faithful style him, but as everybody knows, a convicted traitor. He agrees to all their doings, and moves that the nomination of MCCLELLAN be declared unanimous. There is FERNANDO WOOD and BEN., his brother, authors of the new gospel of Peace; and SEYMOUR. These organized and headed the mobs of New York City to act as Committee of reception, at that city, of General LEE and his army, had they not been unexpectedly detained at Gettysburg. There is OLDS, and COX, and VOORHEES, and MARSHAL KANE, who headed the mobs in Baltimore, and ALEX. LONG. There is AUGUSTE BELMONT, the known agent for the Confederate bond holders in Europe, and Chairman of the National *Democratic* Committee, as the faithful style it, but in fact with GEORGE SANDERS & Co., at the Clifton House, it is the Northern branch of the great Rebel Conspiracy. This BELMONT is intent on one thing, that is, to fix things so that these bonds shall be paid—the bottoms of the original signers having fallen out. There is DEAN RICHMOND and PETER CAGGAR and others of their kind, who, like vultures, are always hovering wherever desolation, disintegration, and decomposition are threatened. Then the group yonder, are the post-riders and telegraph operators who conduct the communications between this body and GEORGE SAN-

DERS & Co., at the Clifton House. And then that dim outline of a man, sitting yonder, is the shadow of all that remains of AMOS KENDALL, now demented and in utter dotage. He was once, you remember, a member of General JACKSON'S Cabinet—Postmaster-General. Fearing such profanation of the name of Democracy might evoke the ghost of its founder, and mindful of the opinion that spirit had of CALHOUN and treason while in the body, they dug up the old fossil and transported him thither with a view to appease and hoodwink the old heroe's ghost, and honest and unsuspecting people generally. But I perceive you, like myself, are becoming weary of the sight—I drop the curtain.

Now, you perceive that every block that enters into their pyramid of treason, except, perhaps, that nonentity, AMOS KENDALL, is simon pure, with no spot or blemish of loyalty; and "Little MAC" has become the cap-stone. Now of whatever nature this last man is, like every other cap-stone, he must depend for support on whatever is beneath him. Be he fish or fowl the rebels have swallowed him, and he is to be digested and assimilated, if need be, so as to nourish the rebel body.

Now let us turn for a moment from this painful spectacle to LINCOLN and JOHNSON, scornfully styled by these agents of treason and collectors of rebel debts already protested, "The Rail Splitter and Tailor." Their contempt for these noble men shows their contempt for our glorious institutions, that have enabled them to rise from these humble, but useful and honorable callings, to the proudest stations on earth. They *are* such *Ri-vers* and *Sew-ers* as will cleave down the Confederacy, and stitch up its winding sheet. They are fit illustrations of the inestimable value of our institutions. The humblest boy in the land can attain to the same proud eminence. And well can these great and good men exclaim to the Chicago renegades as the celebrated TRISTAM BURGESS did to JOHN RANDOLPH in the United States Senate, who taunted him with having been born a cooper. "Aye, sir," said that old "bald Eagle," "and I made the best barrels in all Rhode Island, and the difference between me and the gentleman is, if he had been born a cooper, he would have been a cooper still." Having cast my first vote for General JACKSON at the time he was demolishing CALHOUN and his nullification, having supported Mr. DOUGLAS at the last election, and having never received nor asked any favors of the present Administration, nor expect to, I have nevertheless been brought to the belief that no man

living could have administered the Government, considering the unexampled difficulties and embarrassments that have surrounded it, more honestly, more devotedly, and more successfully than Mr. LINCOLN has done. I have no doubt he will do so in future; and if it shall please God at any time to call him to a higher sphere of duties, Mr. JOHNSON is the man to supply his place. Besides, every truly loyal man feels that the dignity of the Government requires that since the rebellion was commenced professedly against Mr. LINCOLN, the rebels should be made to ground their arms at his feet. This only will properly vindicate the government.

If there are any who are charmed and allured by the mere *name* of Democracy, which our opponents have stolen and got under as the other animal got under the lion skin, I would beg them to observe where the eminent Democrats, statesmen and heroes of the General JACKSON school, stand in this issue—LEWIS CASS, DANIEL S. DICKINSON, Generals WOOL, GRANT, SHERMAN, SHERIDAN, MEADE, HOOKER, BUTLER, ROSECRANS, BURNSIDE, LOGAN, DIX, MEAGHER, SICKLES, MCCALL, Com. FARRAGUT, and a host of others, whose names and deeds will illuminate the history of the country and the world, when the names of this Chicago junto will be remembered only for their treason. And if any ask for further avowals of their purpose than "cessation of hostilities," &c., implies, I answer, they propose to wipe out the State of West Virginia and all the re-organized governments—remand the gallant and loyal men that have participated therein back to their former and now infuriated oppressors, to be hung and their property confiscated for treason committed against *sovereign* States—disarm and divest our gallant colored troops, and deliver them up to their former masters; and indemnify the rebels for the damages and expense of the war! These among other objects they openly avow.

Before closing let me speak a word of advice to voters holding a joint and common interest with myself in this best of governments. We are the sovereigns and hold the power. In times as perilous as the present we all have a direct and vital interest in each others votes. While each has the right to cast his vote as he honestly believes the best interest of the country, in which we all have a common interest demands, still our relations to each other in this respect are not unlike those of co-partners in their stock of goods. Each has a right but he is bound to exercise it so as not to injure his co-

partner. If any should vote corruptly under the influence of bribes of drams of liquor, money or other thing; or negligently, without first informing himself by all the means within his reach and freeing his mind of partisan prejudice as far as possible, or suffer himself to be dictated to by others, be they who they may—you will agree with me in saying that such persons commit a great wrong, which must in the minds of earnest and patriotic men fix a stigma upon them and their children. It will be a most apt occasion for our adopted citizens to refute the charge of disloyalty and want of attachment to our Institutions, heretofore urged by the Know Nothing party, by standing firmly by that Government which has given them an asylum from the oppression of their Father-land, and admitted them on such generous and easy terms to all the rights and privileges of citizenship; and which is still holding out the same precious boon to millions of their countrymen, groaning under the heels of the old despotisms, the like of which JEFF. DAVIS and the Chicago Convention are now laboring to establish in this country. Your conduct in the coming election will not only affect yourselves and children, but the welfare and standing of your countrymen that shall hereafter immigrate. The trial will be severe, but the Government will triumph. Mark that. This election will determine who are its friends and who its enemies. My earnest prayer is that my adopted fellow citizens shall stand to the old flag as nobly and gallantly at the ballot box as they have on the battle field. I have ventured these remarks not only because I have a direct and vital interest in every man's vote, as he has in mine, but because I desire to see all my fellow citizens so acquit themselves in the great crisis as shall secure the approval of their own conscience and all earnest and patriotic men.

"Hearts within and God o'erhead," let all loyal men stand *unitedly* up to the great work—

"Perish party, perish clan;
Strike for Freedom while we can—
Like the arm of ONE strong man!"

A CITIZEN.

WELLSBURG, W. VA., October 11, 1864.

NOVEMBER 8th, 1864, the Presidential election took place, in the twenty-five loyal States. The number of Electors chosen was 234; of whom 213 were for LINCOLN and JOHNSON, and 21 for MCCLELLAN

and PENDLETON—those of Kentucky, New Jersey and Delaware only. The popular vote for the former, was 2,203,831; for the latter, 1,797,019. The popular vote of West Virginia was 23,152 for the former; and 10,438 for the latter. Whereas, no man, I think, was more popular with loyal West Virginians, than Gen. MCCLELLAN, in 1861, when in command of that Department. So much for his subsequent defection and alliance with the rebel cause! So the rebel leaders, by this desperate move, only *united* and *strengthened*, instead of *dividing* and *weakening* the loyal people.

Their next move was, I think, through Hon. FRANCIS P. BLAIR, Sr., to open negotiation with the authorities at Washington, for a settlement between the "*two governments*," as Mr. DAVIS styled it. After much correspondence, Commissioners STEPHENS, HUNTER and CAMPBELL were permitted to pass through our lines, and proceed to Hampton Roads, where President LINCOLN and Secretary SEWARD met them in friendly conference, the 30th January, 1865, which, of course, resulted in nothing, as the Rebel Commissioners were authorized only to treat and negotiate as representatives of a distinct and independent government.

As SHERMAN, with his victorious army, was daily, and almost without opposition, subduing the interior of rebeldom, and GRANT was contracting his lines about Richmond, the Rebel leaders felt there was no time te lose. Their next move was, that the Commanders of the opposing armies in the field, should agree on the terms of peace. This, of course, our government declined. The Rebel Congress, about this time, having lost confidence in Mr. DAVIS, made LEE their Generalissimo, who, with their other prominent military men, appreciated the situation. This exasperated Mr. DAVIS, and made him more desperate and unwise. Their treatment of our prisoners of war, and other measures they resorted to, violative of the rules of civilized warfare, and some absolutely fiendish, have become matters of history.

Their next move appears to have been to forcibly seize Mr. LINCOLN, and take him to Richmond, and hold him as a prisoner of war and hostage, when they should surrender. Failing in this, their final and crowning plan seems to have been to decapitate the Government at Washington outright, by assassinating, simultaneously, the President and Vice-President, Secretaries SEWARD and STANTON, and Lieutenant General GRANT. What took place is known. And if all

had been accomplished that was contemplated, our National Government would have been Constitutionally decapitated—without a President, or Vice-President, without a President of the Senate, *pro. tem.*, or Speaker of the House of Representatives—the only persons the Constitution and Laws devolved the duties upon. The Thirty-Eighth Congress had expired, and its officers with it; the Thirty-Ninth Congress elect, had no Constitutional right to convene until the first Monday of the succeeding December, unless earlier convened by the President, or Executive head—and there would have been no such head. The then existing law required the Secretary of State, in case of a vacancy in the offices of both President and Vice-President, to notify the Governors of the several States, whose duty it was made to order electors of President and Vice-President to be chosen or appointed in their respective States, in a specified time. For this reason, probably, they included Secretary SEWARD in their proscribed list, while Secretary STANTON'S and Gen. GRANT'S connection and influence with the army and loyal people caused them, also, to be included—Generals SHERMAN and SHERIDAN being absent.

I never could believe it was feelings of personal malice towards the proscribed, that prompted so desperate a measure on the part of the Rebel leaders, who were generally persons of enlarged culture, and still commanded the confidence and respect of their confederate followers; while the intended victims had certainly borne themselves during the terrible conflict, in their complete triumph, and generous terms for surrender, in a manner to excite respect and esteem for them personally, though they had been public enemies. It was a mistaken and unwise policy that prompted the measure—a policy conceived in desperation, and utter despair of realizing anything for so great a sacrifice and hope—but utter ruin. So I believe, the leaders viewed it. But I believe, they erred greatly, and destroyed their greatest and truest friend, when MR. LINCOLN fell—and in this belief, I think, nearly all the South now, concur.

Some of the Radicals, after their break with President JOHNSON, insinuated that he was Confederate in the measure. This always seemed to me absurd, and without any foundation. He was the most hated and feared of any by the rebels, who would never have thought of killing Mr. LINCOLN, and leaving Mr. JOHNSON alive. He had been *one of them* until, as they viewed it, he treacherously deserted their cause—and this view, the statement of Mr DAVIS at Charlotte, N. C., to General BRECKENRIDGE and Mr. LOUIS F. BATES, confirms.

If they had succeeded in decapitating the Government, as contemplated, the general anarchy anticipated, would not have lasted long. The loyal army, and citizens would have resolved themselves into a Vigilance Committee, and soon supplied all necessary government agents or officers. They were, indeed, as a general thing, *individual sovereigns*, each competent to set up and manage a government. In that consisted their peculiar excellence and power in any emergency. No permanent decapitation of the Government, could have occurred without decapitating the loyal individuals.

Thus, by surrender of the Rebel army soon after, practically ended the slaveholders' great Rebellion, which had shaken the civilized world. And if their wisdom and practical sense, had come anywhere near their valor, perseverance and self-sacrifice, they would never have gotten into the predicament, but clung to the Old Government and Flag, which belonged to them—they having been true to both, while others had violated—and sought redress "*in* the Union," and *through the Union*. In that event, the entire free States portion of the Democratic party would have cordiallv co-operated, including the cowardly dough-faced leaders, who, after promising as largely as the Devil on the Mount, and thereby inciting their Southern allies to undertake the fearful leap—slunk into their holes and hid, at the first clash of arms; and became afterwards, what were known as "Peace Democrats," whose character has already been depicted. And as a general thing, the "dyed-in-the-wool" Abolitionists of the free States, and ranting fire-eaters of the South, behaved in about the same way. The two extremes had "raised the whirlwind," and then left it for others to manage as best they could, the existence of the Government being the stake! The Confederates taken together, may be said to have sacrificed all property but their lands, and more than a half million of lives.

Of the great perils through which the Government passed, none appears to me, on looking back, to have been more eminent than the Presidential election crisis, in the twenty-five loyal States, November 8, 1864, as the results show. For while LINCOLN and JOHNSON got 213 of the 234 Electors chosen, they had but 406,812 majority in a popular vote cast, of 4,000,850—while all Rebeldom, of course, stood opposed.

On this majority of *one* in every *ten* voters in the twenty-five loyal States her life hung; while Rebeldom was plying its arms with desperate vigor and some success against our armies, and civilians

wherever opportunity offered. Its unprincipled, desperate, and unscrupulous allies, throughout the twenty-five loyal States, Canada, England, France, and Imperial Mexico, were doing, mostly in secret, what now stands revealed! In such a vote by the inhabitants of the twenty-five loyal States, on so plain an issue, which involved the life of the Government, I see little in the achievement, taken as a whole, that reflects credit for either intelligence or patriotism. It shows on how frail a thread, politically, the life of the Government hung, after three years and a half's fighting. How profound should be our gratitude for the noble friendship exhibited by Russia!

The rebel armies surrendered on terms both noble and generous, proposed by Mr. LINCOLN, with the concurrence of his Cabinet and Generals. These terms, some feared at the time, were too liberal for safety. But their religious observance, afterwards, by General LEE and his army, including even guerrillas, abundantly showed that this spirit of liberality touched the heart, and won a pledge of personal honor from every Confederate soldier; and the fidelity with which that pledge has been kept, has scarcely a parallel in ancient or modern times.

Thus all armed resistance to the Government ceased, leaving our system of civil polity, including State and National Governments, unchanged, save the wear and tear of the war and its incidents—the principal of which was the emancipation of about 4,000,000 slaves of African descent. It then devolved on the Victors, who were in full possession of the Government, with Mr. JOHNSON installed as President, to restore and rehabilitate the States, provide for the Freedmen in their new relation to the Government, and dispose of the leaders of the Rebellion as true State policy and future peace and safety required. This was a difficult and delicate task, requiring enlightened statesmanship, profound political wisdom, and exalted patriotism. What the victors and vanquished have done, and are doing, belongs to general history.

All armed resistance to the Government having ceased, and the establishment of the new State thereby made certain and sure, my interest in party politics in a great measure ceased; but not my solicitude for the future welfare, prosperity and happiness of my country, and every part thereof. I have published some through the Press, and written more—touching various questions as they have arisen since—some of which I propose to insert for what they are worth, with necessary explanations.

WHAT WEST VIRGINIA DID.

The West Virginia Legislature at its session in 1865, in contemplation of an early collapse of the Confederacy, and return of West Virginia Rebels to their former homes, with feelings inimical to the new State and its laws, passed the 25th of February, 1865, as a protective and prudential measure, a law of which the following is an extract. Theretofore the disguised Rebels among us, as a general thing, had not deigned to participate in what they styled a "Bogus Concern."

"2. If the vote of any person offering to vote at any election shall be challenged by any voter present, the supervisor and the inspectors of the election shall refuse to allow such person to vote until he shall produce to them an affidavit as follows:

"Township of———, ———county, to-wit:

"I, A. B., (name of affiant,) do solemnly swear that I have never voluntarily borne arms against the United States, the re-organized government of Virginia, or the State of West Virginia; that I have never voluntarily given aid, comfort or assistance to persons engaged in armed hostility against the United States, the re-organized government of Virginia, or the State of West Virginia; that I have not at any time sought, accepted, exercised, or attempted to exercise any office or appointment whatever, under any authority or pretended authority hostile or inimical to the United States, the re-organized government of Virginia, or the State of West Virginia; that I have not at any time yielded a voluntary support to any government, or pretended government, power or Constitution within the United States, hostile or inimical thereto, or hostile or inimical to the re-organized government of Virginia, or the State of West Virginia; that I will support the Constitution of the United States, and the Constitution of the State of West Virginia; and that I take this oath freely, without any mental reservation or purpose of evasion."

"Such affidavit shall be subscribed by the party making the same, and may be sworn to before the supervisor or one of the inspectors of the election at which he offers to vote, or before any person au-

thorized to administer oaths; and the taking of any such affidavit falsely shall be perjury, of which the party may be convicted in any court having jurisdiction of the offence. Every affidavit so taken as aforesaid, shall be delivered to the inspectors of the election, and shall be by them returned to the office of the recorder of their County, whose duty it shall be to file and preserve the same in his office. But this section shall not apply to any person who has heretofore volunteered in the military service of the United States, and who has been or may hereafter be honorably discharged therefrom."

THE 1st of March following it passed a joint resolution, proposing to amend the State Constitution by incorporating the following:

"*Resolved by the Legislature of West Virginia*, The following is proposed as an amendment to the Constitution of this State, to be added at the end of the first section of the third article thereof, to become part of the said Constitution when ratified according to the provisions thereof, namely:

"No person who, since the first day of June, 1861, has given or shall give voluntary aid or assistance to the rebellion against the United States, shall be a citizen of this State, or be allowed to vote at any election held therein, unless he has volunteered into the military or naval service of the United States, and has been or shall be honorably discharged therefrom.

"Adopted, March 1, 1865."

THE same Legislature abolished absolutely, the small remnant of Slavery within the State, and instructed its Senators, and requested its Representatives in Congress, to vote in favor of the Thirteenth Amendment to the National Constitution as proposed, and then pending. The same and subsequent Legislature made the taking of a similar expurgatory and citizenizing oath, a prerequisite for holding any office of trust under the State, of sueing in its Courts, or practicing law at their bar. These became known as the "Test Oaths"—about which much has been said and written.

After the surrender of the Confederate Armies, its members from

West Virginia, especially such as had been to the front, returned to their former homes with thankful hearts for the generous terms on which they had been permitted to surrender. These, with scarcely an exception, accepted and submitted to the New State and its laws as they found them, and as the terms of their surrender required.

It was the stay-at-home rebel sympathizers, whose past conduct in regard to the war, and New State, had rendered unpopular, conspicuously aided by the returned *Virginia Politicians* who had spent four years in Dixie, seeking for their "lost rights" elsewhere than in the Confederate army, or within the smell of gunpowder, that created the fuss and contention afterwards experienced—aided I think, in some degree, by the unwisdom of the party in power.

The natural and unbroken affiliation of these two classes (whose aim and aspiration were to possess the offices with the emoluments) at once coalesced and formed what was known as the "Conservative party."

Their first move was to possess themselves of the offices of the New State through the votes of disfranchised ex-rebels. To accomplish this they had got to get rid of the law passed the 25th of February, 1865, before quoted. Their programme was to procure that law to be disregarded by the officers having charge of the elections throughout the State. DANIEL LAMB, Esq., of Wheeling, was applied to by their confederates, the Supervisors of Ohio County, as to the constitutionality of the law. He gave in September, 1865, a long, written opinion, declaring the law unconstitutional and void, and should therefore be disregarded by all officers superintending the elections.

The then Attorney General, the Hon. E. B. HALL, at the instance of Government officers, gave his written opinion, asserting the law to be constitutional and obligatory upon all Superintendents of Elections. The Hon. NATHANIEL HARRISON, then Judge of the Ninth Judicial Circuit, gave his written opinion to the same effect. The Conservative leaders were then everywhere at work, filling the press with sentiments opposed to the validity of the law. As a loyal citizen and candidate for no office, I published the following letter in the Wheeling *Intelligencer* touching the question:

THE POLITICAL STATUS OF THE REBELS OF THIS STATE—HAVE THEY THE RIGHT TO VOTE?

Gentlemen:—I read in your paper of yesterday the letters of DANIEL LAMB, Esq., and Judge HARRISON, of Greenbrier, touching this deeply interesting subject. I think Judge HARRISON takes the correct view, and one that should govern the action of Supervisors and Inspectors in the election. I think Mr. LAMB is radically wrong in his position regarding, as he does, the test oath, as containing something the Constitution does not authorize, when it is intended to be a *means or mode* merely of determining the pre-requisite of citizenship. The object of the law was to keep traitors who have forfeited all civil rights under the loyal government, from doing, through the ballot-box, what they have failed to do by arms, until such times as they shall have "shown fruits meet for repentance." It can deprive no loyal man of his vote, but only furnishes him the means to protect himself and government against an unrepentant foe, whose malicious venom is now being disclosed in the WIRTZ trial, at Washington, and which every act of their rebellion illustrates; and within a day or two in South Carolina, by electing the notorious WADE HAMPTON a delegate, and then exulting over the defeat of loyal men. This is the real animus everywhere, as well in West Virginia as in South Carolina, and he is either a sympathizer or blind, who does not see it. It requires time, and that self-respect and dignified deportment on our part, that shall convince them that we know our rights, and are fully determined to maintain them and the Government in peace as we have in war; that we have upheld the Government against their armed assaults, and that we can do it against their wily machinations. Let this be done with kindness, and at the same time with proper assurance and self-respect. Such a course will in time fit them to become good citizens, and as soon as fitted, admit them cheerfully to full rights, but not before. We have been fooled enough, bullied enough, damaged enough, and now are taxed enough, to pay for their malicious devilment, not to submit to more in any form. The loyal voters will challenge, as a general thing, only such as the public good requires to be challenged; and as fast as they come to deserve, they will be restored. This is exactly the course the Government is now pursuing with the rebels. It treats them as

conquered public enemies everywhere, without any other rights than were conceded in the terms of surrender—without citizenship, incapable of voting, or being elected to office, until the Government wills it. It was on this ground the Government set aside the recent election at Richmond. Now, these rebels have the same political status in whatever State they may reside; only, President JOHNSON expressly excludes from the benefit of his proposed amnesty all that left our lines and went over and joined the rebels; and to this class belong most of the returned West Virginia rebels that Mr. LAMB and his like seem so desirous to have restored and try their hand at voting.

But he says the law is unconstitutional, and seriously advises the Supervisors and Inspectors throughout the State—generally gentlemen not learned in the law—to disregard it, and thereby set themselves above the Legislature, which is supposed to contain the best legal talent and wisdom of the State. Why, it is very seldom that a Circuit Judge will undertake to declare a law passed by the Legislature Unconstitutional, but obeys and refers the question of its Constitutionality to the decision of the Court of Appeals.

I deny that this law is Unconstitutional. The Rebels whom it is designed to exclude from voting until they have repented, ceased to be citizens of this State and the United States, and forfeited all political and civil rights when they joined the Rebellion, and have never regained them as the present dealings of the Government with them everywhere fully demonstrate. On this principle of public law—that citizens when they turn traitors and public enemies forfeit citizenship and all civil and political rights—the Government of Virginia was re-organized, and upon that re-organization the New State itself rests. And now these sympathizing lawyers, hoping doubtless to gain the Rebel votes, welcome all such as have survived the terrible struggle at arms back to the full enjoyment of their former rights, while their hands are still red with patriots' blood. The moral sense of the community will never submit to it. Sympathizing and interested lawyers may spin their threads of sophistry, but an insulted, outraged and indignant people will never submit. And they would be unworthy of their State and her heroes, living and dead, if they should do it. The loyal voters should challenge every Rebel who they believe has not repented, and let all others vote. All loyal voters will cheerfully submit to take the Oath, but skulking Copperheads and Rebel Sympathizers may have qualms of conscience.

West Virginia rebels have committed triple treason—against the

United States—against the re-organized Government, and the Government of West Virginia. Who has washed them of this triple guilt? The President can only remit for the United States. The State of West Virginia can only remit for the re-organized Government, and itself. Has either done it? If so, when, how and where? As they are not citizens of the United States, but conquered public enemies, they are not citizens of the State of West Virginia, and, therefore, not voters. The Convention that re-organized the Government in 1861, by solemn ordinance declared all such as adhered to, and supported the Convention at Richmond or the so-called Confederate States, or professed to owe allegiance or obedience to either, became thereby subjects or citizens of a *foreign* State or power at war with the United States, and authorized the Government to arrest and compel them to depart from the State; and this was an affirmation of a law of Virginia as old as the State itself. And even if the President had the power, and had, since the war ended, made them citizens of the United States, still they would have to reside in this State a year thereafter, before they would be entitled to vote.

Now it is made the express duty of the Supervisors and Inspectors to ascertain and decide who are qualified voters, and to determine the fact, are authorized to examine the person offering to vote upon his oath in respect to his citizenship, residence, age, and other facts connected with his qualification. See acts of the Legislature 1863, page 119, chapter 100, sections 23–24. Nobody will doubt but this law is Constitutional. Nor would there be any doubt if the Legislature had prescribed certain questions to be propounded and answered, instead of leaving the framing of these questions to the Supervisors and Inspectors. Nor would there be any doubt if the Legislature had prescribed the form of an oath to be taken before voting, which embraced the pre requisite facts of citizenship, residence, age, &c.

Now the test oath which Mr. Lamb says is Unconstitutional, and so palpably so as to justify Supervisors and Inspectors disregarding it, notwithstanding their oaths to uphold the law, is such a form—only it is confined to the question of citizenship; whether the person has the requisite citizenship, or whether he has forfeited it by committing well defined acts of treason against the United States, the re-organized Government or the State of West Virginia. See acts of the Legislature, 1865, page 47. Where then is the unconstitutionality?

The moment a citizen committed one of the acts of treason he ceased to be a citizen of the State of West Virginia, and of course a voter.

Article 1, Section 6, of the Constitution of West Virginia, reads thus: "The citizens of the State are the citizens of the United States, residing therein."

Article 3, Section 1, reads thus: "The white male *citizens of the State* shall be entitled to vote at all elections held within the election districts in which they respectively reside. But no person who is a minor, or of unsound mind, or a pauper, or who is under conviction of treason, felony or bribery in any election, or who has not been a resident of the State for one year, or of the County in which he offers to vote for thirty days next preceding such offer, shall be permitted to vote while such disability continues."

It will hardly be contended that the rebels who left their homes in West Virginia to participate in the rebellion, have continued their residence in this State, especially when the acts of our Legislature have uniformly recognized them as *non residents*, and authorized legal proceedings against their property as being non residents. How then can such be said to have been *residents of this State for the year next preceding the election?* This also is a sufficient ground for excluding their votes at the coming election.

No one would be more gratified than myself if all the rebels were now so purged of their venom as to be entitled to vote; but it must take time to accomplish this desirable object; and I believe all honest and sensible men, even including the rebels, will secretly, if not openly, acknowledge that the measures I have suggested are best adapted to work a speedy and thorough regeneration.

G. PARKER.

WELLSBURG, September 15, 1865.

AT the October election, 1865, the law in question was very generally enforced throughout the State, by the firm hand of Governor BOREMAN, and the conductors of the election.

The "Conservative Party," then headed by Colonel BENJAMIN H. SMITH—probably their ablest constitutional lawyer, and aspirant for the gubernatorial chair at the first opportunity—saw the necessity

that some Judge of competent power should declare the law Unconstitutional. Judge JAMES LOOMIS, of the Sixth Judicial Circuit, at a session of his Court in Roane County, held soon after the election, so pronounced it in his instructions to the Grand Jury; which their partisan press blazoned wide, denouncing Attorney General HALL for his official opinion asserting the Constitutionality of the law, with such others as had agreed with him. In reply to these I published the following letters in the *Intelligencer:*

JUDGE LOOMIS' INSTRUCTIONS TO THE GRAND JURY OF ROANE COUNTY UPON THE TEST OATH LAW.

I read in the Weekly Parkersburg *Gazette*, of the 30th ult., sent me by a friend, a communication headed "Judge LOOMIS and the Test Oath—Important Opinion," with some remarks reflecting discourteously, to say the least, upon Attorney General HALL, "*et id omne genus*," using the author's language, which means all others of his description, or that agree with him. At the time of the combined copperhead attack upon this law prior to the election, though not a "partisan," nor seeking any office, but only a voter and *one of the loyal people*, to whom I had supposed the Government belonged—I ventured to express my views as fully as my time would then permit, which happened to agree with Mr. HALL'S. I have since considered the subject and read most of the remarks of gentlemen for and against its Constitutionality, and my views are unchanged. The only doubt I entertained at the time was, whether any person who had ceased to be a citizen of the United States, and, as a consequence, of West Virginia, by committing overt acts of treason against the United States, had been *restored to his former citizenship and had thereafter resided in the State one year next before the passage of the test oath law, the 25th of February*, 1865. That every citizen of the United States, who has during the recent civil war, committed overt acts of treason (and these enumerated in the test oath of which he is to purge himself, are such) thereby forfeited his political, if not civil rights, under the Government, and consequently his citizenship of this State, if he were one before, must be clear to all legal as well as common sense minds; and has been so settled by the concurrent opinions of the best writers on International law, and decision of the Supreme Court

of the United States in the case of AMY WARWICK, decided in 1863, and reported in 2d BLACK'S R., page 667. The moment they committed any of these acts they forfeited at least their political rights, and became "public enemies."

"A civil war," says VATTEL, "breaks the bands of society and Government; produces in the nation two independent parties, who consider each other as *enemies*, and acknowledge no common judge." BURLAMAQUI says, "by a state of war that of society is abolished." BYNKERSHOECK and WHEATON take the same view; and Judge GREER in giving the opinion of the court in the case of AMY WARWICK, thus lays down the law in the case of our recent civil war: "The law of nations is also called the law of nature; it is founded on the common consent as well as the common sense of the world. It contains no such anomalous doctrine as that which this court is now, for the first time, desired to pronounce, to-wit: That *insurgents* who have risen in rebellion against their Sovereign, expelled her courts, established a Revolutionary Government, organized armies and commenced hostilities—are not *enemies* because they are *traitors;* and a war levied on the Government by traitors, in order to dismember and destroy it is not a *war* because it is an *insurrection. They have cast off their allegiance to their Government, and are none the less enemies because they are traitors.*"

It was the moral sense of the copperhead advocates, then, that by their treason the rebels had lost no rights, and the same *now;* but the Supreme Court thought otherwise. Then, as now, the copperheads saw nothing improper in permitting a rebel to drive his dagger to the heart of the Government and loyal neighbors with one hand, and at the same time put his vote into the ballot box, and help to administer that Government, with the other!

I trust that no one will contend that West Virginia was bound *to retain as her citizens, denuded rebels*, after they had become so shorn of all political if not civil rights, by the United States, whose citizenship our Constitution has adopted and agreed to abide by; but not to take traitors as denuded and stripped of all national rights, until that nation shall have reclothed them with *full and complete citizenship.*

WEBSTER, in his dictionary, defines "a citizen of the United States" thus: "A person, native or naturalized, who has the *privilege of exercising the elective franchise or the qualifications which enable him*

to vote for rulers, and to purchase and hold real estate." Does a *denuded* and *stripped rebel* fill this bill? Nor does it make any difference what part of the United States one happened to reside, when he commits the overt act of treason; the effect is the same the moment he becomes a "public enemy." Chief Justice MARSHALL, in the trial of BURR, decided that after a civil war had been levied, all who adhered to the enemy, giving him aid and comfort, were equally guilty, wherever living in the country, or however remote from the scene of actual hostilities.

The next question is, had any of the West Virginia rebels, thus denuded of their rights by treason, been restored and clothed anew with *full* citizenship, and had resided after being so restored in this State for a year next preceding the 25th of February, 1865, when the test oath was passed? If there was none, then it is clear the test oath could exclude no one at the time it was passed from voting, who had the qualifications required by our State Constitution, and was therefore Constitutional. And if Constitutional when it passed, no *subsequent* events could render it unconstitutional, though they might furnish good ground for modifying the law by subsequent legislation.

The first opportunity the Government gave these denuded rebels to return and reclothe themselves with former rights, was Mr. LINCOLN'S first amnesty proclamation, issued the 8th December, 1863, which required them to take the oath therein prescribed, and faithfully keep it thereafter, or they gained nothing. Now between that date and the 25th February, 1865, when the test oath was passed, was one year, two months and seventeen days. Where is the denuded West Virginia rebel who took that oath during the first two months and seventeen days after that proclamation was issued, and faithfully kept it afterwards? I have yet to learn of one such. The Confederate stock stood high then; those that came in and took the oath, if any, did so to spend the winter at home and steal their loyal neighbors' horses and rejoin the rebel army in the spring. I have been able to hear of none others. The non-combatant rebels at home who harbored and gave secret aid and comfort in a thousand ways and became thereby equally guilty, of course did not avail themselves of the oath, as their plan and policy were all the while, *to conceal their guilt*. During these two months and seventeen days no Federal Court was in session in West Virginia wherein these oaths could have been taken. The various oaths repeatedly taken and broken before

the military authorities, before the amnesty proclamation was issued, the 8th December, 1863, conferred upon the taker no political rights or citizenship, but only a right to be protected within our lines so long as they behaved themselves. If any denuded rebel took the amnesty oath and kept it *after* the two months and seventeen days, that is, after the 25th of February, 1864, he was not entitled to vote at the time the test oath was passed, the 25th of February, 1865, for he had not been a *resident* of the State within the meaning of our Constitution for a year after being so restored. Until they took the amnesty oath in good faith and kept it, they were "public enemies," whom our Legislature expressly declared to be "non-residents," and authorized their property to be proceeded against as such, and the lawyers who are now so confident their rights and residency have never ceased, or been interrupted, sued out processes upon their property upon this very ground, and our Judges, including Judge LOOMIS, sustained the proceedings.

The next question is, does the test oath as called require any other or further qualification of the person offering to vote than our Constitution requires? If it does, then I admit, it is to that extent unconstitutional. But if on the contrary, it is only a *mode* or *means* of enabling the Supervisors and Inspectors to ascertain whether the person, in case he shall be challenged, has the qualifications required by the Constitution, then it is clearly within the discretion of the Legislature to prescribe, and therefore Constitutional. This is the language of the oath:

"I, A. B., (name of affiant,) do solemnly swear that I have never voluntarily borne arms against the United States, the re-organized government of Virginia, or the State of West Virginia; that I have never voluntarily given aid, comfort or assistance to persons engaged in armed hostility against the United States, the re-organized government of Virginia, or the State of West Virginia; that I have not at any time sought, accepted, exercised, or attempted to exercise any office or appointment whatever, under any authority or pretended authority hostile or inimical to the United States, the re-organized government of Virginia, or the State of West Virginia; that I have not at any time yielded a voluntary support to any government, or pretended government, power or Constitution within the United States, hostile or inimical thereto, or hostile or inimical to the re-organized

government of Virginia, or the State of West Virginia; that I will support the Constitution of the United States, and the Constitution of the State of West Virginia; and that I take this oath freely, without any mental reservation or purpose of evasion."

Now, I submit that there was no person in West Virginia who had committed any of the acts enumerated in this oath (except taking of the oath of allegiance mentioned at the close) prior to February 26th, 1865, that had at that date the qualifications to vote that were required by our Constitution. Both the language and the spirit of the oath require that the disqualifying acts therein enumerated, should have been committed within the limits and when citizens of the United States. Each of the acts enumerated would be clearly "overt acts" of treason against the United States, for if aimed at the re-organized Government, or Government of West Virginia, the clear legal inference is, they were done in furtherance of the gigantic rebellion and conspiracy, which aimed at the overthrow of the United States Government. Every person therefore that had committed any of these acts, had thereby made himself a "public enemy," and as such, had forfeited at least his political rights under the United States, and so far lost or impaired his citizenship of the United States as to be unable to fill the call of our State Constitution, which is for a whole, perfect citizen of the United States, and not such a shorn and skeleton object as his treason shall have rendered him.

Is there anything in the *mode* or *form* that can render this act unconstitutional? There is always a strong legal presumption in favor of the constitutionality of a law, passed as it is, by the Legislature, and co-ordinate branch of the government, which is supposed to be composed of the best character and talent of the State, and under solemn oath to protect and support the Constitution, and not to attempt a violation of it by its legislation. At the commencement of the Government the first legal intellects doubted if it was competent for the Courts to declare a law unconstitutional which the legislative branch, upon their oaths, had pronounced to be constitutional, and deliberated if the question ought not to be submitted to the people who are the source of all power. But finally the Supreme Court of the United States with Chief Justice MARSHALL at the head, after considerable hesitancy, decided it would be competent in cases where the law was *manifestly* against the Constitution, *but in*

no other cases. So great and grave a question was not then flippantly disposed of as by the copperhead or interested lawyers, and some judges of our inferior courts at the present day.

The Constitution prescribes *no particular mode* in which the judges of elections shall ascertain the qualifications of persons offering to vote, but leaves this part wholly to the discretion of the Legislature, as the Constitution of the mother State has ever done. Our first Legislature in the act prescribing the mode of holding elections by the people, passed November 13th, 1863, section 24 of that act, provides as follows: "The supervisor or either of the inspectors is hereby authorized to administer said oath," (that is the oath of allegiance) "and also to swear any person to answer questions respecting *any* right to vote which is claimed." As broad an authority has been exercised by the superintendents of elections in the mother State since her foundation without any objections. Under these acts it has uniformly been held competent for the superintending officers to swear any person offering to vote, whether challenged or not, and to interrogate him to any length deemed necessary, touching his qualifications "or *any* right to vote," as the language of the statute is, his citizenship, residence, age, &c. Now suppose the Legislature had prescribed a set of questions, pertinent to the various elements of qualification, which constitute his right to vote, or had prescribed the form of an affidavit which embraced all the pre-requisite qualifications, as citizenship, residence, age, &c., or any one of them, and required the person offering to vote, if challenged, to subscribe and make oath to the same, which could be filed away and preserved. Either of these modes of *ascertaining* would certainly be within the power of the Legislature to prescribe, and therefore Constitutional. Is what is termed the "test oath" any more than such an affidavit framed by the Legislature for the purpose of ascertaining the pre-requisite qualification of *citizenship* in a time of civil war, which her former citizens were daily forfeiting by committing acts of treason; and when oaths were broken as soon as taken—in a form to be filed and preserved as evidence against the person taking it?

These are the views I aimed to give in my former letter before the election, though I had not time then to fully elaborate and explain them.

The article in the *Gazette* has served to revive the subject, and the Judge's instructions have shown a *peculiar pliability*, though a Union

man, no less than the impregnability of the law. I would simply inquire of the learned Judge whether an unrestricted exercise by the supervisors and inspectors of the right to examine on oath any and every person offering to vote, whether challenged or not, in respect to each and *all* the pre-requisite qualifications of the right to vote, and not as he supposed, whether such person comes within the exceptions, and is challenged—would not as much "tend to exclude any and all persons offering to vote" as it would to simply require them to sign and make oath to the form prescribed by the said act in case of challenge? And if so, why the former mode which he says is not only the *right, but the duty* of supervisors and inspectors to exercise, is not as much a violation of the Constitution, as the latter?

The gratulatory effusion of his friends over this "quietus" of the Judge, as they style it, serves only to remind me of the couplet in Hudibras, which describes so graphically a famous gun, that,

> "When discharged at duck or plover,
> Shoots wide, and knocks the owner over."

G. PARKER.

WELLSBURG, December 8th, 1865.

THE Counties of Berkeley and Jefferson—their people not having complied with the conditions prescribed in the Constitution and schedule, were not included in the Act of Congress, admitting the State of West Virginia. Their people, however, complied soon afterwards, and as they said, as soon as the riddance of the Rebel arms would allow; and the Legislatures, of the Re-organized Government of Virginia, and West Virginia, consented that they might become part of West Virginia; which thereupon assumed and exercised jurisdiction, to which the loyal portion submitted. Our authorities and officers, including members of Congress, regarded this as sufficient, without further consent of Congress; which consent could have been obtained at any time during the three years, on asking, as Mr. DAWES said in the course of the discussion that afterwards occurred; while no one could doubt but that the Legislature of the Re-organized Government of Virginia, then at Alexandria, would, as soon as the Rebel-

tion ceased, repeal its former consent and retain these Counties, if possible.

At a former session of Congress, the necessity for further consent by Congress arose before the Committee on Elections of the House, in the case of McKENDSIE vs. KETCHEM, of which Committee Mr. DAWES, of Massachusetts, was Chairman, and made a unanimous report that the consent of Congress was necessary for the transfer of these Counties to West Virginia; and suggested to our members the propriety of obtaining it without delay. But our members, as well as State officers, continued to regard it unnecessary. And the late Mr. VAN WINKLE, one of our Senators in Congress at the time, who, as representative of the Baltimore and Ohio Railroad Company, also desired the transfer—undertook, through the press, to impugn the decision of Mr. DAWES, his Committee, and the House.

A pretty lengthy discussion followed—Mr. DAWES maintaining that the decision of his Committee was correct, while Mr. VAN WINKLE and the late Hon. BENJAMIN STANTON, who had come to his assistance, contended for the reverse—Mr. VAN WINKLE, because the negotiation by which they were acquired, was not such "agreement" or "compact" between States as required the consent of Congress; while Mr. STANTON contended that if it was such a "compact," the Constitution of West Virginia, which Congress had assented to, authorized the transfer; and second, that the conceded powers of adjoining States to fix and re-mark divisional lines, authorized it without consent of Congress.

Anxious to save the Counties to our State, I ventured to publish the following letters:

PRESENT LEGAL STATUS OF BERKELEY AND JEFFERSON COUNTIES.

This is a subject in which our loyal people feel a deep interest, and hence have read with great care the recent correspondence in your columns between Mr. DAWES on the one side, and Messrs. VAN WINKLE, STANTON and others, on the other. For my own part,

I can say I have never entertained a doubt on the subject, and, if I had, this correspondence would certainly have removed it. The loyal people thus far, by the aid of friends residing in other States, have been able to inaugurate, complete and sustain the new State, without, and often against, the efforts and machinations of pretentious political leaders who have *talked one way and worked the other*—now feel constrained to make an effort to rescue the above Counties from the eminent peril they have been purposely or ignorantly, and certainly unnecessarily, gotten into—and secure them as legitimate parts of the new State. That they are not so now must be evident to all those who have read the correspondence. The two letters of Mr. DAWES, as well as his Report at the last session of Congress, as Chairman of the Committee on Election, in the case of MCKENDZIE vs. KETCHEM, where the point came directly in issue, and in which the Committee was unanimous, affords conclusive evidence, not only of what the law ought to be, but of what it has been settled to be by the Supreme Court of the United States, viz: That no compact or agreement between the two States which *changes* the boundary and jurisdiction between them, is valid unless consented to by Congress. The consent of the three powers must be had before the change is consummated. These consents, too, must *concur or co-exist at the same time.* If the two States interested agree, and before Congress gives its consent, one of the two States revokes, as it may, the negotiation fails, and the consent of Congress afterward cannot save—for at no time does the consents of the three parties concur or co-exist. Nor, as a general rule, can the performance of any acts by either State in pursuance of such inchoate agreement estop the other from receding before Congress consents, or impose any especial obligation on Congress to assent. To admit a power in two States to impose such an obligation, would impose restrictions on the discretion of Congress not allowed by the Constitution.

It is a well settled principle of law that owners of adjoining lands may ascertain, and re-establish a dividing line without exchanging any deeds, which are required to pass title; and the reason is, there is no passing of title or changing of boundary, but only a finding, fixing and re-establishing the old boundary line. Of course States may do the same thing without the consent of Congress, as it does not change one title, the true limits of their respective territory or jurisdiction, or involve a compact or agreement of the political character contemplated by the Constitution.

But to infer from this that two States can agree to transfer from the territory and jurisdiction of one to that of the other, two old, well defined and regularly organized Counties like Berkeley and Jefferson, which, together, contain 410 square miles, and in 1860, 27,128 inhabitants, and change all their existing national relations as parts of the old State, as military, judicial, congressional and internal revenue districts, with the numerous post offices, &c., all fixed in the national organism as being parts of Virginia, and instead of straightening the line make it a complete zigzag—without the consent of Congress, is simply absurd. If two Counties can be so transferred, why not ten or twenty; and if twenty, why not all the Counties of Virginia? and so the old State, one of the essential members of the national organization, will become merged and disappear, together with its Senators and other Congressional representatives. Nor would the consolidation stop here; others would follow and our present beautiful system become a consolidated Empire, worse by far than secession. This I submit is the legitimate consequence of the principle if established.

The only known way of one State acquiring territory and jurisdiction from another is by purchase, which implies compact or agreement, or by conquest, which implies force. The gentlemen will not contend that they have acquired it by the latter, whatever may be their future intention. Of course it can only be done by compact or agreement between the States, contemplated by the Constitution as requiring the consent of Congress.

The interest which it is essential for the nation to protect and guard, and so entitle it to a voice, cannot, I submit, be confined to land or territory as Mr. STANTON seems to suppose, but must extend to its right of eminent domain, and to the preservation of its political organization.

It is submitted that the cases cited by both parties, establish this doctrine. The early cases of the Virginia legislation cited by Mr. STANTON, import on their face only to re-establish and re-affirm boundaries, which had been previously declared and assented to by Congress—merely acceptances and affirmations of reports of surveyors or commissioners, who had been appointed to actually run and mark the lines called for in the previously existing compacts of cession, to which Congress *had* assented.

In the case of GREEN *vs.* BIDDLE, VIII WHEATON, page 1, express-

ly affirms the law to be as I have stated, and that "it was not necessary the compact should be in any *particular form.*" *The substance only was to be looked at.*

In the case of Poole *et als vs.* Freegen, *et als*, XI Peters, p. 185, which is directly in point, and the court say, in speaking of the right of States to fix or alter boundaries, that they have a right, "but that its exercise is guarded by a single limitation or restriction, *which is the consent of Congress.*" In the last case the jurisdiction of the States of Kentucky and Tennessee were in question, and also titles to lands, *but to no land in which the United States had any interest as owners.* Its only interest was to preserve and protect its rights of eminent domain and its political organism.

The second position taken by Mr. STANTON that Congress, by admitting the State of West Virginia with a Constitution containing this clause, "additional territory may be admitted into and form part of this State with the consent of the Legislature," did give its consent. I remember distinctly the debate in the Convention that formed the Constitution for West Virginia, upon this clause, and what its intent, object and purpose were as contemplated by the Convention. The whole debate was whether the acquisition of new territory should be by the consent of the Legislature, or by direct vote of the people. The question was considerably discussed, and finally decided to be left to the Legislature. It was not contemplated by any member at the time, nor was it any part of its purpose, to get from the Congress that might admit the new State under the Constitution we were forming, a *carte blanche* for all future time, to swallow up adjoining States, or parts thereof, without further consent of Congress, whether done under pretense of straightening lines or others equally absurd. Its object was confined to internal State policy only.

But if the Convention had contemplated the getting of such unprecedented authority by such disingenuous means, Congress was careful not to grant it. For by its act admitting the State, it expressly negatives any such intent or inference by enumerating each of the forty-eight Counties it consented to have form the new State, and thereby fixed and established conclusively the boundaries. There is not a word in this act to authorize the inference Mr. STANTON attempts to draw, but its whole letter and spirit is a complete negative of any such intent on the part of Congress.

The vital question now is, can the Counties yet be saved? and if

so, how? Can the required consent be obtained *before* the Legislature of the mother State shall repeal her acts consenting to the cession passed the 31st January and 4th February, 1863. Both Congress and the Legislature of the mother State are to convene the first Monday of December next.

G. PARKER.

WELLSBURG, September 13, 1865.

THE LEGAL STATUS OF JEFFERSON AND BERKELEY COUNTIES, ONCE MORE.

I perceive from your remarks in yesterday's paper, that the opposition seem to avail themselves of some suggestions I made through your paper the 13th of October last, touching the present legal status of Berkeley and Jefferson Counties, from which some may infer it was these suggestions of mine, that first gave them the idea of repealing the acts of cession passed by the Legislature of the mother State, January and February, 1863, *before* Congress could have time to give its consent and consummate the transfer. I did not suppose there was any respectable lawyer in Old Virginia, who did not already see this obvious means they possess to attempt, at least, a rescue of these Counties as soon as their Legislature convened, and that they were prepared to make the attempt as the first act done. If I had thought otherwise, I certainly should not have made the suggestions.

My object in making the suggestions was to stop, if possible, what appeared to be a blind, dogged and damaging, with our friends, persistency by one of our public servants who had assumed the charge of this matter since he has been in Congress, and who had suffered two sessions to pass without making an attempt to procure what it seems, from Mr. DAWES' statement, Congress has always been ready to grant, and to awaken him to a sense of the danger there was of losing the Counties altogether, and that we should make, though late, a vigorous attempt to save them yet, by securing the consent of Congress before the mother State could repeal. This was my object; but it would seem I "woke up the wrong passenger," for aught I can learn, our *persistent* Senator still *persists*, with his head against the post, while the opposition appear to be profiting by the suggestions.

The repeal by the mother State will now probably take place before Congress can give its consent. But still, Congress can give its consent and leave the Courts to decide whether the mother State has, by her acquiescence in the exercise of jurisdiction by the new State over these Counties for near three years, estopped herself from withdrawing her consent at so late an hour. The *Enquirer* may as well hope for a retrocession of what formerly constituted the Northwestern Territory, with all the great States that have been erected thereon, as for the return of the people of West Virginia to so unfeeling and unnatural a mother. Respectfully,

WELLSBURG, Nov. 21, 1865. G. PARKER.

ON the assembling of the Legislature of the re-organized Government of the mother State, at Richmond, the first Monday of November, 1865, its first act was to pass a law repealing the former Act, ceding these Counties to West Virginia. Our members, at, or about the same time, introduced a bill in Congress, asking for its consent, or confirmance of the cession of these Counties to West Virginia. Congress passed an Act doing all then in its power to confirm the cession; but its passage was subsequent to the repealing Act of the mother State.

The suit of Virginia against West Virginia, in the United States Supreme Court, to recover these Counties was the consequence; in which, as is known, we ultimately prevailed after large cost and expense; but not on any of the grounds our officers, members or friends had relied on, and argued through the newspapers, but because the Court stood equally divided, with the affirmative resting on the plaintiff, or because her acts and acquiescence for so long a time had estopped her. I do not recollect on which of the two the Court finally disposed of the case in our favor.

AFTER our Legislature had met, in 1866, I published the following, which speaks for itself:

THE STATE'S INTEREST IN INTERNAL IMPROVEMENTS—WHAT SHOULD BE DONE WITH IT?

I perceive that during the first four days of its session, our Legislature was asked to appropriate $298,000 to repair turnpikes and bridges, and to build new ones. This startling amount, at so early a stage, is asked by gentlemen from almost every part of the State, to be expended in their respective neighborhoods. However other things may have been depressed by the war, the system of "log rolling," so long the curse of the mother State, seems to have accumulated vigor and reappears in an enlarged form, as the demands so far greatly exceed those of 1860 for similar purposes. It is undoubtedly true that the war has caused these improvements generally to be neglected and get out of repair, and in some instances the bridges destroyed. Yet the important question now is, it seems to me, what should be the future policy of the Legislature in relation to the State's interest in these works?

In order to show the utter hopelessness of the State ever realizing any pecuniary return for what has been already expended, or that may be hereafter expended, I will state some of the facts contained in a report to the Richmond Legislature in March, 1860, of a special committee appointed to ascertain and report the condition of all works of internal improvement which the mother State was interested in. It appears from this report that the State's interest in canals and river navigations was $12,404,671 83, of which $199,500 had been expended within our State upon the Coal and Guyandotte rivers, besides that expended on this end of the James and Kanawha improvement. That of all these improvements throughout the State the Roanoke navigation, on which the State had expended $80,000, *was the only one that paid any revenue into the Treasury, and it paid one per cent.*

It also appears from the same report that the State had a 3 5 interest in 14 bridges, which in the aggregate amounted to $136,034 66. That none of these bridges were paying any revenue into the Treasury except the Virginia and Maryland Company, which paid in 1860

$450, and the Elk River $210, equal to $660, *as the interest on an outlay of* $136,034 66.

There were 121 Turnpike Companies with roads extending 3,384 miles, in which the State had a 3-5 interest which cost $2,305,177 09, only 11 of which extending in the aggregate 240¼ miles, and costing the State $131,033 50, had paid any dividends into the Treasury.

There were also 25 roads constructed solely by the State which cost $1,765,543 54—none of which were paying any revenue into the Treasury.

Also 10 Plank Roads in which the State was interested to the amount of $410,337 53—none of which were paying any revenue.

The report then proceeds to state as follows: "The whole interest of the State in minor improvements, including Turnpikes, Plank Roads and Bridges is $4,617,092 82, and the amount *productive* is $149,133 50—yielding in all an annual revenue of $3,098 00, *or* 7-1000 *of* 1 *per cent. on the whole investment in such works.* Your committee have reasons for believing that in many of the small improvements conducted on what is called the two and three-fifths principle, there is no investment of private capital whatever. The contractors sometimes subscribe the 2-5. The 3-5 are then drawn from the State. The contractors secure the constructing of the improvement at such a figure, that the State's money is sufficient not only to pay for all the work done, but to pay a handsome profit to those who handle it," and recommend the State to sell and get rid of its entire interest, referring to the course that had been taken by other States to their great advantage.

Now, in view of these facts, the convention that framed and people that ratified our State Constitution, intended to put an end to this ruinous policy and forever divorce the State Government from all enterprises of this kind, and confine its action to its appropriate duties of making and administering wholesome laws; and hence, by the 8th Article, prohibited the Legislature giving the credit of the State to, or assuming any existing liability of any County, city, town, or corporation, or subscribing to the stock of any Internal Improvement Company, unless it shall pay its subscription in cash down, or provide for its payment the ensuing year.

Now, our people are not willing to be taxed this year, nor next, to raise money to be thrown away upon these works that have never paid the mother State a cent, but bankrupted her, as they will the

new State if she meddles with them for any other purpose but to sell and get rid of all, on some terms, as soon as possible. The 7th Section, 8th Article, of the Constitution authorizes the Legislature to direct a sale, at any time, of its stocks. In most of the Turnpike Companies it is probable, as the report states, that the private stockholders have paid nothing, and unless the State shall undertake to still carry them along, the charters will become forfeited and the Counties and towns will take and keep them in repair as free roads and at half the expense it costs the State. They have been built at State expense, and done all they ever will *in her hands*, towards developing and settling the country. Local enterprise alone can make them further serviceable in this respect. The great lines of travel are, or are to be, railroads, and mud turnpikes have become neighborhood conveniences, and should be kept up and maintained by the local population, and this burden of maintaining roads should be general and not partial. And if any turnpike has not, by this time, induced settlers enough along its line to keep it in repair, it never will. There may be some exceptional cases where the war destroyed necessary public structures which the local population are unable to replace, or sections that have not received a fair share of public favor. If any such cases are clearly made out, let the State give the special aid, and in the manner contemplated by the Constitution, and not revive an effete system that had saddled the old State with a debt of $44,000,000 in 1860, and which every other State in the Union has long since discarded.

G. PARKER.

WELLSBURG, January 22, 1866.

I THINK the facts it contained had some influence with that and subsequent Legislatures, as no appropriations of consequence were, or have been made for such purposes, and the State, as a general thing, donated and surrendered her interest to the private Stockholders, or the Counties, requiring them to keep roads, bridges, &c., in repair. This Legislature also, in order to protect her loyal people against the assaults and machinations of returned rebel politicians, and their stay-at-home co-adjutors, extended somewhat the test oath; gave its consent to the Constitutional Amendment proposed by the

preceding Legislature as before stated, and made provision for submitting the same to the legal voters for ratification or rejection, the 4th Thursday in May then next. It also made provision for a registration of voters as authorized by the 12th Section of the 3d Article of the Constitution, and preparatory to such election—allowing none to vote whose names were not registered, except persons absent in the United States or State service; and also provided that the Act of February 25, 1865 (voter's test oath) should continue in force until such registration should be completed, and govern the same; and when such registration was completed, which was to be done by May 10, 1866, the same was to stand repealed.

The proposed Amendment to the State Constitution before stated having been ratified the 24th of May, 1866, by a large majority of the legal voters, the "Conservative Party," with Col. BENJAMIN H. SMITH, as its standard bearer, and candidate for Governor, found, in order to secure any chance for success at the coming fall election, that not only the Test Oath law of February 25, 1865, but also the recently ratified Amendment to the Constitution had to be gotten rid of, so ex-rebels could vote. To accomplish this, the decision of some Court of competent jurisdiction seemed necessary; and the case of JAMES D. ARMSTRONG, a returned rebel of Hampshire County arose. He claimed the right to be registered and vote in that County, without taking the so-called "Test Oath." The Registrar refused to register, and on appeal to the Board of Registration of that County, it also refused. At the May term of the Circuit Court of Hampshire County, said ARMSTRONG, who had been a practicing lawyer, applied to Judge BUNKER, then the Judge of that Circuit, for a writ of *mandamus*, *commanding* said Board to register his name without his taking the Test Oath. Judge BUNKER made an order, citing the members of the Registration Board to appear, and show cause, if they could, why ARMSTRONG'S name should not be registered as prayed for—but escaped the final hearing and decision, by exchanging with THOMAS W. HARRISON, then Judge of the Third Judicial Circuit, who, as was represented, had two brothers that had been in the Confederate Army—made the following decision at the September term of Hampshire Circuit Court, 1866:

"JAMES D. ARMSTRONG, Plaintiff, *vs.* the Board of Registration of the County of Hampshire, Defendants.

"On an application for a "mandamus," requiring the Board of Registration of the County of Hampshire to register the applicant as a voter in the township of Romney, in said County.

"The process issued in this cause, at the last term, having been duly served on the members of the said Board, and it appearing by the endorsement of the said Board on the application made to them, that they refused to register said applicant, unless he would take the oath specified in the third section of the registration act, passed the 23d day of February, 1866, and the court being of opinion, that so much of the registration act, as requires any registrar to administer the oath prescribed in the third section of said law, before registering such person, is *unconstitutional, null and void;* being also of the opinion that the adoption of the amendment to the Constitution on the 24th day of May, 1866, cannot give validity to said registration act, it having been passed before the adoption of said amendment: *It is ordered*, That a peremptory writ of *Mandamus* be awarded, directed to the members of the Board of Registration of the County of Hampshire, commanding them to cause the said JAMES D. ARMSTRONG to be registered as a voter in the township of Romney, in the said County, and it is further ordered, that the applicant recover against the defendants his costs by him herein expended.

A copy—Teste,

CHAS. M. TAYLOR, C. C. C. H. C."

UPON this decision I published the following remarks:

JUDGE THOMAS W. HARRISON AND THE REGISTRATION LAW.

Editors Intelligencer:

I have read the decision of Judge THOMAS W. HARRISON, in the ARMSTRONG case, with ARMSTRONG'S and your remarks thereon. The decision *is* most extraordinary and justly alarming. It was apparent last fall and winter that our opponents would attempt to break down the test oath and others of its kind, by influencing the courts, if possible, to declare them unconstitutional and void. Hence the extraordinary decision of Judge LOOMIS at the Roane court last fall, and hence, doubtless, the decision of Judge HARRISON in the case above stated.

Let us examine for a moment the law and facts of this case. ARMSTRONG having been a soldier in the Confederate army, applied, pending the *first* registration of voters last spring in the County of Hampshire, to have his name registered as a voter. The Registrar refused unless he would take the test oath passed the 25th day of February, 1865, *then in force*, and which had been copied into the registration law. ARMSTRONG refused to take the oath, stating that he "*could not and would not* take that oath." He then applied to the Board of Registration for said county, which also refused to register for the same cause. ARMSTRONG then applied to the Circuit Court of Hampshire County, Judge BUNKER presiding, at the last May term for a writ of *mandamus*, as it is called, stating the foregoing facts and asking the Court to *command* the Board of Registration to register his name as a voter. The application was of course based upon the facts and law then existing, and the final decision must have referred and related back to that date, unless a change in the organic law—that is in the Constitution—had intercepted or arrested and rendered void the proceedings. At the time of his application, and at the time the facts on which it was based occurred, the act of February 25th, 1865, was in full force, as the *first* registration under the act of 26th February, 1866, had not been completed. (See Section 20 of the Registration Act, which expressly provides that the act of the 25th February, 1865, known as the Test Oath Act, shall be in force until the first registration under the Registration Act shall be completed.) It is clear then that the act of February 25th, 1865, called the Test Oath Act, was the only law then in force—the Act which had been so violently assailed by our opponents last year, so fully discussed in the Courts and before the people, through the press and upon the stump, and its validity triumphantly sustained everywhere. Does Judge HARRISON mean to pronounce this act unconstitutional and void? He certainly must so mean when he says, "so much of the Registration Act as requires any Registrar to administer the oath prescribed in the third section of said act" (which is in all things identical with the Test Oath Act, passed February 25th, 1865, except it substitutes these *restrictive and mitigating* words, "since the first day of June, 1861, for never"—and thereby *declaring*, but not abrogating or repealing) "before registering such person is *unconstitutional, null and void*." Does the Judge mean to say at this late day that a soldier of the Confederate army did not commit treason against the United States? Does he mean to gainsay the unanimous opinion of the jurists of the world,

including the Judges of the Supreme Court of the United States, as well as President JOHNSON—"that he who takes up arms against the United States becomes thereby a *public enemy*, and ceases to be a citizen of the United States, and consequently of this State?" Or that he who left loyal West Virginia, passed through our lines into Dixie and joined the Confederate army, was restored to full citizenship by the general terms of the President's Amnesty Proclamation, when it expressly excepts such persons from its operation.

Or that the 8th and 12th Sections of Article 3d of our Constitution does not authorize our Legislature to pass the act as *a mode or means* for ascertaining the fact, whether the person offering to vote, or to have his name registered under the registration act—is, or is not, a citizen of the State?

On the 24th of May last, the Amendment to our Constitution was ratified by the people, and become a part of the organic law of the State to which all existing laws and legal proceedings inconsistent, or in conflict therewith, had to give way. Does the Judge deny this proposition? This Amendment declares that no person who has voluntarily participated in the rebellion since June 1, 1861, shall be a citizen of the State, or entitled to vote. ARMSTRONG admits that he voluntarily participated in the rebellion; and still Judge HARRISON has *peremptorily* commanded the Board of Registration of Hampshire County, under the pain of fines and imprisonment, to put ARMSTRONG'S name upon the registry and let him vote, and that the Board pay him his costs. And ARMSTRONG at once publishes a Card, calling on the other ex-rebels in that Judicial Circuit to come forward and do likewise—offering to them his professional aid and service.

Respectfully,

G. PARKER.

JUDGE THOMAS W. HARRISON AND THE REGISTRATION LAW.

Editors Intelligencer:

I perceive on re-perusing your remarks, since writing my first, which I wrote hastily, that ARMSTRONG was a member of the Rebel State Senate at Richmond, instead of the rebel army, which places him altogether outside of the Amnesty Proclamation issued by President

LINCOLN, the 8th of December, 1863, and also President JOHNSON'S, issued May, 1865. A special pardon from JOHNSON is the only thing therefore that could in any degree change his status as a public enemy, and much less make him a qualified voter before or since the ratification of the Constitutional Amendment, on the 24th May last. Nor does it appear he produced any special pardon from JOHNSON. He stood there, upon the record, an unpardoned and unrepentant rebel of the deepest dye, as his position in the Richmond Senate must have been altogether *voluntary* and without the possibility of any of the coercion which often constrained the rebel soldier.

Judge HARRISON and his confederates (the case does not admit of a milder term) would seem to mean more than his language implies, viz: they do not mean to accept the Constitutional amendment ratified the 24th of May last as valid, but mean to maintain what Col. SMITH and his co-workers are now proclaiming upon the stump—that it is invalid and of no force—because, as they say, its ratification was not submitted to the vote of *all* who were at the time *legal voters*. This is their ultimate purpose, and this decision of Judge HARRISON is but the feeler, the skirmish line—the entering wedge. It being impolitic, they think, during the present canvass, to reveal their whole plan, and hence, doubtless, the Judge uses language that may imply an acceptance of the validity of the *amendment*. Their real theory is this: *First*—That the act passed the 25th of February, 1865, called the "Test Oath," was unconstitutional and void, as they argued last year. *Second*—But if that was valid when it passed, it was repealed by the registration act, which copied the "Test Oath," modifying it in one particular only to conform to the proposed amendment, viz: that the overt act of treason should have been committed since June 1, 1861. *Third*—That so much of the registration act as consisted of the *repetition* of the "Test Oath" was "unconstitutional null and void," using the Judge's language, for the reason doubtless, though he did not give any, that it excluded rebels, who had been restored or rehabilitated in some form since the "Test Oath" was passed February 25, 1865. These propositions being established, they contend the amendment has never been constitutionally ratified, and so is of no force.

Now, as I have before said, the "Test Oath" as a *mode* or *means of ascertaining citizenship*, was clearly constitutional and valid, when it was passed February 25, 1865, as it excluded no one then entitled

to vote; and that no *subsequent* restoration to citizenship of rebels could annul it. The Legislature alone could annul it. The Legislature did repeal it, but not until the *first registration* under the act passed February 26th, 1866, was completed, which was not until the 10th day of May last, which fixed and determined constitutionally and legally who were the legally qualified voters in the State, entitled to vote on the ratification the 24th of the same May. See Section 20th of the Registration Law, Session Acts of 1866, page 78, and Section 1st of Supplemental Act, page 121 of the same.

Assuming, then, the amendment to be valid, as it unquestionably is, and which the Judge had not the hardihood to deny, how does he stand? When ratified by the people it became part and parcel of the Constitution, and at once annulled all laws and proceedings inconsistent with it, ARMSTRONG'S pending application for a writ of *mandamus* among the rest; and such would have been the case if the application was well founded in the commencement, for the Judge, after the amendment took effect, had no more authority or right to command the Board of Registration to register ARMSTRONG'S name, than a Court of Admiralty would have to command the captain of a merchant ship to run it against the rock of Gibraltar; as the ship would be dashed to pieces in the contact, so were ARMSTRONG'S application and Judge HARRISON'S *mandamus* issued upon it, dashed to pieces when they came against the amendment. True, as the Judge says, the amendment, when ratified, might not have given validity to what was void before, though this would depend on circumstances; but I am unable to see how that argument helps him. After the amendment was ratified no tribunal in the State had authority to register a person who had committed overt acts of treason since June 1st, 1861, and it is now and always has been the duty of the Registrar and Board of Registration to *ascertain and determine* this point, by examining orally the applicant on his oath, or requiring him to make an affidavit, purging himself of disloyal acts, before placing his name on the Register. Did the Judge make, or suffer to be made, any such examination before issuing his *mandate* the present month? It appears he did not. And in ARMSTRONG'S case it was unnecessary, *for he confessed his guilt.* In every aspect of the case, therefore, the Judge stands without a shadow of justification, it seems to me. The loyal people should meet and repel the first invasion of their constitutional rights with the resolution and energy they would the robber who had broken the door and was about cross-

ing the threshold of their castle; and while we are accustomed to regard as a detestable monster the man who stealthily introduces arsenic into the well from which ourselves, wives and children drink, how must we regard him who dares to corrupt the Judicial fount, which should not only be pure, but, like CÆSAR'S wife, "above suspicion."

Respectfully,

G. P.

P. S.—Since writing the foregoing I have read the remarks of your correspondents "L" and "Unus Vox." "Unus Vox" retracts, and it seems to me wisely. "L" is doubtless the particular friend of Judge HARRISON, and is anxious to relieve him from his fearful predicament. While I may respect his motive, I cannot hope for his success. The facts disclosed demonstrate such error, either of the heart or head, or both, of Judge HARRISON, as in my judgment, renders it unsafe for the loyal people to trust him further. His *real* feelings in respect to the great issues during the last five years have not been unknown. Like others of his kind in the State and country, he seems, all at once to *unmask*. Thank heaven, or its great antagonist, for this. In view of established facts it will hardly be believed that Judge HARRISON did not know all the facts of the case: that ARMSTRONG had been a member of the rebel State Senate at Richmond. Nor will it be believed that the order of the Court, purporting to be signed by the Clerk is not correctly copied in your paper of the 21st instant, nor that it is right or fair for the Judge or his friends, after securing to their party the advantage of his *judicial* opinion to sacrifice ARMSTRONG as a scapegoat for the sake of shielding the Judge from the punishment such conduct merits.

JUDGE THOMAS W. HARRISON AND THE REGISTRATION LAW.

Editors Intelligencer:

Since the amendment to the Constitution, and the laws our loyal people followed in making its ratification, the Test Oath and Registration law are denounced by our opponents, including Judge HARRISON, as unconstitutional and void, it cannot be thought irrelevant at this time to examine these laws in other aspects than a mode or

means for *ascertaining the required citizenship* of persons offering to vote or register, in which respects they seem to have been also justified by the Constitution and pertinent to the inquiry. Our opponents read Section 6 of Article 1st of the Constitution, viz: "the citizens of the State are the citizens of the United States residing therein," and then they read Section 1st of Article 3d, viz: "the white male *citizens* of the *State shall be entitled to vote*," &c., provided they shall have been *residents of the State one year*, and of the County thirty days *next before offering to vote*, with exception of certain persons not necessary to mention here. They then stop, and set to denouncing and cursing the Test Oath and Registration law as gross violations of *these parts* of the Constitution, because they require, they say, something *more* than the Constitution itself requires to constitute a legal voter, viz: that they have not voluntarily participated in the recent rebellion. Such of our present opponents as were members of the Convention that framed the Constitution, I have always been aware, intended to have it fixed so that their friends in the rebellion should, in case the rebellion proved unsuccessful, return and resume at once the privilege of voting, and for securing them this privilege they expected their votes to elect themselves to office, and to the control and management of the government. Their disappointment in this particular, is the cause of the rage and desperation they have since exhibited. They did not consider that a citizen of the United States, whether residing in our State, and thereby a citizen thereof, or elsewhere, the moment he committed an overt act of treason became thereby a "public enemy," and *forfeited his citizenship* of the United States, and, as a consequence, of our State. The legal effect of such overt acts upon their *citizenship* had not at that time been considered and defined, as was soon after done by the highest courts of the nation. The test oath passed by the Legislature, the 25th of February, 1865, was intended as a *mode* or *means* of finding out whether persons offering to vote had in fact committed any overt act of treason, and thereby lost their citizenship, and, as a consequence, their right of voting, by appealing directly to their conscience in the form of an affidavit, signed and sworn to in a manner to be filed away and preserved for security in future. That was all. It neither added to, nor took from, the qualifications the Constitution had prescribed, but was only a mode or means of determining an important prescribed qualification, viz, *citizenship*.

This test oath was also material and proper in determining another

important prescribed qualification of a right to vote, viz: *a year's residence in the State next before offering to vote.* An act of the Legislature of the re-organized Government, passed February 10th, 1862, expressly declares that all persons in sympathy with the Rebellion who had or who should thereafter voluntarily leave their usual places of abode and go out of the reach of personal service, of civil process issuing from the Courts of the County in which they last resided and remaining ninety days, should be *non-residents for all purposes.* This act still remains in full force, as it has never been repealed and is not in conflict with any provisions of our Constitution. The Test Oath therefore, was also pertinent and proper, as a *mode* or *means* for ascertaining whether the person offering to vote had in fact another important qualification prescribed by the Constitution, viz: a year's residence in the State next before offering to vote. For if he had committed any act of disloyalty that brought him within the disqualifying provisions of this act, he became a *non-resident* of the State, and in contemplation of law remains a non-resident to this day, though he may now live or sojurn in it.

This then was the constitutional foundation upon which the Test Oath was enacted February 25, 1865, and on which it stood unshaken until repealed May 10th, 1866, by the 20th Section of the registration law, and supplementary act thereto, and after the first registration of voters under said act was completed. I trust no one will be fool-hardy enough to contend that "the war," "the insurrection," "the public danger," had so far ceased as to make unnecessary or unlawful the ordinary oath of allegiance at the close of the Test Oath. A mere renouncement, without committing overt acts of treason, would require a renewal of this oath before exercising political rights again.

The 2d Section of the 13th Article of the Constitution, provides that amendments to that instrument may be proposed at any time by the Legislature, and when published in the manner prescribed, and "agreed to," by the succeeding Legislature, this Legislature *shall* "provide by law" for "submitting the same to the voters of the State for ratification or rejection." Our last Legislature agreed to the amendment, the 13th of last February, and on the 28th of the same month, and day before it adjourned, it provided by law, in obedience to the express command of the Constitution, for submitting it to "the voters of the State for ratification or rejection." February 26th, two days previous to this act of submission, it passed the Registration

Act in pursuance of the 12th Section, 3d Article, of the Constitution, viz: "The Legislature may provide for a registry of voters. They shall prescribe the manner of making and conducting returns of elections and of determining contested elections; and shall pass such laws as may be necessary and proper to prevent intimidation, disorder or violence at the polls and corruption or fraud in voting." Section 8th of the same Article reads thus: "The Legislature, in cases not provided for in this Constitution, shall prescribe by general laws the terms of office, powers, duties, and compensation of all public officers and agents, and the manner in which they shall be elected, appointed and removed." It was in pursuance of these constitutional provisions, the Legislature passed the Test Oath law, the registration and other laws then in force regulating elections. The registration law especially declared that the Test Oath passed 25th of February, 1865, should remain in force until the first registration was completed (to-wit: the 10th of May last) when it should stand repealed; and the 3d Section provides as follows: "Before the registrar shall register the name of any person as a qualified voter, he shall be satisfied of his qualifications as provided by law, and if he has any doubt of his loyalty," (that is whether he has committed any overt act of treason which would destroy his citizenship and probably his required residence also) "he shall administer to him the Test Oath, mitigated by limiting the time to since June 1st, 1861." Thus the law stood March 1st, 1866, when the Legislature adjourned. The Constitution made it the express duty of this Legislature to provide by law for submitting the amendment to the voters of the State for ratification or rejection.

Who were these voters? Were they the persons who had forfeited by their treason one or more of the essential qualifications the Constitution in express terms required, i. e. citizenship and a year's legal residence? Every sane man must answer, no. Would not that Legislature have shirked an express constitutional duty and violated their oath of office if they had failed to have provided the very means they did to ferret out and exclude these *self-disfranchised* persons? Suppose they had provided no means to ferret them out and exclude them, would the submission for ratification have been to the qualified voters of the State, as the Constitution expressly directs it shall be? Where then is the unconstitutionality, that Judge HARRISON has sent forth from the Bench with the sanction of Judicial authority, to be caught up by ARMSTRONG and made a rallying cry for the self-dis-

franchised throughout the State, to come forth and vote in utter defiance of our Constitution and our laws? Where the unconstitutionality the Copperhead leaders, lashed into fury by their disappointment and defeat, are thundering from every stump, grog shop and cross road, to be echoed and re-echoed by the reconstructed rebels who manage their Press? The Legislature and Executive, backed by the loyal people, have achieved a work which will be approved by the just, the good, and the wise everywhere, and reflect lasting honor on its honest and brave achievers, when the names of their traducers will have been forgotten, or remembered only with shame. Let us then stand united and firm, and do what is right, "as God gives us to see the right," and all will be well.

Respectfully,

G. P.

THE EX POST FACTO QUESTION OF SENATOR VAN WINKLE'S "MANIFEST ABSURDITIES" DISPOSED OF BY A RECENT DECISION BY THE SUPREME COURT OF MARYLAND.

Editors Intelligencer:

We would thank you to publish the following recent opinion of the Supreme Court of Maryland, which settles that an amendment by a State of its Constitution so as to exclude returned rebels from voting or holding office, *is not a violation of the 10th Section, Article 1, of the United States Constitution*, which prohibits the States passing *Ex post facto* laws. You will observe the question was whether the clause in the recent amended Constitution of that State, which excludes all that have taken part in the rebellion from voting and holding office, was an *Ex post facto* law within the meaning of that Section of the Federal Constitution. Mr. VAN WINKLE says in his letter to the Wood County Convention thus: "The amendment of the State Constitution proposed by the last Legislature *is also liable to objections*," and after stating the object of his "padlock" clause at the end of the 1st Section, Article 12, he proceeds to state his second objection, thus: "Again, the National Constitution forbids the passage by any State of an *Ex post facto* law, which briefly means a law denouncing a punishment for an act which was not legally an offense

at the time it was committed. It matters not that the punishment is denounced by a Constitutional provision instead of a Legislative Act, as the former, just as much as the latter, is the law of the land. Had the amendment simply provided that those who subsequently to its adoption did so and so, should forfeit the right to vote and hold office. the only question would have been about its expediency; but as it also goes back to June, 1861, *it is contrary to the Constitution of the State as 'retrospective,'* AND TO THAT OF THE UNITED STATES AS EX POST FACTO."

Other decisions will probably be made soon by even higher authority, that will, we predict, as effectually dispose of the balance of his "manifest absurdities," and perhaps deny that the President's pardon restores a full and complete United States citizenship.

The following decision also affirms a right in a Legislature to prescribe a mode or means for ascertaining whether a person offering to vote has the required qualifications or not.

THE LOYAL PEOPLE OF WEST VIRGINIA.

THE REGISTRY LAW DECLARED CONSTITUTIONAL BY CHIEF JUSTICE BOWIE.

Chief Justice BOWIE in sustaining the constitutionality of the registration law, which excludes from voting those who cannot take the Test Oath prescribed in their new Constitution, says:

"This Constitution must be recognized as the organic law of the State. Its chief characteristics in contradistinction to the prior articles of the kind are, a declaration of the fundamental principle that every citizen of the State owes paramount allegiance to the Constitution and Government of the United States, and is not bound by any law or ordinance of the State in contravention or subversion thereof; its incorporation with the right of suffrage, and the abolition of involuntary servitude, except for crime. It was designed to render the Union indissoluble by excluding from the polls and offices of the State all who actively engaged in the rebellion or gave it aid and comfort. If the prevalence of the doctrine of secession is to be accepted in extenuation of those thus engaged in the rebellion, the soldiers of STUART and EARLY, if the war had continued, might

have claimed the right of suffrage unchallenged. The tenth Section of Article first of the Federal Constitution does not limit the power of a State to fix, change or modify the qualifications of voters. The right of a State to regulate the elective franchise is absolute and unqualified, under the foundation of State authority. To this power the right of a people to participate in the Legislature is subordinate. Citizenship and suffrage are not inseparable, the latter not being a universal, inalienable right, with which men are endowed by their Creator, but is altogether conventional. It is a question of mere civil polity, to be arranged on such a basis as the majority may deem expedient with reference to the moral, physical and intellectual condition of the particular State. A legal voter is certainly he who has the right to vote, *but the law appoints a means whereby to decide such right.* Limitations of this character are in operation in other States. The jealousy of federal influence excluded those in actual service from participating in elections. It would be an anomaly if the sworn enemies of the government should be preferred to its friends in this State. The same power which disqualified free colored men in 1801, who prior to that year were entitled to vote, enabled the Convention of 1864 to disqualify all who had been in armed hostility to the United States. Every government should contain in itself the means of its own preservation, and for that reason the regulation of the right of suffrage was reserved by the States.

BALTIMORE, December 15, 1865."

THE "Conservative Party" was again overwhelmingly defeated at the October election, 1866.

If I recollect aright Judge BUNKER, while holding Court in Judge HARRISON'S Circuit, the same Fall, decided substantially the reverse of Judge HARRISON, in the case of FLETCHER, vs. Board of Registration.

THE DEBT OF VIRGINIA—WHO SHOULD PAY IT?

Editors Intelligencer:

I read your able and just remarks in Monday's paper upon the above subject. I agree with you that the only *open* questions to be settled, are: *First*, what portion of the money derived from this debt as it existed Jan. 1, 1861, had been expended upon the territory now comprising the New State, or otherwise came to her use? *Second*, what would be the just proportion for the Counties comprising the New State to pay, of the *ordinary* expenses of the Government while this debt was accumulating—to be determined by the relative valuation, or population of these Counties. And, *Third*, the total amount of taxes these Counties paid into the State Treasury during the same period—the New State to be credited with the last, and debited with the two former.

If the whole subject were open and submitted to a Court of Equity, it seems to me it could adopt no other principle of settlement, as between the parties at least, than the one laid down by the ordinance passed by the Wheeling Convention in 1861, as and for *one of the fundamental conditions of separation*; which must be regarded as the true interpreter of the meaning of "equitable proportion of the debt of Virginia" as used in our Constitution. On what principle of justice and equity can the Old State claim more? Besides, there is this further important equitable consideration in favor of the New State: she has no Public Buildings or Institutions, and has these all to build for herself; notwithstanding she contributed for years *before the State debt began to accumulate*, towards erecting the spacious and commodious State Buildings, Public Institutions and endowing them—now all left in the Old State, to be exclusively owned and enjoyed by her people.

And what relation do the two States sustain to the creditors or bondholders? True, they may say, they parted with their money and took the security, relying upon the *whole* State, as it then existed, for payment; yet they must be presumed to have done so with a full knowledge of those Constitutional provisions which authorize new States to be erected out of the territories of old ones, and their domains to become thereby abridged. In the present case less than

one and a half of the forty odd millions have been expended within our borders, while all the balance was expended—much of it with treasonable aims, as is now manifest—in improvements exclusively within the Old State, whose people have had the full benefit and are now the exclusive owners of, and are able to pay for. If the two States were subject to a Court of Equity, is there any doubt such Court would apportion the burden so as to do Equity between the States? There is none. If a co-partnership composed of two individuals, one being a mere nominal partner, should give a note in the firm's name for $1,000, and the nominal partner should appropriate but twenty-five dollars of the sum so borrowed, to his use, while the other should expend the remaining nine hundred and seventy-five, in improving and beautifying his mansion, though standing in the firm's name, and afterwards by wicked and outrageous conduct, should force the nominal partner to withdraw without being paid for his labor, and the firm should afterwards, by lapse of time, or other cause, become discharged in law, though not in honor, from paying the note, could the holder of the note, with any show of conscience or equity, ask the expelled and abused nominal debtor to pay any part, until the mansion of the other—the actual product of the money loaned—with his other means, had been appropriated? And if sooner asked, might not the former well say, "my former partner forcibly expelled me and appropriated all to himself, and is now owing me a balance for my labor, after deducting the twenty-five dollars I received—pray collect the whole note, if possible, from him, as he is able and ought to pay." Could he not honestly and honorably make this reply? It seems to me he could.

Or, if two joint owners of a tract of wild land should, upon their joint and several note, borrow five thousand dollars, and expend it in improving, building up and beautifying one part of the tract, and afterwards the stronger should, by unjust and treasonable conduct force the other to withdraw to the uncleared portion of the tract, without any compensation, and set to building for himself and family a new home in the wilderness; and the obligation to repay the five thousand dollars had became, as in the former case, a debt of honor merely—and his title in the portion so first improved and embellished, had become extinguished without compensation—would not the course to be pursued by the expelled and injured co-tenant, as well as their just and conscientious creditor, be equally plain?

I submit, the equities of West Virginia, in the present case, are

not unlike the co-partner and co-tenant above supposed. Nor do I believe there is a bondholder anywhere, whose conscience will allow him to ask anything of West Virginia, until he shall have appropriated all that remains of the depreciated products of the money loaned to the Old State, with her other property. Does the Wheeling *Register*, with its "happy family," that have made so much ado about high taxes, ignore the principle here laid down? Or do they accept the figures as made by Auditor TAYLOR, of Richmond.

Respectfully,

G. P.

P. S.—I have read in your paper to-day, an article from the Richmond *Dispatch*, headed "The State Debt and West Virginia," to which, with your permission, I will reply in another number.

December 24, 1866.

THE DEBT OF VIRGINIA—WHO SHOULD PAY IT?

Editors Intelligencer:

I have just read in your paper of yesterday an article from the Richmond *Dispatch*, headed "The State Debt—West Virginia." It cannot be without its use to notice at this time some important facts the editor discloses in his labored effort to fix a third or more of this debt upon West Virginia. He recounts, in the tone of injured innocence, the losses sustained to the old State by the "secession" and "outrageous dismemberment," as he chooses to term it, of West Virginia. Which party is responsible for what has been done? Old Virginia "seceded" and left West Virginia exactly where WASHINGTON and his associates placed her in 1789, where she has remained—having done no more than the conduct of the old State compelled her to do in self-preservation; while the old State has revelled in carnivals of treason and blood of her own getting up, until reduced to the deplorable condition represented; yet makes the present striking difference in the healthiness and resources of the two States, one of the main reasons why we ought to pay one-third of her debt. She made cruel war upon us because we refused to go with her. She went despite our earnest entreaties to stay, and now wants us to pay for the damage she has sustained! He concedes but fifty Counties

to our State, and insists we have nearly half of the territory, one-third of the people and was paying, in 1860, one-fourth of the taxes. If this were so, we would ask why all the money the debt produced, amounting to $43,000,000, except about $1,500,000, was expended on *their* half? He makes our territory to have contained in 1860, 18,-381 slaves, valued by him at $9,180.500, which is $500 a head; while the old State had 472,647 slaves, valued by him at $236,323,500, which is $500 a head; which latter, he says, yielded and paid in 1860 a tax of $270,000; while the real estate, comprising the new State, the editor says, was valued in 1860 at only $83,803,641 61, and paid into the State treasury in 1860, at 40 cents on the hundred dollars, a tax amounting to $335,214 56—which, with the tax paid on personal property in these Counties for the same year, amounted to rising of $600,000; and it was about the same amount for many years previous.

Now our people wish to know of the editor why the $236,323,500 worth of slave property owned in old Virginia in 1860, paid into the State treasury only $270,000 tax, when the real estate of West Virginia valued at only $83,803,641 61 paid into the treasury the same year $335,214 56?

There was then in 1860 in the old State, one hundred and fifty-two millions, five hundred and twenty thousand, three hundred and fifty-nine dollars and thirty-nine cents' worth of slave property, an amount equaling the whole amount of taxable property in the Counties in 1860 which now comprise West Virginia—taken at the editor's valuation—*that paid no tax at all;* and at the same time it was a kind of property that commanded cash sooner than any other, and which required a large share of the legislation and large expenditure from the treasury to regulate, govern and protect. Nor was this monstrous iniquity and injustice confined to the year 1860; but had certainly existed during the ten years previous, and probably during the whole period the State debt was accruing.

Different facts from these must be shown before honor, justice or equity will adjudge the payment of *any part* of the debt by West Virginia. He shows we were as much defrauded in the levying of annual taxes which went to pay the interest on the accumulating debt, and "ordinary" expenses of the Government, as we were in the application of the money which the debt produced. Nor need the Old State expect to justify nor even palliate this unparalleled injustice, by showing that the Counties now composing the New State—whose

people were all the while in a powerless and hopeless minority, and represented generally by men who were either dominated over, cajoled, or bought up by the Richmond dynasty—enjoyed a like fraudulent exemption on the comparatively small pittance of $9,180,500 worth of slave property, then owned within the borders of the New State, by their tools and allies mostly; or that the Representatives that this class used to send to Richmond, *concurred* with them in the nefarious measures; or by pleading a subsequent annihilation of this species of property, which their causeless and voluntary treason produced.

The editor shows but little just discrimination when he likens the New State to "an individual retiring from an embarrassed co-partnership, and refusing to pay his share of its liabilities." The firm was sound and prosperous in the winter of 1860–'61, when the people of the Old State seized all the assets, including the Literary fund, which the Old Mother had been accumulating for nearly a century, for the purpose of educating her children—and plunged into rebellion, leaving the people of the New State no alternative but to follow, or remain where they were, and commence business anew for themselves—though stripped of everything as they were. They chose the latter, and, as events have proved—wisely.

Until the editor and his friends can satisfactorily explain these things to the people of West Virginia, and the Bondholders, I should advise they should make other provisions than the one proposed, for the payment of the debt; especially that part allotted by them for West Virginia to pay.

Respectfully,

G. P.

December 26, 1866.

[No. 1.]

WEST VIRGINIA LAND TITLES—THEIR CONFUSION AND UNCERTAINTY IN MANY SECTIONS—THE DEPRESSING EFFECT—A REMEDY PROPOSED.

Editors Intelligencer:

Impressed, as you appear to be from your bold and appropriate leader in to-day's paper, against our usury laws—of the present unprogressive condition of our State—having written the following, think-

ing to lay it before the Legislature in the form of a memorial—the timely and fit introduction you have made of the subject, has determined me to ask for its publication as a continuation.

Though the evil, mentioned in the caption, has long existed this side the Alleghany Mountains, it has recently been greatly increased. When the war closed, West Virginia with her excellent Constitution, free institutions and large natural resources, including petroleum oil, then fast enlightening the world and inflaming all speculative minds, and her central position, attracted more attention from capitalists and immigrants than any other section of the country. Her lands were sought by persons from every quarter, and often at exaggerated prices. It was supposed that Virginia, like the other States and the General Government, had never granted but *one patent for the same piece of land*, and had granted as the latter grants, only after a general survey and accurate location had been made. And hence it was thought by people abroad that whoever held a patent from the State of Virginia, with her seal and one of her former Governors' names attached, or could, by proper deeds, deduce title through such a patent—must have a perfect right. The numerous squatters holding or deriving mere color of title through junior patents, took advantage of this excitement and delusion, sold large amounts of land to which they had no title, at prices often above their value with a good title, to persons from all parts of the loyal States. The numerous purchasers at length finding out the gross frauds practiced, have impressed the whole country with the idea that it is impossible to get a clear title to lands in West Virginia; and so strong is this conviction in the great monetary centers of the country, as New York, Philadelphia and Boston—that their real estate brokers refuse to undertake the sale of West Virginia lands, but dismiss with the assertion, "there are no valid titles in that State." For the truth of these facts I think I may appeal to every person who has lately had anything to do in an attempt to sell our lands, in those cities.

Assuming the facts to be so, every one must see how vital it is to the prosperity and advancement of our young State to have this evil removed in the speediest manner possible, consistently with our organic law. For we must introduce capital and labor from abroad in order to attain what the State is capable of becoming. It is neither blatant politicians, nor demagogues, nor professional men, nor country merchants, that have ever built up a State. Capital, combined with free intelligent labor, both wisely directed to the development of its natural

resources, and manufacture of its raw material—valueless in their natural condition, as our coal, iron, salt, oil, lumber, &c., while underlying or covering our mountains and valleys—so as to fit them to the wants of others, who will purchase and pay us the cash. This process, with the various agricultural products our lands are capable of yielding, when cleared, including fruit, stock and wool growing, alone can ever build up our State. Capital and labor must be had to do it with. Neither of these are coming if they have to buy a *lawsuit*, and be dragged into the courts to commence with. They will go where these banes and annoyances to honest industry can be avoided. *The wants and necessities of West Virginia have changed altogether.* The great purpose and business of the people of many of our Counties, while parts of the old State, seemed to have been, to attend and run the Courts, at which all were either parties, jurors or witnesses, attend the hustings, support a large corps of lawyers and politicians, take out and trade in junior patents, which the old State was always anxious to grant at two cents per acre, whether covering a graveyard or a hill, sold a half dozen times before, but sure to tax and collect of each the full value of the land, and leave it to a few negroes to do the work.

This state of things in Western Virginia suited East Virginia when, in late years, slavery was the controlling power to which all other things had to yield. She used it for the purpose of locating junior patents upon, and deriving quadruple revenue from, settling any surplus of what she called her "poor white trash" upon, after fitting them out with pockets full of junior patents, and quartering decrepit political servants, and rearing and educating young ones, fully schooled in "State rights," the resolutions of '98–9, and the divine origin of the slave institution.

Between the close of the revolutionary war in 1783 and the year 1800, all the lands between the Alleghanies and the Ohio river had been granted once, and many, twice and thrice, to soldiers and patriots who had participated in that war, or the French and Indian war preceding, and among them was General WASHINGTON, who took up much of the best agricultural lands. These lands, with the unappropriated portions of what was afterward organized into the North Western Territory, belonged before our independence to the crown of England. Upon the establishment of our independence, they became technically vested in Virginia, which in 1783, in consid-

eration that the United colonies had helped to wrench these from England, ceded the Northwestern Territory to the United States. Prior to that date for a like consideration probably, she put her "waste and unappropriated" lands, including what afterward became the State of Kentucky, into the market at two cents per acre—the locator paying the expense of surveying, patent, &c. This price for her "waste and unappropriated" lands remained unchanged until the time of our separation in 1863. At the early period spoken of, the hill lands now comprising portions of West Virginia sold for 50 cents to $1 per acre. But when the General Government had driven off the Indians from the rich lands of Ohio, and put these lands in the market, and the State of Ohio was formed as a free State, capital and emigration turned its course there and beyond, as they have ever since, leaving the less fertile lands of West Virginia, cursed with the institution of slavery, with all its blighting influences and deleterious accompaniments. These hill lands became comparatively valueless, and the owners, many of whom were residents of other States and foreign countries, neglected to pay the taxes. And here commenced a series of legislation on the part of Virginia for the purpose of collecting the taxes, the most multiform and complicated on record—so much so that very few Virginia lawyers at the present day pretend to understand them. This legislation was continued with occasional lulls until 1852. While the men of the revolution lived and directed the affairs of the State, she practiced a leniency and forbearance toward the owners of delinquent lands which have no parallel. She occasionally offered them for sale but bid them in herself, or redeemed them for the owners if purchased by others, and continued the right of redemption, till the 1st of July, 1838, when they became irredeemable; and ordered all not then redeemed or disposed of, to be sold, and taxes, interest and costs to be paid from the proceeds, and the balance to the former owners or their representatives, if claimed within a specified time. These sales passed only the interest which the State then held.

Until 1826 she recognized non-residence in the State among the disabilities against which her Statute of Limitation was not permitted to run. By an act passed in 1827 she *recognized* for the first time in her legislation, that she had been granting many patents for the *same* land, and taxing each of the patentees with the full value thereof, and provided by that, and subsequent acts, for giving the land forfeited, to the one holding the oldest patent among those

paying the taxes within the time prescribed; that is, in case three held patents of different dates upon the same piece of land, and each patentee had been taxed and was delinquent, and the land had been declared forfeited to the State, it was redeemable before a certain day. If the one holding the oldest patent paid his taxes, interest and costs within the time prescribed, he took the land. But if he failed, and the one holding the next oldest patent paid within the time, she gave the land to him; and in case neither of the former paid, and the holder of the youngest patent paid within the time, the State gave him the land, rather than sell it again the fourth time, after having received her just tax, interest and costs. None of the lands which were not redeemed prior to July 1st, 1838, and had become absolute in the State, were subject to be *lawfully* patented again, until the Code of 1850. Such could only be sold by the Commissioners appointed for the purpose. When the Code of 1850 made them lawfully patentable again, the air became filled with junior patents, and everybody's land, no matter whose or where situated, was shingled over again with a coating many patents deep, overlapping and interlocking in all forms; and these patents continued to issue until the war separated our people from old Virginia, and our Constitution in 1863 came in and cut the pernicious system up, root and branch, and provided that all lands then vested in the State for non-payment of taxes, &c., not released, exonerated or redeemed before June 21st, 1868, should be sold, and the balance of the proceeds, after paying the taxes, damage and cost, should be paid to the former owner, or his legal representatives, if claimed within two years thereafter. Such taxes and interest, when paid, to go to the School Fund.

Respectfully,

December 31, 1866. G. P.

[No. 2.]

WEST VIRGINIA LAND TITLES—THEIR CONFUSION AND UNCERTAINTY IN MANY SECTIONS—THE DEPRESSING EFFECT—A REMEDY PROPOSED.

Editors Intelligencer:

Many of the early patentees, their descendants or assigns, have kept their taxes paid up, and still their lands have been shingled over

with junior patents, which the squatters have taken out in order to acquire thereby *color of title*, shield themselves from prosecutions for cutting and carrying away timber, and avail themselves of the statute of limitations. This peculiar situation which these squatter or junior patentees have held, has made them as a general thing—though there have been some noble exceptions—pliant tools in the hands of the political demagogues, who cursed our section for many years before the war broke out, and carried most of the squatters with them into the rebellion in 1861, upon the solemn promise that they would have all the lands of loyal men confiscated by the Southern Confederacy, and large farms allotted to each of the squatters. The traitorous leaders and their duped tools are now all back again—looking for a way to steal what they were unable to confiscate. This element for political demagoguism has been coeval with sqatterism in many of the Counties, especially the back and southerly ones. When Virginia lost her great men of the Revolution, an entirely different class of public men succeeded. They were altogether inferior in natural endowments, with souls gangrened by slavery, and filled with inordinate pride and ambition, with hatred and contempt for all who are not "to the manor born." They began as early as 1832 to legislate against non-residents and in favor of the squatters of Western Virginia. By an act passed that year, all lands lying *east* of the Alleghany Mountains were released of all delinquent taxes and damages, and at the same time, the Legislature released the taxes and damages on all tracts *west* of the Alleghany, where the tax did not exceed $10 00, and on all, where the taxes and damages added together, did not exceed $20 00. This exemption included nearly every squatter, but reached but few non-residents. By an act passed the 27th of February, 1835, forfeiting lands *west* of the Alleghanies only, then off the commissioners books, if not entered and taxes paid by a certain day, a similar exemption was made in favor of the occupant. In March, 1837, an act was passed which applied only to lands *west* of the Alleghanies, making a possession of seven years sufficient to give the squatter a right to the possession, while it required fifteen years east of the Alleghanies. The code of 1850 made the statute of limitation uniform throughout the State, making it fifteen years. By act of 1852, certain omitted lands *west* of the Alleghany mountains were declared forfeited unless the taxes in arrear were paid within a specified time, and made the same subject to re-entry, &c., but no lands east of the Alleghany were affected. March the 12th, 1861, the Leg-

islature that organized the Rebellion, reduced the statutes of limitation *west* of the Alleghany mountains from fifteen years as established by the Code of 1850 to *ten* years, but left it unchanged east of these mountains. I well recollect how prominent this subject of reducing the statute of limitation was made by the incipient rebels in the lower part of the State, in their canvass for seats in that Legislature, and was informed that it had been the only passport to the Legislature for many years previous. But the Legislature had repelled the appeal until she could conciliate and secure allies in treason. And still this anomaly in legislation, for I venture to say no other State in the Union has ever had two distinct statutes of limitation in force at the same time, in different parts of her domain, and during the last five and half years, with all the legislation that has been had by the reorganized and new State governments, no Legislature has had courage enough to wipe out this sop of treason. But it stands to-day with a statute of limitation of *ten* years on this side of the Alleghanies, and fifteen years in the few Counties lying east of those mountains, so that a Judge of the Eastern Circuit has to apply one rule in one County and another in a County adjoining, within his circuit.

Thus it appears that for a period of upwards of thirty years, this squatterism has furnished the material for demagogues to work upon in many of our Counties while parts of the old State; and this element was occasionally rolled and stirred up by some descendant of an early patentee who had always paid his taxes, by bringing suit against them in the Federal Court, where he generally prevailed, though it was otherwise before the local tribunals, where the demagogue-squatter influence has generally prevailed. This is a brief sketch of the policy and legislation of the old State at different periods upon the subject.

What has the reorganized government and new State done? The Convention representing the loyal people of Virginia, when it assembled at Wheeling, the 11th of June, 1861, felt vividly on whom they had got to rely for aid to successfully carry them through the perilous work they were about to undertake—not resident Virginians "to the manor born," for they had gone the other way and taken most of the squatters, or junior patentees with them, filled with the hope of sweeping confiscation and ample farms, but upon *non-residents*, the people of the loyal States. And hence, for the purpose of better securing that aid, they put in the ordinance authorizing the formation of a new State, the following, *as fundamental conditions* on which it

should be erected, viz: "All private rights and interests in lands within the proposed State, derived from the State of Virginia prior to such separation, shall remain valid and secure under the laws of the proposed State, and shall be determined by the laws now existing in the State of Virginia."

"The lands, within the proposed State, of *non-resident proprietors shall not in any case be taxed higher than the lands of residents therein.*"

I need not mention how these and the other propositions put forth by that Convention have been responded to by "non-resident proprietors" of its lands, and the loyal people generally throughout the loyal States.

How have the people of West Virginia kept this solemn and sacred pledge made in that solemn hour? The Convention that framed the Constitution of the New State, complied with the condition so far as it related to taxing "non-resident proprietors," by section 1st, of the 8th article, viz: "Taxation shall be equal and uniform throughout the State, and all property, both real and personal, shall be taxed in proportion to its value, to be ascertained as directed by law. No one species of property, from which a tax may be collected, shall be taxed higher than any other species of property of equal value; but property used for educational, literary, scientific, religious or charitable purposes, and public property, may, by law, be exempted from taxation." And the parts relating to "private rights and interests in lands," by Section 1st, Article 9th, which adopts substantially the language of the ordinance before cited.

Near the close of the work of the Convention, a Special Committee, consisting of legal gentlemen, was appointed, composed of THOMAS W. HARRISON, (now Judge) as Chairman, Col. B. H. SMITH, Mr. VAN WINKLE, and others, to consider and report on the subject of "forfeited, waste and unappropriated lands," which Committee reported substantially Article 9th of the Constitution. The 4th Section of the Article is a very singular one for a Committee to report, and a Convention to adopt, that were loyal, sincerely desirous of settling the land titles, or of imposing the burden of taxation equally and impartially, as guaranteed by the ordinance of 1861 and section 1, article 8, of the Constitution before recited. It released all lands from taxes that had been returned delinquent since 1831, where the tract did not contain more than 1,000 acres, or the tax exclusive of inter-

est or damages did not exceed $20; leaving all lands where the quantity exceeded 1,000 acres or the tax $20, still burdened with the taxes and interest; and if not paid in five years ordered them to be sold. The provision operated in favor of rebel squatters against loyal men living in and out of the State, as the squatters' lands generally came within the exemption, and in nearly all cases they had suffered their lands to be returned delinquent for 1861 and 1862, as they spurned to pay anything to the Wheeling "bogus" Government, while the loyal men had paid theirs and had not suffered theirs to be returned delinquent. The lands of non-residents, as a general thing, exceed 1,000 acres, and the tax $20, and so were not within the exemption. Besides, the taxes so released in favor of rebels generally, belong to the old State, and will have to be accounted for to her on the settlement, which loyal men will be taxed again to pay, if any balance be found against this State. If the State taxes her citizens, or non-residents equally with lands they own, according to fair valuation, and then goes to work and releases the rebel squatter part, or any other portion, leaving the burden still on the other owners, she thereby as palpably and clearly violates the fundamental condition of separation in the ordinance of 1861 and the whole spirit of our Constitution, as she would by taxing one of two of her citizens who owned property of equal value, twice as much as the other. Here, then, was a manifest and unwarranted discrimination in favor of rebels and against loyal men, resident and non-resident. But the section goes further, and to make confused land titles doubly confused and open PANDORA's box still wider, it releases all lands that had been forfeited to the State of Virginia for taxes delinquent since 1831, where the tract does not exceed one thousand acres, and all taxes and damages for which they were forfeited. Nearly or quite all the lands probably, coming within this description, had inured to and vested in holders of existing patents, which covered the same lands, or had been resold by the old State for two cents per acre. What had not been so disposed of passed to the new State and is to be accounted for to the old State on settlement. No one can fail to see it opens much ground for litigation which was closed before. I opposed and exposed it as well as I could in the Convention, but its friends rushed it through near the close of the session, many of the members, I believe, not understanding the intricate subject.

Respectfully,

January 1, 1867. G. P.

[No. 3.]

WEST VIRGINIA LAND TITLES—THEIR CONFUSION AND UNCERTAINTY IN MANY SECTIONS—THE DEPRESSING EFFECT—A REMEDY PROPOSED.

Editors Intelligencer:

The first marked catering of the new State Legislature to the squatter influence that I have observed is the 10th section of an act passed March 2d, 1865, entitled "An Act to provide for the sale of certain lands for the benefit of the School Fund." (Session Acts of 1865, page 82.) The act proposes to carry into effect sections 5 and 6 of Article 9th of the Constitution, viz: "All lands vested in the State by forfeiture, or by her purchased at the Sheriff's sale, and which have not been released, or exonerated, or redeemed before the 21st of June, 1868, *shall be sold*," &c., in the manner provided in the 3d section of the same article; and section 6 of the same article of the Constitution provides that the balance of the proceeds, after paying the taxes and damages, (which are to go to the School Fund,) and the cost, shall be paid to the former owner, or his legal representatives, if claimed in two years. It will be observed that the Constitution expressly directs that all lands that are so vested and not released or redeemed, are to be thus sold and the proceeds thus disposed of. The 10th section of the act of the Legislature, before mentioned, undertakes to divert so much of the lands as squatters may have possessed ten years and paid the taxes assessed to them, from the course of disposition thus pointed out by the Constitution, and give them outright to the squatters. Of course the section is a nullity, as it is in direct conflict with the Constitution; but it nevertheless shows to an extraordinary degree, the same old spirit of catering to squatters, and unjust discrimination against "non-resident proprietors" as well as a readiness to defraud both the school fund and honest owners, for the sake of conciliating and getting the votes of these squatters. Messrs. FERGUSON, MAXWELL, LAMB and other lawyers of distinction, were members of the Legislature that passed this law. That section should be swept from the statute book. True, the political demagogues, for more than forty years have aimed to justify such outrageous legislation by pretending that their object was to encour-

age actual settlers and build up the country. This is false. Their object has been to conciliate the squatters and get their votes by depriving honest "non-resident proprietors" of their land. Besides, the unsettled, wilderness condition of so much of our lands at this time, demonstrate the entire futilty of such a purpose, if it were true, which should stop its repetition.

The act passed the 24th of February, 1866, entitled, "An Act to dispense with the assessment of back taxes, in certain Counties," session acts of 1866, page 50, affords another striking illustration of the same spirit. This act professes to relieve the assessors of all Counties in which taxes were not assessed and returned to the Auditor's office for the years 1861, 1862, 1863 and 1864 from their obligation and duty to assess them for those years, with this exception: "that the lands of all non-residents, which are situated in such Counties, shall be taxed;" and section 2d releases all persons and property, both real and personal, from all liabilities to pay taxes for the years aforesaid, with this proviso: "Provided, however, that the lands owned by non-residents of the State, shall not be exempted from taxation." Nearly all the inhabitants of the Counties contemplated were rebels, and off in Dixie; so no assessment could be made for those years under what they termed the "bogus" government, and returned to Wheeling. Was it this fact that induced the members of the last Legislature to make this unconstitutional discrimination in their favor against loyal "non-resident proprietors" living in loyal States; and this, too, in direct violation of the fundamental conditions of the ordinance of separation, and the provisions of our Constitution before recited? If the Legislature had intended to discriminate in favor of loyal men even, it had no constitutional right to do so; and such a course of legislation, if persisted in, cannot fail to stamp her character abroad, as being more perfidious than the old State has ever been. This legislation, I submit, should be at once modified, so as to conform to the fundamental condition of separation laid down by the mother State, and to the Constitution established by our people; and future repetitions henceforth scrupulously avoided by their legislative servants.

Having stated what seemed to me to be the cause and nature of the evil, I will venture to suggest that the coming Legislature, after repealing these unconstitutional laws, pass the following bill, or substance of it, as an additional remedy, viz:

A bill to settle conflicting claims to land and quiet the titles thereto.

WHEREAS, By the practice of granting patents heretofore by the State of Virginia, for lands west of the Alleghany mountains, without first ascertaining the fact that they were "waste and unappropriated," successive patents were granted for the same land, or part, or parts thereof, by reason whereof claims thereto have become conflicting and interfering, and the title uncertain, thereby depreciating the value and preventing the settlement and improvement thereof; and, whereas, it is of the first importance to the State that the title to land should be judicially settled, and quieted, and shadows removed as soon as practicable, and the gross frauds stopped which are being practiced upon the public, by sales of worthless patents that bear the seal and signatures of former Governors of Virginia—which can be done more effectually, expeditiously and economically by proceedings in equity than by suits at law, in the form now in use, which afford but inadequate relief, for remedy whereof,

Be it enacted by the Legislature of West Virginia:

1. Any person having valid title to land, legal or equitable, derived mediately or immediately, through grants from the State of Virginia, to which, or part, or parts thereof, in severalty or otherwise, there are adverse claims derived mediately or immediately, through grant or grants from the State of Virginia, which are junior to his, may, within five years from the passage of this act, file his bill in equity in the office of the Clerk of the Circuit Court, for the County wherein the greater part may lie, to be sworn to by the complainant, setting forth the grouuds and chain of his title and the boundaries of his land, or patent, or patents, under which he claims, with the names of the persons known to him to be residing within such boundaries, who claim adversely to his title, mediately or immediately, through such junior grants from the State of Virginia—any part thereof in severalty or otherwise; and thereupon it shall be the duty of the Clerk of said Court to issue summonses to the persons so named as claiming adversely as aforesaid, to be made returnable on the first day of the first term of the said Court, which shall commence more than forty days thereafter, directed to the Sheriffs of the Counties in which the defendants are described as residing, which it shall be the duty of such Sheriffs to serve and return in the manner now provided by law

for serving summonses in suits in equity; such service to be made, however, thirty days before the day on which they are made returnable.

2. Upon the return of the summonses, duly executed, as to such of the defendants as shall not appear during the term to which such summonses are made returnable, the complainant's bill shall be taken for confessed; and such as shall appear, shall at the next succeeding term of the Court, or at such intervening rule day as the Court shall order, file their answers subscribed and sworn to, setting forth the boundaries of their respective claims, with the grounds and claims of their title, and upon their failing so to do, the complainant's bill shall be taken for confessed as to them also, unless the Court shall for good cause shown, give further time to make and file their answers.

3. The Court in which any such bills shall be pending, shall have power, upon the request of either party, to appoint Commissioners or masters in chancery to take testimony, and to ascertain and report any facts pertinent to the issue, and also to appoint Surveyors to make any surveys that may become necessary, and that either party shall require; and when the testimony is completed, shall proceed to hear and determine, sitting as a Court of Equity, all questions of law and fact arising in the case, and to annul and order to be cancelled, in whole or in part, all patents, so far as they shall be found to be invalid; and its decision shall be conclusive upon the rights of the parties, provided, any party aggrieved may appeal within the time and upon the terms appeals are now allowed by law, from the Circuit Courts.

4. If any person entitled to bring his bill by the provisions of the first section of this act, shall fail to bring and prosecute the same, or his action of ejectment, within the time provided in such first section, he shall be forever barred of any right of entry, action or claim, to so much of his land as shall have been cleared and improved, (and to include so much adjoining woodland as may have been used in connection with such improvement for getting necessary fuel, and fencing timber for the same, provided such appertinent wood-lot shall not exceed —— acres,) by any person claiming bona fide under any grant from the State of Virginia, that is junior to his; which, with the buildings and improvements thereon, shall be confirmed to the person making or claiming such clearings and improvements so made under junior grants as aforesaid, but shall stand confirmed in

his title to the remainder so far as such occupant is concerned; provided any person who has right to bring his bill by the first section of this act, shall, when his right first accrues, be an infant, married woman or insane, such person may bring such bill or action of ejectment, within one year after such disability is removed, but not afterwards.

5. When in cases where the defendant shall appear and answer, the Court shall decide against him, he shall be allowed the value of the improvements bona fide made by himself, or those under whom he claims, and he to account to the complainant for the fair rent for the use of the premises, and just compensation for damage done, and for what has been taken therefrom by himself or those under whom he claims—to be adjusted by the Court according to the rules laid down in chapters 135 and 136 of the Code of Virginia, second edition.

6. The complainant, upon filing his bill, shall be entitled to a writ of injunction upon the terms such writs are now granted, restraining the defendants from committing strip, or waste, (except by clearing land for the purpose of cultivation) or selling, or assigning the junior patents or grants under which they shall claim, or interest theretofore claimed by them, to any person without permission from the Court.

7. This act shall not be construed to repeal or impair any other existing remedy the complainant now has, nor alter the existing statutes of limitation, except in the instance before stated.

Such a law, I submit, will at once place the conflicting claims between the actual occupants under junior grants and *bona fide* owners under previous valid ones, whether the latter be resident or non-resident, in process for speedy, equitable and just settlement, with such patents as are valid, judicially established, and such as are found to be invalid, annulled and cancelled so as to be incapable of further fraud or mischief upon the public. This, a Court of equity has the power of doing, as well as to invoke the aid of a jury when deemed proper for settling any facts before making up its decree. It will encourage actual occupants to clear and improve all the land possible, and so help the State, by giving him full assurance that if the real owner fails to come within the five years, he becomes absolute owner of all he has cleared, with his buildings and enough more adjoining woodland to furnish his farm with necessary wood and timber. And if the owner does sue within the time and establish his title, he is to

be allowed a fair compensation for all the improvements that have been made on the land, deducting what would be fair for rent and what had been carried away. This leaves the occupant, if the owner claims, in as good or better plight than the present law allows him. Besides, I believe the passage of such a law would lead at once to an amicable adjustment with most of the occupants. Such a law will also do full justice to the resident and non-resident owners. As soon as the present occupants shall be settled with, the law may be extended to the settlement of conflicting claims under patents to lands remaining in a wilderness state, as both at the same time would probably devolve too much business upon the courts. It will be observed that the present action of ejectment is retained, but the time for bringing it against actual occupants is reduced to five years, with the usual exceptions in favor of persons under disabilities.

The order *and service of it*, to plead in our present ejectment proceedings, I submit, is superfluous and should be abolished. The service of the declaration upon the defendant is notice enough. The proposed remedy, I submit, is in accordance with the fundamental condition of separation, prescribed by the Convention of 1861 and our Constitution, and disturbs no vested rights, and will do equal justice to all parties interested.

The idea that a returned rebel squatter or any one else, because he had taken out a junior patent paying two cents per acre, a short time before the rebellion, covering 100, 500, or 1,000 acres of a survey patented 70 or 80 years ago by some revolutionary soldier or patriot, who, with his descendants or assignees, has paid all taxes since, and because the rebel squatter had cleared a small patch and built a cabin, before going to the rebellion, he is to obtain, after failing to destroy the Government and all loyal men, and hold the whole land *included in his patent* to the exclusion of the first patentee or his assigns, who have been all the while loyal and true, would shock the moral sense of all honest men. The mere act of shortening the statute of limitations has had, and can have, but little effect in settling conflicting claims to our hill and mineral lands, for there has been no such possession as to give it application, as a general thing.

I am confident it requires some measure like the one suggested to restore the confidence and good wishes of our former friends, and induce capital and immigration to come among us. Our State possesses few, if any, of those extraordinary attractions which induce these

to a place regardless of unfriendly legislation and repellant feelings, as the gold of California has done. May I not hope in common with our people, from the eminent legal ability and practical common sense, that the members elect, guarantee for our next Legislature, a body which alone has the power to act in the matter—the adoption of the measure proposed, or a better one. Until this is done, a renewed squabble for locating the Capital will look like NERO'S fiddling while Rome burned.

Respectfully,

G. P.

January 3, 1867.

OUGHT THE BALTIMORE AND OHIO RAILROAD TO BE ASSESSED AND MADE TO PAY ITS JUST SHARE OF TAXES?

Editors Intelligencer:

Paying for myself, and the parties I represent, perhaps the largest tax in the State upon real property, and never having had a dollar released as yet by the various releasements by the Convention and Legislature heretofore made, which have operated almost exclusively in favor of rebels and squatters—you will pardon me for the interest I feel in the action the Legislature shall take in relation to this mammoth corporation. For if rebel squatters are to be the exclusive recipients of its gracious favors, and this mammoth corporation is to defy successfully its legitimate power, it is time for honest men to be getting out of the way. Of course, the Baltimore and Ohio Railroad stands upon its legal rights as individuals stand upon theirs. This company is seeking its own interest, and has been ever since it was created, and not the interest of Virginia, or West Virginia. All its chartered rights, nevertheless, should be cheerfully accorded, and, at the same time, all the duties and obligations its charter and the law impose should be rigidly and fearlessly enforced. It is a Baltimore institution, and owes its birth to the Legislature of Maryland. The great purpose of its projectors was to tap the coal fields about Cumberland, and the Great West at the Ohio river, and thereby secure trade to Baltimore—imitating in this respect the great cities at the

North. Unless they could tap the Cumberland coal fields and the Ohio river, they could not have found half business enough to have supported a road. And now they talk largely about the profits of the *east end* of the road! What would these be if it was not for the west end that puts them in easy communication with their coal fields and the west? After going about eighty miles they found it convenient, if not absolutely necessary, to leave Maryland at Harper's Ferry, and from thence nearly all the way to the Ohio river, to use Virginia (now West Virginia) soil. For this privilege, without which the road would have been valueless, the Mother State was careful to impose certain obligations and duties, all which obligations and duties have inured and become due to West Virginia; and it is her right and duty to fearlessly exact their performance, fairly and justly, in order that she may give to her own citizens the protection she owes.

What are these obligations and duties? These, so far as they relate to taxation and the exaction of fare and freight from our citizens, are contained in the 6th, 7th (being the one you copied,) and 8th sections of an act passed by the Legislature of Virginia, March 6th, 1847, Session Acts 1846–7, page 88. These sections contain the substance of an act passed February 19th, 1845, which subjects the Baltimore Company to the general rules and regulations established by the Legislature of Virginia, in 1837, for governing her own Railroad corporations—making them subject to taxation, and requiring uniform fare and freight *per mile* without regard to person or distance; and the act amendatory thereof, passed the 28th February, 1846, relieving the Company from taxation until its net income should exceed six per cent. on the capital invested.

The letter and spirit of this legislation shows it to have been the intention of the Mother State, as a consideration for the important privilege granted, to subject the property of the Company, found or accruing within her jurisdiction, to taxation as soon as its net income should exceed six per cent. on the capital invested; and also to all of her citizens the right of riding and transporting as cheaply per mile, as citizens of Ohio and other States. She would have done her own citizens great injustice if she had not secured them this right. Taking the figures then, as you have given them—and, doubtless, correctly—that the average net income of the Company for the last nine years—rising sixteen per cent. on the *whole* capital invested—pray tell me where there can be any question at all to be *compromised*? Cannot any taxpayer in the State ask for compromise and

release with as much grace and show of equity as this mammoth Company presumes to ask it? It strikes me he can. The facts as stated by Mr. KING, their auditor, for the purpose of raising an equity in their favor, seems to me to make the other way. Their road from Baltimore to Harper's Ferry would hardly pay for the oil and fuel, if it had stopped there, and had not an extension over our territory to the coal fields and the Ohio river—and so will the fact that the Company have invested $5,744,430 08 in the North Western Virginia Railroad—a Company organized under a distinct and independent charter from Virginia, dated February 14, 1851—four years after the act in question was passed—and which investment he says, is unproductive. Still, this amount, I infer, forms a part of the Company's aggregate capital invested, on the whole of which it has received the large net profit before stated, notwithstanding the unproductive investment in the North Western Road. Deduct the unproductive amount from the aggregate investment and the remainder which has been expended on the Baltimore and Ohio Railroad, the only Company or Road that West Virginia, in view of the legislation aforesaid of the mother State, can have any concern with—and the net income would obviously have been much larger. The language of the acts making the grants, with their dates, makes it absolutely certain that the obligation to pay taxes arose whenever the net income of *that Road, taken as a whole*, exceeded six per cent., on the money invested in *that Road*. The obligation then to pay taxes is as clearly attached to that Company as to myself or any other citizen—and what is to be done? Compromise—release? I ask for the *power* in the Legislature to do it? The Mother State Legislature possessed such a power, and we all know, to our sorrow, how she abused it. If the majority in the Convention that framed the Constitution, had any fixed determination, it was to put an end to that enormous evil and fraud, and make taxation equal. The first section of the eighth article of that instrument did the work; and the particular enumeration of the kind of property in the last clause of that section, that the Legislature may, in its discretion, exempt from taxation, clearly limits the legislative power to the subjects therein enumerated—which are "property used for educational, literary, scientific, religious or charitable purposes, and public property." I hardly think this mammoth corporation will attempt to bring itself within either of these; and still it would be scarcely less absurd and presumptuous than the grounds they have put forth. The contemptible

subterfuge heretofore practiced, in attempting to avoid the manifest spirit and meaning of this section of the Constitution, by first making an equal and just assessment, and then going to work and releasing certain favored parties from payment of taxes, leaving the burden still on others, will not long be tolerated or submitted to by a just and intelligent people. Of course, all errors that occur in making the assessment, are correctable. It is difficult to see how the granting of any rights, withheld by this Company from citizens living along the road, can give the Legislature a power, which the Constitution in express terms denies. If any of our citizens are being wronged by the Company, it is the duty of the State through her Legislature and Courts to provide them relief, by Constitutional means, which she clearly possesses.

I don't believe, therefore, that our Legislature will feel itself called upon, or justified, in giving much of its time to a claim so utterly groundless and so clearly beyond its power—though pressed again, as I saw it last winter, with all the appliances usual on such occasions, and by such a Company. The only question, it seems to me is, have the authorities of West Virginia the courage and nerve to assess and collect this just tax off this rich corporation? If not, our people and the world should know it.

Respectfully,

G. P.

January 15, 1867.

THE BESIEGERS OF THE LEGISLATURE—THEIR NEW MODE OF ATTACK.

Editors Intelligencer:

The siege of this mammoth Company upon the Legislature is unequaled. A majority of the Senate has succumbed—receiving, I presume, only part of what Tarpeia received from the besieging Sabines, but to receive, I trust, the other part, in crushing weight at least, from a betrayed people.

You state the Company assume to justify their demands under sections 46–7 of chapter 3d, session acts of Virginia, 1859 and 1860, pages 69–70, I presume, which imposes on internal improvement companies one mill per mile on every passenger transported, and one-half of one per cent. of all monies received by any company for

transportation of freight; and requiring each company to report under oath of its officers, every three months, the number of passengers and gross amount of freight under a penalty of $500 for each neglect, and liability to have its property assessed to its full value and sold. And in case any railroad or canal company be only in part in the State, then to report such proportion of gross passenger and freight money received, as the part in the State bears to the whole improvement.

Now, if this law were consistent with the Constitution of the old State, which may be well doubted, and not annulled by our Constitution—(and there can be no doubt that it was)—the company I understand has never made the quarterly reports required. And, therefore, if the law were valid now, would be subject to all the penalties it imposes, viz: the fines, and to have all its property assessed at its full value and charged with all taxes in arrears and sold. One two hundredth part of the gross freight money it has received, on the proportion of the works in this State during the last six years, with one mill per mile on each passenger transported in that time, would amount to an immense sum. On your statement of their annual income, to fifty or sixty thousand dollars a year and three to four hundred thousand dollars for the six years—and this to be bartered away for about $43,000 paid now, and $30,000 annually hereafter, of which the State is to receive half only!

And a grave question may arise whether the new State may not have to account to the old State, for some years at least before the separation, for "taxes on passengers, and tonnage due from railroad companies," under act of February, 1863, of the re-organized government.

. But section 22, chapter 4, of the Constitution of Virginia, provides that taxation shall be equal and uniform on all property except slaves. If the word "uniform" is to have any meaning at all, in this connection, it must mean that all real estate, whether it be the land, buildings and tracks of the railroad companies, or my farm, shall be assessed and taxed in one and the same form, and upon an equal and just valuation; and the Legislature of the old State had no right, I submit, to assess and tax my farm in this form, and my neighbor's by compounding with him for the one-twentieth part of his crop, or in any other form.

But if the old State violated her Constitution, it is no reason why

the new State should violate her's. The first Section, eighth Article, of her Constitution, admits of no doubt. To place it beyond doubt, after adopting the old State's provision that "taxation shall be equal and uniform," omitting the slave exception, she adds this clause: "No one species of property, from which a tax may be collected, shall be taxed higher than other species of property of like value," and then particularly enumerates the kinds of property that the Legislature may, in its discretion, exempt. All property, then, is to be valued and assessed in a "uniform" manner, according to that value. How any honest legislator, with an oath to God upon his soul, to uphold and observe the Constitution containing these provisions, can vote for the present bill, or entertain it for a moment, passes my comprehension.

The excuse some make is, that it is only for five years, and does not compromise the rights of the State. Do they not know that during the five years all the extraordinary expenses of erecting our public buildings are to take place, and have got to be payed from taxes as fast as incurred, as the Constitution expressly prohibits the State going in debt.

I would ask him, who says we are unable to assess and collect a just and equal tax of this Company—"when shall we be stronger?" Nor are all the succeeding questions which that great Virginian put to arouse his drowsy countrymen, less applicable to ourselves at this time. As then was their time to test, so now is our time to test whether the State of West Virginia, or the Baltimore and Ohio Railroad Company, possess the stronger arm.

Respectfully,

February 26, 1867. G. P.

[No. 1.]

OUR INSANE HOSPITAL.

Editors Intelligencer:

Another subject the Governor regards of primary importance, is the West Virginia Hospital for the Insane, located at Weston, whose Board of Managers, appointed by himself, he says are gentlemen of

integrity and efficiency, and who confidently expect by next June, to have room for one hundred additional patients, and accomplish it with the appropriations already made. But it also appears, he says, by their report, that there are now pending more than eighty applications of parties who are still waiting for vacant room for their accommodation; and that it is not probable their number will decrease; so that when accommodations are provided for these, there will still be no provision for the one hundred of this unfortunate class of people who are yet in Asylums in Virginia, and therefore, he feels it his duty to recommend a liberal appropriation for the purpose of proceeding as rapidly as possible with the construction of the Institution; and also that it will be necessary in estimating for the support of the insane, to make provisions for those remaining in the Hospital of Virginia, being one hundred as before stated. Upon this plausible statement, I see a Committee of the House have reported a bill for appropriating $150,000 more.

I see from the Auditor's report, that the Governor, to make up the estimated ordinary expenses for the current year, (from 1st of October last to 1st of October next,) includes $80,000, balance remaining unpaid of appropriations made last winter for the Penitentiary and Hospital; which reduces the "ordinary expenses" proper, as estimated for the current year, to $271,150. If items like these, $75,000 for a Hospital, to cost near half a million, as is doubtless contemplated by its managers, and $50,000 towards erecting a Penitentiary to cost no one knows how much, are to enter into our *ordinary* expenses—what amounts and what objects will constitute our *extraordinary expenses!*

As this Hospital is the only important public work our authorities have had in charge before the Penitentiary was commenced, I propose to state some facts in relation to it.

The Legislature by act passed the 22d of March, 1858; Session acts 1857–58, page 117; incorporated the Lunatic Asylum of Western Virginia, appointed nine Directors and Commissioners to select and purchase a site not to exceed 300 acres, and construct a commodious house or houses fit for receiving and accommodating persons insane, provided the whole expense thereof, site and buildings, should not exceed $25,000. The Legislature of 1859-60 appropriated $100,000 more, to be paid in two annual instalments of $50,000. Session acts 1859–60, page 105.

The Legislature of the Re-organized Government by act of January 27th, 1863, Session acts 1862–3, page 25, appropriated $40,000 to be expended in completing and finishing the south wing and the balance on the main building. The Legislature of the New State has appropriated, as follows, toward its construction, viz: in 1864, $6,000; in 1865, $16,000; and in 1866, $75,000; making the aggregate appropriations for purchasing the site and constructing the building $260,000 which have already been made; and it is proposed by the present Legislature to appropriate $150,000 more, making a grand total of $410,000. This will be quite an enlargement of the original plan contemplated by the Old State which limited all cost to $25,000 in 1858.

It does seem that the Legislature should investigate carefully into the whole matter before they appropriate more money to this object. No State of the age, size and ability of ours has appropriated as much as we have already for a similar object, while we at the same time, have all our Public Buildings to erect.

I learn from the Governor's Message of January, 1865, that after being delayed in consequence of the rebels stealing blankets, &c., the Hospital was finally opened for receiving patients the 12th of November, 1864, and all those that had been in the Hospital of Ohio, and those in the jails of this State were collected and put therein, leaving the 100 still in the Hospitals of Virginia.

Let us next see with what economy and efficiency the affair has since been managed. There was appropriated by the first Legislature of the New State, December 7, 1863, for those then expected to be in the hospital $1,800; in 1864, for the support of the insane, $10,000; in 1865, $16,000; in 1866, the last Legislature appropriated as follows: "For the current expenses of the West Virginia Hospital for the fiscal year 1866, $16,000." "For expenses of lunatics confined in jails and carrying them to hospital, $3,000." "For the support of the lunatics in the Virginia hospitals, $23,000;" making $42,000 for their support one year.

By the Auditor's last report, he estimates for the present fiscal year, which the Governor endorses, $20,000 to meet the current expenses of the hospital; $23,700 to support the insane in the Virginia hospital; and $5,000 to support those still remaining in our jails, making a total of $48,700, which is to be drawn from the treasury the present year to support our insane, besides the profit

and income of the hospital farm, and rent of buildings that have already cost rising $200,000, the interest on which, added to the money to be paid out, will amount to over sixty thousand dollars to support our insane the present year.

I do not know the number of patients in the hospital and jails, but the Governor has told us that there are *one hundred* in the Virginia hospitals at Staunton and Williamsburg; $23,700 distributed among that number will give to each $237,00 a year, and $4,55 per week. The estimate for those at home, in the hospital and jails, is $25,000, and whoever knows their number can readily make the figures as to them. I happen to have the annual report of the Trustees of the State Lunatic Hospital at Worcester, Massachusetts, for 1860, one of the best conducted in the country, and owned and managed exclusively by the State. The trustees fix the price of board, the first of each fiscal year, and it is fixed for 1860 at $3,00 per week, for the first six months after entering the establishment, and $2,75 per week afterward. The cost of living generally is greater now than then, but is always much higher in Massachusetts than in West Virginia. No patients are received into that hospital, except by request of friends or overseers of the poor; in both cases sufficient bonds are required to be given to the treasurer to pay all expenses and damage done; or by order of the Courts, in which cases security is required on the patient's property, if he has any, and if not, the town in which he has his legal settlement, is held responsible to pay. By this means and proper management otherwise, the institution supports itself. It had at the close of the year 1860, 331 patients.

Chapter 85 of the Code of 1860, which remains in force here, except the 16th section, which was repealed in 1863, contains all the necessary provisions for making secure the pay before receiving the patient, and enforcing the payment. Its provisions in this respect applied to the Staunton and Williamsburg Hospital, as they were the only ones then in operation. But when our hospital went into operation, in the Fall of 1864, these provisions applied equally to it, unless altered by our Legislature, which, I think, has not been done.

Section 8th of the Chapter aforesaid, provides that all money paid to the Treasurer of the Hospital for support of patients, shall be paid quarterly into the Treasury of the Commonwealth. The one hundred insane now in the hospitals of Virginia were, of course, received into one or the other of these hospitals before the war, and ample security was doubtless taken to pay their support, &c.

Now our State paid out for supporting her lunatics as follows: In 1863, $1,800; 1864, $10,000; 1865, $16,000; 1866, $42,700; in all, $70,500—all, or certainly the greater part of which was, or ought to have been made secure when the patients were admitted at Staunton and Williamsburg, before the war, or at Weston since the war, and the money collected and paid into the State Treasury, according to the law of 1858, before stated, or offset against Virginia's claim for support. The Auditor's estimate for the present year for supporting the insane is $48,700, which amount is asked to be appropriated by the present Legislature. I trust there is not a legislator that will appropriate another dollar to that concern in any form until this matter is cleared up, and the money paid over. The corporation had no authority to appropriate the income for patients' board to paying current expenses, if it had been needed, which I trust I have shown could not have been the case, for the money drawn from the Treasury of the State has been, of itself, more than ample. If lost by the negligence or carelessness of officers, be they who they may, make them respond. Our young State, turned into a great charitable or eleemosynary institution, supporting free of charge, without respect of ability to pay, of either patients or relatives, all people who happen to fancy they are deranged, or that half crazy doctors may pronounce so, at the rate of $4 55 per week, and honest citizens to be taxed to pay! The destitute and friendless lunatic, I will do as much for as any other man of my means, but suckers, drones and shirks, I was never made to carry quietly.

Very Respectfully,

G. P.

January 25th, 1867.

[No. 2.]

OUR INSANE HOSPITAL.

Editors Intelligencer:

Since the publication of some remarks upon this subject, in a former number of your paper, I have read the last report of those in charge, furnished me by a *neighbor*, and have received from Dr. KIRKBRIDE, "physician to the Pennsylvania Hospital for the Insane," his work "on the construction, organization and general arrangement of Hospitals for the Insane." Of this work, the compiler of the 8th

United States census, under the direction of the Secretary of the Interior, speaks in 1863, thus: "In 1854 Dr. THOMAS L. KIRKBRIDE published a treatise "on the construction, organization and general arrangement of Hospitals for the Insane," which has become a standard authority." See 8th census United States, page 94. I propose to give some extracts from this work, which cannot fail to be of interest to our people at this time. At page 10th, remarking on the *size* the building should be, he uses this language: "All the best authorities agree that the number of insane confined in *one* hospital should not exceed *two hundred and fifty*;" and whenever that number is attained, instead of the States enlarging, he urgently advises the erection of a separate building in another section of the State. And after giving a very minute description of every thing deemed necessary to make the establishment *complete and perfect* for that number of patients, and giving full diagrams of his plan, which consist of a large centre building, with wings on either side, the whole to be built of brick or stone, and each wing consisting of three sections, the whole three stories high above the ground, with cellar under the whole, and dome on centre building—he remarks thus: "The general features of the plan proposed in the present essay were originally prepared by the writer at the request of the Commissioners for putting up a State Hospital for the Insane in New Jersey, and the designs for that building were made from the sketches at that time furnished to the architect." He regrets, however, that the Commissioners varied from it in some respect *in order to diminish the cost*, which impaired its completeness, but which the Commissioners were at that time supplying. That the same plan was also substantially followed by the State of Indiana in constructing her Hospital at Indianapolis; by Illinois in erecting her's at Jacksonville; by Pennsylvania, her's at Harrisburg; and by Ohio in erecting her's at Dayton and Cleveland, known as her "Northern" and "Southern" Hospitals; and by Alabama, in the construction of her Hospital, then being erected at Tuscaloosa. He also remarks thus: "If there was any doubt of the propriety of putting up the whole building at once, I should have no hesitation in saying that rather than leave off the extreme wings, it would be advisable that the work should be commenced at once at both extremities, and made gradually to approach the centre." See pages 34, 35 and 11.

At page 30 he remarks thus on the cost: "The cost of a Hospital like that described will vary at different sections of country according

to the price of materials, and labor, and the facilities for manufacturing the various fixtures, that may be required for the different purposes of the Institution. The estimates for completing such a building at Philadelphia, as made by competent architects, is one hundred and fifty-five thousand dollars. To the same I would add for the heating and ventilating apparatus, for bath and wash rooms, water closets, sinks, water tanks and pipes, cooking apparatus, washing and drying fixtures, bake rooms, and steam engine and pumps, $25,000. The cost of furniture for every part of such a Hospital, when full of patients, would amount to about $15,000. The farm stock, wagons and tools, and the different vehicles required would cost probably $3,000 additional; so that, exclusive of the farm, which of late has generally been presented to the State, either as a gift from benevolent individuals, or by some town, desirous of having the Institution near it, the entire cost of building such a Hospital for the Insane, providing all its fixtures and furnishing it in every part, would be in this section of country (Philadelphia) not far from two hundred thousand dollars."

In making an estimate of the cost of a Hospital for the Insane, I felt no disposition to *underrate it.*"

Dr. KIRKBRIDE puts the whole expense of labor and professional care of his complete hospital with 250 patients, at $12,637 *a year*, and shows by his annual reports of the institution over which he presides, that very few patients remain over one year, and that the number of admissions and discharges are about equal each month; and that of the 3,360 patients that have been in that hospital since 1841 more than half have been discharged cured, after an average of six months treatment.

Now let us compare the money already expended, the present condition and capacity, and the success of our hospital thus far with the facts before stated. Two hundred and sixty-seven thousand three hundred and sixteen dollars and ninety-eight cents had been appropriated toward its construction before the present Legislature met; and I see the Richmond Legislature in 1861 appropriated $25,000 for completing a wing of the Northwestern Hospital so as to accommodate the lunatics then in jail, which sum is not included in the sum above named.

Now what has been accomplished? I see by their last report that *forty three patients* are all there is room for or that can be accommo-

dated; that fifty four patients is the number that had been in the establishment between January first and October first—nine months—that fourteen had been admitted, six discharged, *cured*, one much improved, and four had died during this nine months. They make the current expenses during this nine months, $9,314 37. Of this there was paid out for salaries and labor $4,994.89—about 3-5 as much as Dr. KIRKBRIDE required in 1854 to equip and manage a complete hospital with 250 patients a year, and cure over one-half of these, and discharge nearly all the balance that were living. Superintendent HILLS attempts to account for this difference in the fact that his cases are of long standing and therefore incurable, and seems to complain that somebody has not the power to remove these and give room for such as are curable. I had supposed the Board had this power. He also urges it as a cogent reason why the south wing—for that is all, as I understand, that is as yet commenced—and even the *whole building* should be speedily completed. And to make the necessity more apparent, he says there are now over forty in the part of the wing that is finished, over eighty applications already made, and by May or June, when this wing is to be opened, he calculates there will be fifty or sixty more—making a total of one hundred and sixty or one hundred and seventy; that the finished capacity cannot then exceed one hundred and forty to one hundred and fifty patients, and though these may be reduced some by death, recovery and other causes, there will remain the one hundred in the hospitals of old Virginia unprovided for. He further states, as an adept in the business, that from fifty to one hundred new cases may be annually expected to occur among a population as large as ours, and therefore concludes that it is absolutely necessary that the *whole building should be completed as soon as possible.*

If we shall provide suitable accommodations for 118 insane persons at a time, we do as much as is done on an average throughout the country. There were in 1860, 11,133 insane persons in hospitals in the United States, and our share in proportion to our population, will be about the number stated; and according to Dr. HILLS' statement, approved by the Board, the $75,000 appropriated by the last Legislature, will accomplish that, and more too; and then by the rotation practiced in all other hospitals of the kind, ours shall be made a place of *temporary residence and treatment* for such as are *curable until cured*, and then with such as prove to be incurable, removed,

giving place to others, we shall do as much for this unfortunate class of our people as the rest of our country are doing.

But Dr. HILLS, to make out an absolute necessity for the *whole building* being completed, seems to ignore rotation or discharges, and dwells altogether on making provisions ample enough for all present and future cases as permanent residents; and the Board endorses his views fully, as will be seen by reference to that report. At page 5 they say they convened last spring soon after the Legislature adjourned and resolved to proceed and *finish* the *first section* adjoining that already occupied, and then apply the remainder of the $75,000 to constructing the next adjoining section. At page 6 they say this "first section" will be completed by May or June next, and will accommodate about one hundred additional patients, and that to complete it for their reception will take all but $6,000 of the $75,000, and that this $6,000 they propose to expend on the "next section" as above mentioned, which will extend to the *centre building*, which their architect, and they approve his views, says *should be built at the same time*—though contrary to Dr. KIRKBRIDE's plan as before stated.

On this statement, I presume, they induced the present Legislature to appropriate $100,000 more, making the entire appropriations for the purpose of construction merely *three hundred and ninety two thousand three hundred and sixteen dollars and seventy-eight cents*, and as it takes $69,000 to finish what they term "section first," it will probably take the remaining $6,000 with the remaining $100,000 to build and complete what they term "second section," which is to extend to the *centre or main building*, leaving this and a corresponding wing still to be erected, which at the rate of the cost so far will make the whole structure, when completed, cost one million at least, and ought to accommodate 500 to 600 patients, a number which everybody says is twice too large for any one establishment. And our present Legislature appear to have appropriated the $100,000 and committed themselves to the magnificent humbug without having called those in charge to strict account for the past, and without debate even; and with as little concern or forecast apparently, as they would take a pinch of snuff! This is the language of the Board's Report after stating how fast our people are going crazy, viz: "*The speedy completion of the entire building is therefore an actual necessity.*" I have never seen the building, nor a plan of it, but suppose they mean by the "entire building," what Dr. KIRKBRIDE describes to be a

complete one, viz: the main centre building with two corresponding wings extending from it in opposite directions.

Now I do not know how much our public servants may feel the want of so extensive accommodations in this regard; yet I feel sure our people have no idea of all becoming crazy at present, nor of being humbugged in this matter much longer.

Respectfully,

G. P.

February 22d, 1867.

[No. 3.]

OUR INSANE HOSPITAL—WHAT EXPERIENCED MEN SAY OF IT.

Editors Intelligencer:

I have just received a letter from Dr. KIRKBRIDE, to whom I enclosed a copy of your paper, containing my last article, on the above subject, with a note asking if I was right in the views expressed—of which the following is a copy:

"PENN'A. HOSPITAL FOR INSANE,
PHILADELPHIA, March 2, 1867.

MY DEAR SIR—I have received your letter of the 26th ult., and also the paper, for which I am much indebted to you. I have only a single objection to make, that as the cost of material and labor are now greatly increased, from what they were when my little book was written, the cost of building and managing a Hospital must necessarily be proportionately greater.

Very truly yours,
THOMAS L. KIRKBRIDE."

I have just received, through a friend, who communicated the facts to Dr. D. TILDEN BROWN, who is at the head of the Bloomingdale Asylum, in the city of New York, and second to none in the United States, in this specialty, and this was his reply: "West Virginia is spending money most lavishly and unwisely, and I can safely say, that she will be swamped before she completes her Asylum, if she goes on as she has commenced." (A fact I have taken for granted, all know.)

It is undoubtedly true, as Dr. KIRKBRIDE says, that the expense of

building and managing has proportionately increased; but only as the present price of gold exceeds our present currency, which is little above one-third; but no more, unless the excise taxation may affect it some little.

Very Respectfully,

G. P.

Wellsburg, March 7, 1867.

P. S. Could our legislators have *realized*, when they voted for the Chesapeake and Ohio Railroad bill, that they were authorizing the mammoth company to purchase and hold, for ten years after the completion of their road, one-third of all the land comprised in the State? Such is the fact. Five millions of acres is equal to 7,812 square miles, and our State contains but about 23,000 square miles. And all this land to be exempted from taxation until the State shall be able to prove that the Company is realizing ten per cent. on its capital. See section 7, of charter granted March 1st, 1866, to C. & O. R. R. Company, and sections 2 and 14 of the recent act. Besides, our Legislature has no more constitutional power to exempt a railroad from taxation until its profits reach ten per cent., or any other sum, than it has to exempt a farmer until his farm yields that per cent. profit. Unless the Legislature imposes an "equal and uniform tax, according to valuation," as the Constitution provides, the whole levy, I submit, is void, and the State can collect no part of it. We can hardly afford to be thus liberal to foreign capitalists.

G. P.

THE CHESAPEAKE AND OHIO RAILROAD COMPANY—THE DANGER TO BE APPREHENDED FROM IT—THE DUTY OF THE COMMISSIONERS.

Editors Intelligencer:

I have carefully read the Act relating to this Company, published in a recent number of your paper, and propose to examine it in connection with existing facts.

The new State in 1863, became the absolute owner of the line of

this road, as far as her East line, with the half million worth of work that had been done upon it between Charleston and Guyandotte. On looking at the map, everybody must see it is the key to by far the shortest, cheapest, and in every respect, most desirable communication between the West and tidewater; and, without it, the old State and her harbors must remain comparatively unimproved, and many of her railroads "commencing everywhere and ending nowhere," and built with a view to War, rather than Peace—comparatively valueless. With these unequalled advantages, which this key gives the new State, I have always looked upon the Covington and Ohio Railroad as self-constructing from its own intrinsic merits, when the old State shall be republicanized and safe, and capable of producing vast benefit to the State, without a dollar's expense to her, if wisely and prudently managed.

What has she done thus far? March 3d, 1864, she chartered the West Virginia Central Railway, and transferred to that Company the portion of the Covington and Ohio Railroad route West of Charleston, with the half million worth of work. Much has been promised by this Company, and various legislation has been made since respecting it, but not a blow has been struck towards its construction. Just as the Legislature of 1866 was about to adjourn, Commissioners from Richmond arrived at Wheeling with certain Acts, touching the Covington and Ohio Railroad and Virginia Canal Company, passed by the same Legislature at Richmond, that had on the 5th of December previous, repealed the Acts of the Wheeling Legislature passed in 1863, giving consent to Berkeley and Jefferson Counties becoming part of West Virginia, and asked our Legislature to co-operate in relation to both subjects, which it did, thereby recognizing the legitimacy of the Richmond Legislature, which Congress has all the while denied. Our Legislature granted a charter giving full control of the balance of the route within her jurisdiction, and authorized the Company to make the best terms it could with the West Virginia Central Railway for the portion between Charleston and the mouth of Big Sandy; and appointed five Commissioners to co-operate with those of the old State in disposing of the charter to such capitalists as would give the best assurance and security that the road should be commenced and built agreeably to the charter. The charter contains an express provision that the work should be commenced in six months and completed, from Covington to the Ohio river in six years; and on failure in either particular, the whole to become for-

feited and revested in the State. These Commissioners, at the head of whom was Judge SUMMERS, who has been disabled during the last six months by sickness, have failed, it seems, to effect such a contract. And now comes the magnificent scheme you publish which our last Legislature has sanctioned and enacted into law. It appoints five Commissioners, two of the old and three new ones, and clothes them or any three of them without the concurrence of the other two, with full and unlimited power to contract on any terms they choose, directly with the West Virginia Central Railway, or the Virginia Central Railroad, to construct the Covington and Ohio Railroad within six years, *commencing when it chooses.* And thereupon the name of the railroad so contracted with is to become changed to "the Chesapeake and Ohio Railroad Company," which is to absorb all the powers, privileges, and rights conferred on the Covington and Ohio Railroad by its charter, without assuming any of the material obligations and conditions imposed by the same, and possess without any limit of time or otherwise, the power to absorb at will the other road named, and the South Side Railroad from Petersburg to Lynchburg, and the Norfolk and Petersburg Railroad from Norfolk to Petersburg, or any one or more of them—to purchase the Blue Ridge Railroad and build a road from Lynchburg to Covington, as well as other roads in old Virginia; to possess a capital of thirty millions and hold five millions of acres of land for ten years. (See Section 14.) Or if our Commissioners or any three of them elect, they may at once open books and organize the Covington and Ohio Railroad Company, which, as soon as organized, is to have full power to consolidate with all or any of the foregoing Companies, and thereby acquire the name of "the Chesapeake and Ohio Railroad Company," with all the powers, rights and privileges, but without the obligations and conditions as before stated. As I said before there is no time fixed for commencing work on our road, nor is there any provision that it shall forfeit if our road shall not be finished in six years. It is exempted from taxation until its net profits shall be ten per cent., which exemption is in the charter dated March 1st, 1866, and inures as a privilege to the new Company.

As soon therefore as three of the Commissioners, even against the consent of the other two, shall contract directly or through the Covington and Ohio Railroad Company, which they can easily organize for the purpose, the consolidation is effected, and West Virginia loses forever her valuable key before stated, which will pass at once

perhaps into the hands of mere speculators, and our road may or may not be built within the six years, as shall best suit the whims and speculative interest of that class of men, and if it shall be built, it will be owned and controlled by a Company likely to possess three times the power possessed by the Baltimore and Ohio Railroad, which has ever since our State was created, set our laws at defiance, with entire impunity. Nor will our Legislature possess any power to restrain or check the monster corporation when once formed, for she has reserved no such power, and the recent Act it has passed will become a part of the Contract which her Commissioners may make, and as such will be protected as inviolate by both our own and the Federal Constitution. Old Virginia, and perhaps the private stockholders, would, I have no doubt, have made a present of one or more of their dilapidated roads, for the sake of securing the use of the key we hold, and a line of railroad from the Ohio to Richmond and Norfoik; but the Act of our Legislature expressly provides for a purchase and payment of par value in her bonds cancelled. See Section 13.

There is no doubt, if Old Virginia could and would give her interest in one or more of her dilapidated roads to connect with ours, and had any fixed political status, and her present authorities a recognized power to act, it would be an inducement for solid capitalists to take hold and build our road. But the legitimacy of her present government including her Legislature, is denied by Congress, and the other loyal governments, except our authorities, and they will probably learn the effects of this cozy recognition before they get through with the question of Berkeley and Jefferson.

As I said before, the State is sold, unless our Commissioners shall reserve, in any contract they may make, a right in our Legislature to check and restrain the portion of the Chesapeake and Ohio Railroad Company, that shall be within its jurisdiction, and make it an express condition that our road shall be commenced within six months or a year, and completed within the six years, or else the whole to become forfeited and revest in the State. The Commissioners have the power to make such reservation and condition by the Act of March 1st, 1866, Section 9th, and the 16th Section of the recent Act. The future responsibility, therefore, rests with the Commissioners, and to them the people will look to properly guard their great interest, and unless some reservation and condition as before indicated shall be made, "the Chesapeake and Ohio Railroad Company" must soon

become more omnipotent and oppressive than the Camden and Amboy ever was. Why should it not be made subject to taxation whenever its net profits amount to six per cent., and so be put on a par with the Baltimore and Ohio Railroad Company in this respect?

Respectfully,

G. P.

March 4, 1867.

WEST VIRGINIA PENITENTIARY.

Editor of Wellsburg Herald:

I see by the Wheeling *Intelligencer* of the 5th inst., that the Board which has charge of the Penitentiary, after advertising in that paper *alone*, I presume, as I have seen it in no other, for *ten days* only, for "sealed proposals," to furnish 10,000 perch of stone—met on the 3rd of the present month, and awarded the following contracts, viz: to EDWARD LOWER, of Marshall County, 2,000 perch, 300 rubble, at $7 per perch, and 1,700 do. dimension, at $8,50. To J. W. HOBBS & Co., Hancock County, 1,500 perch, 375 rubble at $7, and 1,125 do. dimension, at $9,34 per perch. LINLE & VILTON, of Marshall County, 1,500 perch, 375 rubble, at $7, and 1,125, dimension, at $8,87 per perch, amounting in all to 5,000 perch, and to cost $42,286 15, an average of $8,45 per perch. It does not appear in the advertisement nor statement in the *Intelligencer*, whether the rubble stone is to be "coursed" or "uncoursed," which, I understand, is a material difference, the former being guaged and dressed with the hammer, while the latter are neither assorted nor dressed. It is stated in the same article in the *Intelligencer*, that it is estimated that 52,000 perch of stone will be required to complete the building, which at a like rate will cost four hundred and forty-nine thousand, four hundred dollars, nearly a half a million for the stone alone, which cannot constitute one-half of the entire cost of the Penitentiary! Our poor little State, the child of the storm, rent and impoverished as she is, thus commences her career, by putting one million in an undefined and chaotic pile of stone, at Weston, dignified with the name of an Insane Hospital; and another million in another pile equally undefined and

indeterminate as to cost for aught that appears, at Moundsville, to be dignified with the name of a Penitentiary! What a future this portends for her three hundred and forty thousand inhabitants! What a recommendation to go abroad! It is a pity all her proposed public buildings were not under way in the different sections of the State so as to give all her people an extra chance to roll up their sleeves and pitch in and finish the poor thing at once, while the Bankrupt law is in force. Think if the gentlemen comprising that Board had been about to expend $42,286 25 of their *own money* they would have awarded such contracts upon so short and limited advertisement when only half of what they had advertised for had been taken? Stopped it would seem in order to reserve the balance for the future enjoyment of the same parties at the same price, in imitation of the Hospital. If there had been a present want of material, why did they not advertise sooner?

The township of Wellsburg recently contracted for the stone, including dimension and rubble, for the foundation of a large School house, at $4,50 a perch, when furnished hammered, dressed and laid, and mortar found. I understand the contractors for the Penitentiary are to furnish the stone merely and these undressed. Like the Kings of Egypt the party, if not the State, seems bent on piling up its own tomb, which if the present course is continued, few will say the former does not deserve,

Respectfully,

April 12, 1867. G. P.

WEST VIRGINIA PENITENTIARY—THE LATE REPORT OF THE DIRECTORS—THE PLAN OF BUILDING ADOPTED—OTHER PENITENTIARIES AND THEIR CONVICTS—EXECUTIVE APPOINTMENTS—NECESSITY FOR THOROUGH REFORM—THE NEXT LEGISLATURE.

Editors Intelligencer:

The estimated amount of stone required to complete the Penitentiary, in my remarks to the *Herald* yesterday, I took from your paper of the 5th inst. It struck me at the time as large, but as extravagance is the order of the day with our public servants, and your statements so uniformly correct, I ventured to take it as a basis of

calculation—not having seen the Directors' report, which, it seems by your paper to-day, was made to the last Legislature. For some cause or other they don't send me copies. But the advertisement they put in your paper was for 7,500 perch of dimension stone—1,500 perch more than their reported estimate; and before making their report it appears they had contracted for 4,000 perch of stone of some kind. These facts show already considerable enlargement of the estimate made in the report, and with other facts that appear, may make the estimate of 52,000, as stated in your paper of the 5th inst., not far from correct, in reality.

But the plan which I see is proposed in their report, a copy of which has just been handed me by a friend, looks to me very objectionable in many respects; and especially its size and style of finish. They say it is the plan adopted by the State of Illinois—which now contains about 2,000,000 of people—in constructing its Penitentiary very recently built at Joliet, and which, then contained over 700 convicts. Why did they not copy, so far as size is concerned, from some State containing a population something near the number of ours, as Maine, with a population, in 1860, of 628,276—nearly double that of ours—with one State's Prison only, and that at Thomaston, in which, in 1861, was an average number of 112 convicts, and conducted on the Auburn plan; or New Hampshire, with a population of 326,083, which has but one State's Prison, which is at Concord, and has an average of about 119 convicts; or Vermont, with a population of 315,116, and one State's Prison, which is at Windsor, and has an average of about 95 convicts; or Connecticut, with a population of 460,147 which has but one State's Prison, and that at Weathersfield, in which are on an average 160 convicts? The population of these last named States approach most nearly that of ours, (which is not more than 340,000,) and like ours, are rural and agricultural peoples.

Let us now examine the plan the Directors report they have adopted. And first, its size. It is the plan, as before stated, recently adopted by the great State of Illinois, which has six times as many people as ours, and probably ten times the wealth, and with all her other public buildings built and paid for. The Superintendent's house is to be eighty five feet in front, and three stories high above the basement. On the right and left of the Superintendent's house are to be cell-buildings each 184 feet long by 52 feet wide, and four stories high above the ground, and each wing or cell-building to con-

tain 240, or both 480 cells, which will accommodate at least 480 convicts at a time. Is it to be expected that our population is to supply this number of convicts—four times the number of the other States named—after expending the large amounts of money and making the efforts to build churches and school-houses that we have and are doing? I trust not. Besides these buildings, the Directors propose to inclose seven acres of ground with a wall 30 feet high, including the portion below ground, 3 feet, 9 inches thick, which is to inclose the various workshops.

But the Directors say the Superintendent's house and one wing, with 240 cells, is all that will be needed for some time to come, and so propose to erect the entire walls of the whole building, and finish and complete the exterior now, but to finish, fit up and furnish at the present, only the Superintendent's house with one wing, and leave the other for posterity to finish and fill up. What a complimentary legacy to transmit to our posterity! The crumbling, interiorally unfinished and untenanted wing of that Penitentiary! Besides how profitable to the State will be the investment!

But they propose to complete and finish the entire exterior of the building, including the Superintendent's house and *both wings* in the "*castellated gothic style.*" The word "castellated" means "adorned with turrets and battlements, like a castle"—a sentiment akin to the one of our Legislature last winter on a subject it indefinitely postponed. Who would not be a convict with such encouragement, and baronial accommodations provided for him? The moral sense and taste of the world heretofore have been, to make their Bastiles and State Prisons objects of terror and repulsion, rather than ornamented, inviting retreats like the plan proposed. Who can doubt but that it is another hospital folly or swindle?

ROBERT HOSEA, Esq., of Bethany, an experienced stone mason, informed me to-day that he is now engaged for the Pennsylvania Railroad in building abutments, composed of dressed stone, which he furnishes, prepares and lays for $9.50 a perch.

I submit that our people have but one course to pursue, which is to elect men to the next Legislature who shall pledge themselves in writing beforehand, and whose established character shall be their guaranty, to arrest at once the present fatal course, clean out all corruptionists and constitution-breakers, of whatever party or religious denomination they may profess to be, take from the Executive most

of his present appointing power, oblige that department to see that the laws are faithfully and impartially executed against corporations as well as individuals, compel all public monies, whether belonging to State, County, city, township or school district, to be faithfully accounted for and "accurate and detailed statements" of its expenditure "published" and laid before the people, and bring the State in all respects back to its Constitution and to the model of purity, simplicity and economy, its makers intended. Have our people the courage and virtue to do it? The occasion for crying Rebel and Copperhead, and that he is an enemy to the new State, has, I submit, passed away with us, in the opinion of honest men, and become a mere catch-word for the veriest demagogue. The radical change that is about to take place in the old State must extinguish in the former all desire to re-unite, and fix their future hopes and expectations in common with the loyal people, upon the future success and prosperity of the new State, whose worst enemies now appear to be those who have been loudest heretofore in professions of friendship. Honest and intelligent statesmen, who look through the State and comprehend its real wants, and who will seek earnestly to provide for them instead of their own enrichment, are the kind of physicians our suffering and abused State now requires.

Very Respectfully,

G. P.

April 13, 1867.

HORACE GREELEY AND JEFFERSON DAVIS—THE REPRESENTATIVE MEN OF THE IRREPRESSIBLE CONFLICT.

Editors Intelligencer:

How strikingly the saying "extremes meet" was illustrated in HORACE GREELEY'S traveling from New York to Richmond and offering himself, unsolicited, as the first man to set JEFF. DAVIS at liberty, when neither humanity, a just sense of propriety, nor good taste, would seem to demand or warrant it, as there were plenty of his own party ready and desirous to become his bail.

Each had headed one of the parties, whose conflict during the past seven years has no parallel, either in the expenditure of blood and treasure, or barbarities committed. In it has been sacrificed, about a million of lives and five to six billion of money; and DAVIS, whom all sane minds must hold responsible, has coolly, and calculatingly murdered from fifty to one hundred thousand of our brave soldiers, while in his hands as prisoners of war—a relation held to be sacred and inviolable by all civilized nations, and closed the scene, as all [illegible] believe, in either instigating or consenting to the assassination of the President.

GREELEY, seized with a vague hope of glory and large support to his paper, commenced the strife by stirring up slavery with a *long pole*—long enough to keep himself out of personal danger—and even pushed his side of the preliminary war of words, until he and his party had spread rank nullification upon the statute books of fifteen of the Northern States under the guise of "personal liberty laws"—wanting only the "overt act" to complete the highest crime known to the law—believing all the while the assailed party dared not fight. DAVIS and his party to protect the large pecuniary interest at stake, and gratify an equally unhallowed ambition—madly threw off the Constitution, that had been and would have continued to be, their shield, if retained and faithfully adhered to, and committed the "overt act." The life of the Government at once became involved in the issue, and to save that life followed the mighty strife and sacrifice.

As a mere incident, or accident, in this strife, so far as human agency was concerned, as the loyal party did not seek it at the commencement—slavery has been destroyed. And as the negro preacher said the other day in a speech to his people at Petersburg, Va., "his race owed their freedom to neither party—but to God."

We all know and feel that the terrible guilt of treason of the deepest dye, rests upon some of the leaders, of one side or the other, or both—but not upon the honest vindicators and defenders of the Government when forcibly assailed, nor on the mere *deluded instruments* who blindly assailed it. And if the whole was Providential, in order to remove slavery, as some believe, it can afford no plea in bar to an indictment for treason in this case, nor be permitted to extenuate the guilt or mitigate the penalty. The Divine Author who said "offences must needs come," said also, "woe unto him through whom they come."

The Government, with its past and present character, its future hopes and safety, demand that fit expiation be made for example sake for such great crimes, and not passed over as light and trivial affairs, over which the head leaders may shake hands and call it square. The widowed, orphaned and bereaved millions throughout the land, the burdened tax payers, and nay, the spirits of a million of martyred dead, will claim to be heard in this matter, and not leave it to JEFFERSON DAVIS and HORACE GREELEY, though among the principal originators, to settle as if it was a mere personal affair. They and the country demand an expiation that shall deter a repetition, and "make treason odious," and the thought of attempting it horrifying. This is the policy of other nations, and human nature is the same with us as with them, and restrained from committing crime by a fear of punishment—the opinions of some transcendental philosophers and humanitarians among us to the contrary notwithstanding. As I said before a great guilt rests on somebody; and from what took place at Richmond, we should judge, neither the Government, nor Judge or Attorney representing it, nor Mr. GREELEY, thought it rested on JEFFERSON DAVIS, as the Court and Attorney fixed the damage he had done at $100,000, and HORACE GREELEY was the first man to help share that by travelling all the way from New York uninvited for aught appears, and becoming his bail. What was the motive and feelings that prompted Mr. GREELEY to do this? Was it a consciousness that he *ought* to share the penalties, or to ingratiate himself and paper with the "reconstructed?"

Why talk of Christian forgiveness over slayers of a million, and hang the young culprit in an adjoining County who has killed but one man!

Very Respectfully,

G. P.

May 14, 1867.

THE GETTERS UP OF THE "IRREPRESSIBLE CONFLICT"—GREELEY AND HIS CRACK-BRAINED COWORKERS ON ONE SIDE, WITH DAVIS AND HIS BLUSTERING FIRE-EATERS ON THE OTHER.

Editors Intelligencer:

I observe in your paper to-day and the Pittsburgh papers, that the amount of JEFF. DAVIS' bail was fixed at $100,000 instead of $10,-

000, as stated in your paper of yesterday—given by twenty individuals in the sum of $5,000 each, and the first to sign was HORACE GREELEY. They becoming severally bound in $5,000 each, instead of jointly, as is usual in such cases, denotes that forfeiture on the part of the principal is anticipated, and the immediate departure of DAVIS and his family for Canada confirms it. He goes as his confederate VALLANDIGHAM went, beyond our jurisdiction, out where he can observe daily the public sentiment, and intends to return and save his bail if no danger, otherwise suffer a forfeiture of his bond. This is unquestionably the plan. This farce concluded in Judge UNDERWOOD'S Court, HORACE and JEFFERSON take their carriage and drive for the Spotswood, amid the cheers of victorious not conquered rebels.

What a denouement to the most stupendous farce the world ever witnessed—farce, nay, high tragedy, in which a million of our countrymen of the North and South had given their lives to these Molochs, besides the sacrifice of six billion of treasure.

Though overwhelmed with shame and sorrow, I am not astonished, or even surprised. I have known the character of GREELEY and his crack-brained votaries too long to be astonished or surprised even, at anything they might do, except it would be a truly patriotic, sensible, or brave deed, and then I should be bound to attribute it to accident, and not design. I need only to refer to their conduct during the preliminary war of words, their higher law and legislation, their irresolution and skulking when the clash of arms came, and the fatal and suicidal measures proposed by GREELEY and his like while the terrible strife was raging—for the proof. They and their fiery coworkers in the South managed to bring on the war, but other minds and other hands had to conduct it upon both sides afterwards. The getters up on either side had no correct idea of what they were doing, or the consequences that were to follow, as events have clearly shown. They played away at each other unconcerned until the clash of arms came with unlooked for fury, when the greater part became frightened and skulked, and they seem still to regard it of not much consequence, except freeing the negroes; and the great Constitutional question which lies at the bottom of the whole, as not worthy a *judicial* settlement.

Such is the character of the men who got up the war; but it required an entirely different element to conduct it to success on one side, and to sustain as wonderfully as they did the other. In this

same element now lies the practical sense, and bone and sinew of the nation, and who must now take the exclusive political control, as they did the military, if they expect safety and prosperity, and to reap the fruits due to their victory.

The getters up on the fire-eaters' side are already effectually disposed of, but their counterpart on the Northern side as soon as the war and danger ceased, came out from their hiding places and claimed the honor of having saved the Government, and abolished Slavery! This they claim secures them immortal glory and reward, and entitles them to all the freedmen's votes; and many are now in the South under the protection of Federal bayonets—laboring to convince the freedmen that the past is even so.

Now these crack-brained fellows of the Northern side deserve to be as effectually ostracised and put out of the way as their Southern co-workers have been. Nothing but that can save the country and keep it out of another collision of the same sort, and the true war party in the loyal States, with the aid of the true men in the South alone can do it. The crack-brained will remonstrate, for they claim to have been the chosen instruments of God, through which slavery has been abolished, and they lack the sense of propriety that induced JUDAS ISCARIOT to hang himself, after betraying his Divine Master by a similar appointment. If any one doubts this let him look at Judge UNDERWOOD'S court, at the Judge, and what transpired there. The arch leader turned loose and J. C. BRECKINRIDGE, one Judge THOMAS and other insignificant persons indicted for high treason, probably to offset JEFF.'S release, and perhaps act another farce.

The law authorizes only a Federal court or Judge to take bail in capital cases, and makes it an express duty to inquire into the "nature and circumstances of the offense," and "of the evidence" and "the usages of law." There certainly can be no doubt about the offense DAVIS is guilty of, nor the evidence to prove it; and by the general usages of law capital cases are not bailable under any circumstances. In the case of the United States vs. STEWART, 2 DALL, 345, the Supreme Court of the United States, with JAY at its head, lays down this rule in cases of high treason: "The circumstances must be very strong" (showing innocence of course) "which will at any time induce a Court to admit a person to bail who stands charged with high treason." Had DAVIS' case these circumstances, showing his innocence or mitigating his guilt? Some think the Judge had warrant for bailing, in this clause of the Federal Constitution:

"that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial." DAVIS was arrested two years ago by the military power, at a cost of $100,000, and was held as a prisoner of war until delivered up by General BURTON on Monday last. Certainly Judge UNDERWOOD could not have taken this two years holding by the military to have been otherwise than right, and could regard the prisoner only in the same light as he would, if just arrested on that day by his Marshal, while at large. In the latter case, he would hardly have decided the clause above cited entitled him to bail. Where then was his authority to admit to bail?

Respectfully,

G. P.

May 16th, 1867.

THE PROPOSED RAILROAD AND THE WATER-LINE TO CONNECT THE OHIO RIVER WITH TIDE-WATER—THEIR PROBABLE COST AND ADVANTAGES COMPARED.

Editors Charleston Journal:

The completion of one or the other of these works, or both, at as early a day as practicable, seems desirable to both the old State and the new. The actual results accomplished by the old State in her large expenditure of money heretofore, seemingly without sufficiently matured plans, or much regard to economy, and the limited means of both States at the present time, ought, it seems to me, to dispose the people of both to make cool and careful examination of all the facts, and avail themselves of all experience, and then determine on the plan most likely to be accomplished, and set to work in earnest and accomplish it. Neither State is in a condition to try experiments or run after imaginary schemes. *Facts*, however distasteful, should govern now. "First be sure we're right, then go ahead."

The recent overture to our Commissioners by the Virginia Central Company, proposing to build the Covington and Ohio Railroad on certain conditions, can not be regarded as *binding* on anybody, for want of that mutuality of obligation which is required to constitute a

binding contract. Let us, therefore, inquire whether it will really be to our advantage to consummate a contract with the Central Railroad Company.

I have recently examined the material facts touching the two plans, as far as the means in my reach would allow, and am brought to the conclusion that the completion of the "water-line" up the Kanawha and New Rivers to the east boundary of our State, as the charter granted by our last Legislature provides, (with some few amendments to be made thereto,) is the true plan for our people to concentrate upon *first*. About ninety-six miles from the mouth of the Kanawha to the Falls can, with the means now at our command, be made as good and reliable a navigation as the Ohio river—and we need not aspire to a better.

This will extend through by far the richest agricultural and mineral region, and unlock the whole to all the markets of the West and South; and every dollar, if judiciously expended, must yield to the stockholders remunerative dividends. Sufficient capital for this purpose can be raised from our own people, and foreign capital that will be induced to come in.

This accomplished, the improvement of the New River to our east line may be undertaken and proceeded with as fast as means will allow, and all that rich and now locked-up portion of our State become, thereby, opened to the same markets. The accomplishment of this last will increase the revenue of existing stockholders by increasing the business, and appreciate probably five fold the value of all lands accessible above the Falls; so the people of the adjacent Counties can well afford to issue county bonds to aid in the enterprise, and individuals donate portions of their lands for the purpose. It will be for their interest to do so. And such a course cannot fail to induce foreign capitalists to come in and invest in lands and contribute any deficiency of means that may be required to complete the improvement. I was never upon New River, but understand from the charter granted by the Legislature last winter, that it is capable of permanent improvement to our east line at a cost not exceeding $3,000,000, including the whole extent from the mouth of the river. The extension of the water-line, in the manner stated, will bring that entire region, with its exhaustless mineral wealth, into communication by water carriage, (which admits of no competition in the carriage of raw material,) with nearly three quarters of the consumers of the country, without breaking bulk or transhipment; which consideration

alone would make our undertaking a perfectly safe and independent one. We should have within our own hands, all the while, the ready means, or that which would command them,

And while we are doing this, there can be no doubt but that the old State would extend her "water-line" from Buchanan, its present terminus, in Botetourt County, by canal through that rich County along the vicinity of Fincastle and New Castle to Sinking Creek, and down that creek and the New River to meet us at the line. From what I learn from geography and practical men, that route is practicable, and a natural supply of water can be obtained, and the "summit" level, which has so long been the subject of speculation, thereby avoided. It strikes me that the old State, in such a case, would have the strongest motive to push her improvement and connect with ours, if it be possible; and she would be at the same time opening her rich territory to markets, and enhancing the business of the canal. And when the union should take place, might she not reasonably expect some of the fruits, at least, which New York has realized from the marriage of the waters of the great Lakes with the Hudson in 1825? This grand result, it seems to me, is attainable by the two States, by the means they now possess, if so managed and employed as to draw capital and capitalists to them, instead of begging, without success, for them to come and build the railroad. Besides, if this connection should fail, might we not expect that the Virginia and Tennessee Railroad Company would meet us at our line with a continuation of the improvement of New River up to its road near Newbern?

The water-line once completed, at an inconsiderable cost compared with what it would cost to complete the railroad line, the latter will soon follow, as an incident—as has been the case in New York and Pennsylvania—be built by the new interests and wants which the water-line would create.

Are there, then, the *certain, manifest advantages* in the railroad line proposed, as things now stand, *without the aid of the water line* —even if the old State and private owners should *donate* the Central and Blue Ridge roads—to induce mere capitalists to expend the amount required? I deem the estimates of the cost, as published by the Commissioners, entirely too low. To construct and equip the Covington and Ohio road, and repair, equip and pay off the debts of the other two, would cost from fifteen to twenty million dollars, and with a single track merely. Mr. GWYNN, late Chief Engineer of the

James River and Kanawha Company, estimated in 1852 the cost of constructing the Covington and Ohio road from Covington to Loup Creek Shoals, a distance of 138 miles, at $70,000 per mile, amounting to $9,681,000. It will now cost about one-third more—making $14,521,500, from which deduct the two-and-a-half millions expended since in and about the tunnel, leaving $12,021,500. In the recent overture with our Commissioners, it is proposed to accomplish this work with $5,000,000. Mr. GWYNN bases his estimate on the *actual cost of roads through a similar country*, and shows that the mere speculative estimates of engineers, without reference to actual facts, are not at all to be relied on in these matters; and instances the estimated cost of the Baltimore and Ohio Railroad from Baltimore to Cumberland, to have been $4,528,693, when the actual cost was $9,662,374; the Hudson River Railroad at $6,000,000, when it actually cost $14,000,000, and so generally. [See the 17th Annual Report of President to stockholders of the James River and Kanawha Company, 1852, pages 376–380, &c., where the subject is very ably and thoroughly discussed.]

Now we all know there is not local capital to accomplish such a work, nor am I able to see any present inducement for capitalists of other States to invest. The great bulk of travel is always found to follow the freight. They go where their produce and business lead; and while their produce shall go to Baltimore, Philadelphia and New York, the owners will not travel a long distance round to reach either of these cities, for the sake merely of riding on our road, if built, and looking at Richmond. Their products must be brought down to Richmond and Norfolk, and sold there; and then the owners will follow, and capitalists will build a railroad for them, or they will build it for themselves, aided by the accumulating merchants and capitalists and growing cities, at the tide-water.

But many, and among them our Commissioners, appear to think that our line of railroad, if completed, will possess such decided advantages over the present existing roads, for carrying passengers and for delivering the products of the West at tide-water, as will divert the freight from its present channels, and turn it to Newport News and Norfolk, and can there seasonably furnish, and receive and distribute, the cargoes of ocean-going ships, (which cannot go up to Richmond,) and thereby induce capitalists and merchants there. Nothing short of a large and palpable advantage will ever effect this to much extent. The Virginia and Tennessee and Petersburg and

Norfolk Railroads have not, as yet, done much for Norfolk; and as for Richmond, she is too far inland ever to be much affected, except by manufactures. The friends of the railroad instance the freedom from ice and blocking snows; the light grades and diminished distance. These would all have weight if true, but only the former is true, and which to the water-line is of vast importance. While they instance the Covington road as of much lighter grade going East—which is true—they are silent as to the other portion of the line east of Covington, which has ascents as high as 75 feet to the mile going one way, and 83 the other—on the Virginia Central. [See Report Board of Public Works for 1858, page 142.] So there will not be any great advantage in grade in our favor when taking the whole line together. And instead of making the distance shorter, the Commissioners make, in fact, the distance from the mouth of the Kanawha river—to which point the overture mentioned and resolutions you published contemplate it to extend—to Norfolk, 117 miles *more* than the distance from Wheeling to Baltimore by the Baltimore and Ohio Railroad; 113 miles *more* than from Parkersburg to Baltimore; and 144 miles *more* than from Pittsburgh to Philadelphia by the Pennsylvania Central. In making their calculation, it should be observed, the Commissioners start at the great falls of the Kanawha, 96 miles from its mouth, to which point they assume the river is to be improved by permanent navigation.

Now I submit there is nothing here that is going to divert the great staples of the West from their present established routes, and turn them to our road, if built; and this *capitalists see.* Nor would it pay to ship coal from the Kanawha coal fields to Richmond by the road, if built. The distance is about 355 miles from Coalburg, at the mouth of Cabin creek. The freight on a ton of coal per mile charged by the Virginia Central Railroad in 1858 was three and a half cents, (see Report Board of Public Works for that year, page 145)—which would make the freight to Richmond, 355 miles, $12.02 per ton, and about 13 cents per bushel. It is fair to presume this was as cheap as that road could carry it for then, and perhaps ever can. And so it would be with the great majority of our products. The freight on wheat was put at five and six-tenths cents per ton per mile, a ton being about 33 and one-third bushels; and freight on a bushel from the mouth of Kanawha to Richmond—a distance of 432 miles—would be about 73 cents.

The actual cost of transportation, including tolls, on the Erie canal

in 1850, before its enlargement, and when its capacity and size of boats were about the same as the James River canal, was one and one-half cents per ton per mile; at which rate the transportation, including tolls, of a ton of coal from Coalburg to Richmond would be $5.53; and of a bushel of wheat from Point Pleasant to Richmond 16 and three-fourths cents. The aggregate amount of freight that passed the Erie canal in 1850 was 2,033,863 tons. Mr. GWYNN estimated the capacity of the James River canal would allow, in 1852, the passage of 2,920,680 tons per annum, which he says it would require *six double track railroads to perform.*

In view, then, of existing facts and dear-bought experience, is it not wise for the people of both States to cease such overtures as took place at Richmond, and the people of each State, independently of the other, to push its respective portion of the "water-line" to completion and connection, with all the means and vigor each can command?

I was mainly induced to make the statements I have, by the published call of our Commissioners for our people to put in their money with the bonds of their respective Counties to construct the railroad on the terms and conditions expressed in the resolutions you published and the overture mentioned. I have endeavored to show that our best plan is to build a water-line. But if the railroad is to be built, I am in favor of putting it into other hands. I shall show hereafter why we should not contract with the Central Company.

How would our people in the Kanawha Valley like to be taxed to pay their County bonds, issued to enable the Virginia Central Railroad Company to begin at Covington and construct and equip the road westward, so as to draw and secure all the trade to Richmond, and further alienate the now unreconciled feelings of that section from the new State during the six years they would consume in reaching, if they should get money, our present steamboat navigation on the Kanawha? The Virginia Central Railroad Company would certainly have the controlling power, and could begin where and proceed with the work as that Company should choose; and there can be no doubt it would be as I have stated; and our people of the lower Counties while paying their money to aid the Virginia Central, (for that Company is to have all its earnings till the head of navigation is reached) would have to be content with their *present* navigation and outlet, as they would have no means left to put into that improvement.

I submit, no political consideration, except to advance the interest and harmonize the feelings of our own people, should enter into this great question.

Respectfully,

G. P.

June 17, 1867.

THE COVINGTON AND OHIO RAILROAD—CAN THE VIRGINIA CENTRAL BUILD IT?

Editors Charleston Journal:

I have already endeavored to show that a "water-line" will be a *safer* investment to your citizens who wish to witness the development of the great resources of the great Kanawha Valley. But if we shall undertake this great work, we should certainly so place its management that we shall not lose all. Let us inquire into the condition of the Company which has made the proposition to take the management of the construction of this road, provided "not less than $5,000,000 stock is subscribed" by outside parties.

The Virginia Central Railroad Company does not seem to be in a flourishing condition. A select Committee, appointed by the Legislature of the old State in 1859–60, to inquire into and report the condition of the State's Internal Improvements, speaks thus of the Virginia Central Railroad: "The Virginia Central, including the Blue Ridge Railroad, is 207 miles long—9 miles of which are unfinished.

"It paid into the Treasury during the last fiscal year, $84,354,22, *and promises to do as well in future.* The Richmond, Petersburg and Potomac Railroad Company have recently obtained a decree in the Court of Appeals against the Central Railroad Company, for an account in which a large sum of money is involved, and may be recovered, which will embarrass the road to some extent. The amount necessary to finish the nine miles yet to be made is $600,000." See Report of Select Committee, page 7.

The State's stock, including the Blue Ridge, was at that time $3,483,209,23. See 4th page of same Report. Upon this stock the $84,354,22 received by the old State that year would be a little rising two per cent.

There were in the Fall of 1858 three mortgages on all this Company's property for $1,269,500—one falling due in 1872, one in 1880, and the other in 1884, with interest payable semi-annually. These mortgages are undischarged, and I presume the interest accruing since the war commenced, is in arrear; and is, I presume, what makes up the sum of $1,880,622,23, which the address states to be due from the Company to individuals. See Report of Board of Public Works for 1858, page 113.

Now the mere guaranty of a Company so situated, of four per cent. semi-annual dividends after the entire Covington and Ohio Railroad shall be completed, cannot, it seems to me, induce capitalists to invest. The holders of the mortgages can advertise and sell the whole at any time for the interest in arrear; and what then would the corporation's guaranty be good for? Such guaranty can only operate to postpone the dividends accruing on the present stock after the entire road is completed, until the new subscribers shall get their eight per cent. Besides, as soon as new subscribers shall have put in their money, and constructed and equipped the Covington Road to steamboat navigation on the Kanawha, then the new Company—a majority of whose stockholders will be the holders of the present stock in the Central Road—is to have the power to mortgage the whole, including the Central Road, to raise money to finish the Covington and Ohio Road to the Ohio river. Would not such a mortgage have a preference over the eight per cent. preferred stock to be issued and guaranteed as before stated?

If, then, our Commissioners have really made the contract which they say they have, they have parted with the *invaluable key* West Virginia acquired by her separation, without any compensation whatever, it strikes me, and placed this great work of West Virginia—self-constructing, from its own intrinsic merits, if wisely managed—back under the absolute control of those whose former policy was to cramp and cripple it, and who now constitute a crippled corporation.

But the resolutions passed at a meeting of the stockholders of the Virginia Central Railroad, held at Richmond on the 23d of May, and published in your paper of the 5th ult., give a different phase to the transaction. The first resolution reads thus: "That it is *inexpedient* for this Company to undertake to construct the Covington and Ohio Railroad on borrowed capital." Here, then, one would suppose was an end of the matter as far as our Commissioners were concerned.

That Company in effect said frankly that it had no money with which to do the work, and would not undertake to raise it.

But by subsequent resolutions they authorize their Board to offer the following terms and conditions to the Commissioners for a contract to construct the Covington and Ohio Railroad:

"1st. That if sufficient money (not less than $5,000,000) to complete and equip the road from Covington to steamboat navigation on the Kanawha be not raised in cash, or subscription as good as cash, within six months from date of contract, that their Company shall be released from the contract if they desire it." This is certainly not an undertaking or contract on their part to build the road. It contemplates that other parties, and not their Company, are to procure the subscription and raise the money, while their Company is to stand still, with the right to reject or accept it. A very dignified position, indeed, to assume!

"2d. In case they shall accept, the Central Virginia Railroad will guarantee to those who subscribe and pay, semi-annual dividends of four per cent. after the whole road is finished and equipped to the Ohio river."

"3d. That in such case the net revenue from the Covington and Ohio Railroad while building shall be kept for that purpose." This is generous indeed—to consent that the builders may set apart the net income of their own money!

"4th. But no part of the earnings of the Virginia Central Road shall be diverted, held, kept, or used for constructing the Covington and Ohio Railroad, before the same shall be completed and equipped to the Ohio river"—by others money, of course, is meant.

"5th. That no mortgage shall be put upon the Virginia Central Road to raise means to build or equip the Covington and Ohio, until the latter shall have been built and equipped to the head of steamboat navigation on the Kanawha."

"6th. If from any cause the work on the Covington and Ohio Railroad shall become forfeited, the parties who shall have subscribed to build the same shall forfeit their stock, and shall have no interest or voice in the Virginia Central Company." As our Legislature reserved no power to resume, in case of failure to perform the work, that, together with the franchise, is to pass, in that case, I suppose, to the Virginia Central, which, by that time, will have

changed its name and become the Chesapeake and Ohio Railroad Company.

"7th. The President and Directors are authorized to employ such agencies as they may deem proper to carry out the objects of the foregoing resolutions."

Here we have, then, exactly what the Virginia Central Railroad has done. The agents, their President and Directors, appointed afterwards to carry out these resolutions, had no power or authority to vary from them. Do they amount to an undertaking or contract on the part of the Virginia Central Railroad to construct the Covington and Ohio Railroad? If not, then I submit, our people are in no wise bound by the arrangement purporting to have been entered into by our Commissioners. One thing is certain, our people could never have completed such an arrangement, nor is there anything in the too loose and unguarded act of our last Legislature to warrant it, it seems to me.

As I have stated on a former occasion, I again repeat, that the true policy of our people is to hold fast to the invaluable key which our separation and geographical position has placed in our hands; and we cannot fail, in a short time and by reasonable efforts, to induce solid capitalists to build the Covington and Ohio Railroad, which is, of necessity, to constitute the main artery that can alone supply and give remunerative life to the various languishing and dilapidated lines of the road East of the Alleghanies; as well as to old Virginia herself. All that is required is to construct our main artery from the Ohio river to our East line, and then the Virginia and Tennessee, the Virginia Central, and the Baltimore and Ohio, stretching up the valley of the Shenandoah, with the Orange and Alexandria Railroad Company, will all be in hot haste to connect with us.

Where is the sense, then, of surrendering all to the insolvent Central, which has no means to aid or help; but, as its resolutions disclose, expects to ride, *excluding all others*, and at the same time dominate over *us*.

Very Respectfully,

G. P.

July 7, 1867.

THE prediction that the Covington and Ohio Railroad, so import-

ant a trunk or stem, was *self building*, was realized within a year or two after. Capitalists of New York, including Messrs. HUNTINGTON, ASPINWALL, LOW, and others, undertook its construction—asking no local or other aid. They completed it, and it has been in successful operation (being consolidated with the Virginia Central, forming the Chesapeake and Ohio Railroad) now for near three years.

The importance to the Nation of the early completion of the contemplated water-line induced the last Congress to appropriate $300,000 to make a beginning on the Kanawha River, on the strength of previous Reports of Government Engineers. It is believed the National Government will complete this water-line at no distant day. The producers of the West, and consumers of the East, including New England, will demand it, as the only effectual relief against Railroad monopoly and extortion.

*AGRICULTURAL COLLEGE OF WEST VIRGINIA.

Editor Wellsburg Herald:

A supposed deficiency of proper means to advance Agriculture and the Mechanic Arts in the country, with some knowledge of Military tactics, was what Congress undertook to supply to our young men by act of July 2d, 1862, and to secure the faithful application of its bounty to the object by absolute forfeiture. No intelligent person, I think, who has read the Act, will undertake to deny that such was its object, or that any State that has accepted the bounty, has received and holds it subject to the conditions and restrictions imposed, and that a failure in any substantial part will work a forfeiture. Whether such deficiency existed in fact, or whether the means prescribed are the best to supply the want, are not open questions with the donees that have accepted.

But how is it in fact? Was Congress wrong in supposing the deficiency to exist, or in the choice of means to remedy it? The bill was drawn and introduced in the Senate May 5th, 1862, by Senator WADE, of Ohio, read twice and referred to the Committee on Public

*Name since changed to West Virginia University.

Lands, and ordered to be printed—which Committee reported back the bill with certain amendments, and a very long and elaborate debate ensued, in which the leading men of that body from all parts of the loyal States participated, and after further amendments it passed that body June 11th, following, by a vote of 32 to 7; and the 19th of the same month, it passed the House, without further amendment, by a vote of 90 to 25, and received the approval of President LINCOLN. Now, as Chief Justice MARSHALL once said to a young lawyer who assumed a monopoly of legal knowledge before his Court, that "the Court should be presumed to know *something*," I would with due deference to the Faculty and visitors of "The West Virginia College" say that this body of men from all parts of the loyal States should be presumed to have known something of the subject they were so long engaged upon—of the deficiency and proper means to remedy it. Besides, every one knows that until within a few years the subjects of Agriculture and the Mechanic Arts formed no *speciality*, and had no special Professorships in any of our numerous Colleges which overflowed the country with what are termed "liberally educated" young men, destined usually for some one of the learned professions—so called; and indeed it was thought presumption to aspire to any of these professions without a diploma from some College. Times change, and experience has taught the world that neither Universities nor ordinary Colleges with their "curricula" can impart brains or heart, though they may aid both where they exist, and are not therefore indispensable or even necessary, to the highest intellectual attainments and most exalted virtues, though the persons may be deficient in the dead languages, and it should seem absurd to Professor MARTIN to call them "educated men."

This most salutary and growing experience taught men to believe that the successful practice of Agriculture and the Mechanic Arts, in which more than eight tenths of our whole population were engaged, and which alone produced national wealth and greatness, might be aided and promoted by instructing the minds of those engaged, in a knowledge of the invariable laws of the Creator which form the science, and lie at the bottom of theirs as every other process or art, and on a strict observance of which their success equally depended; and hence Agricultural Professorships were established through individual munificence in Harvard University and some few Colleges in the country. To say that these two branches, Agriculture and Mechanics—in the practice of which so large a proportion of our

people are engaged, and on which the nation rests and derives all its wealth and sustenance of every kind, are too narrow or insignificant to form the foundation of a College or its principal and "leading object" and specialty—when the secondary and incidental business of Commerce has its Commercial Colleges, and Physicians, Theologians and Lawyers and many other classes engaged in one pursuit have their respective Colleges, throughout this and the old country, would be strange indeed. No mind unless shrouded in the narrow and selfish clan prejudice of the past, and altogether uninfluenced by the improved and enlarged ideas of the present, can harbor such a thought for a moment.

I will now briefly suggest the mode in which, it seems to me, West Virginia can best apply the bounty she has received so as to conform to the expressed wishes of the donors, and be of the greatest advantage to the intended beneficiaries, viz: our young men who intend to practice some branch of Agriculture or the Mechanic Arts. First: To establish two Professorships, the one Agricultural, the other Mechanical—connecting with each, all studies germane and naturally "related;" then employ for each Professorship one of the best men in the country, eminently qualified by natural ability as well as learning and experience, general and special, thoroughly acquainted with the world and with men and boys who soon become men—with the tact and power to interest, awaken, instruct, control and enthuse young men. The interest of the $90,000 would command and support such Professors and pay a regular army officer for giving to each class some knowledge in Military tactics, which need not require more than two or three months in a year. Let a judiciously selected library be provided, and then invite the youth of the State who have acquired a good English education in the Free Schools at home or elsewhere, and who intend to practice some branch of Agriculture or the Mechanic Arts—to spend one year under the instruction of these Professors and then let them return home and give place to another class of three, four or five hundred—as these numbers can be as easily lectured to, at one time, as can fifty—and so continue to rotate—the students to pay their expenses except the tuition which the bounties are to furnish.

Now what would be the natural results of such course? First, it would bring annually this number of that class of young men, possessed of good English education acquired at home, and immediately before their assuming the responsibilities and duties of manhood—

into immediate contact with these Professors, with each other, and with a well selected library. Need the result be explained? Every true man already sees and feels it. What is in them, such Professors would awaken and draw out—carry them aloft and show them the whole field of knowledge—accessible to and attainable by all. Instruct them in the necessary sciences, introduce them to that perfect system of unvarying laws which a beneficent Creator has given to guide them in what becomes a pleasant and ennobling calling—as well as eminently useful and profitable. To these youth Agriculture and the Mechanic Arts will appear as they appeared to CINCINNATUS and ARCHIMEDES, to WASHINGTON and FRANKLIN, and their thirst for knowledge once awakened by a true master's touch, will never cloy or tire. They will be made acquainted with books and will ever after purchase and read them, as well as observe, experiment and practice. When they return to their farms and workshops they will be men worthy their country and age. Nor need I mention the interest and enthusiasm these returning classes would be certain to create among the uninitiated at home, and the effect of their presence and relation of their experience would produce. This would be something more than a "manual labor school" and make them something more than "Farmers and Soldiers" Nor is this fancy. The means applied in the manner suggested will produce the result. But the indispensable thing is to have live, inspiring and large calibred men at the head as Professors.

The comparatively few youth that may desire to take the ordinary College course and obtain Diplomas can take it, with or without the years discipline, at the Agricultural College, in their own State, at Bethany College, or in Washington College, in a County adjoining Monongalia, both fully established and enjoying a high reputation, at a much less expense than our Faculty and Visitors propose in their circular to furnish it, with the aid of the bounty they hold. They exact $96 tuition for their four years collegiate course, when the tuition for a like course can be realized by purchase of scholarships in the Washington College with its superior advantages for $35. A gentleman of Wellsburg purchased a four years scholarship for that sum for one of his sons, not long since. And as for board, it can be furnished in either of these Colleges, certainly, for $3,50 per week, exclusive of washing and lights, which is the amount our Faculty and Visitors propose to charge. At the rate proposed in their circular the whole expense of a course will amount to at least $800,

exclusive of clothing and other expenses, and with the two years in the Preparatory department will be increased nearly one-half—making about $1500 for the six years, with the bounty thrown in; and the College to accommodate about —— at a time.

Now what is this to do towards enlightening and quickening the masses of our long neglected and comparatively uneducated people? Hardly a taper in a cloudy midnight! It is utterly above, and beyond the reach and pecuniary ability of the mass of our people. How many of our young farmers and mechanics can afford the expense? Not one in a thousand; while the privilege I have taken the liberty to suggest, will be within the reach of all who may desire to avail themselves of it. But it is proposed to educate at the States expense two from each Senatorial District, making twenty-two, to be called Cadets, and who are to guard the College property. Guard it against whom? Ten times that number of Cadets could never have prevented "ring" depredations upon the Hospital or Penitentiary; neither can they this College, from the only foe really to be feared. Besides the selection will be made generally from motives of favoritism and accidental circumstances, and not from true merit; and beget jealousies, animosities and dissatisfaction among the people, and be in the main productive of more evil than good. The time, I trust and hope, may come when it may be proper and expedient for West Virginia to establish for herself a College, and perhaps, University, in some respects resembling the plan now proposed—not a premature, abortive, languishing, inflated thing, as the one now proposed must for a long time at least, be, but one that shall spring naturally from the exigencies of the State, and become the same, and be liberally supported by a *prepared and competent* people. But it seems to me as unwise, unfit and unbecoming at this time, as it would be for a young farmer or mechanic to expend the small means he has laid by for acquiring an outfit in life, in the purchase of a "coach and six," or a $20,000 mansion. Is it wise for our people longer to ignore that inexorable law, that everything must "creep before it can walk;" that great and worthy ends are attained only by patient, gradual growth, from small beginnings, acting all the while in accordance with, and not against this law. Other States, that the people of our infant State are now assuming to measure themselves with, have spent scores of years, and some, centuries, in patient effort to attain what we are vainly endeavoring to attain by spasmodic leaps, or by those efforts of the over ambitious frog which ended in

self-explosion. A Hospital to cost a million, already disintegrating on account of its moral and physical abnormities; a Penitentiary with a plan for four hundred and eighty cells—four times more space than any other people in the country, of the number of ours, require. Does the interest of the State require another, which can be gained only through a forfeiture and loss of the Nation's bounty?

Very Respectfully,

G. P.

August 20th, 1867.

AGRICULTURAL COLLEGE.

Editor of Wheeling Register:

I perceive by the Act of Congress passed July 4th, 1866, entitled "An Act concerning certain lands granted to the State of Nevada," that that body has by necessary implication already declared that any application of the proceeds to any other subject than the teaching of "agriculture and the mechanic arts" without its consent, shall work a forfeiture. Section 3d of that act reads as follows: "That the grant made by law the 2nd day of July, 1862, to each State, of land equal to 30,000 acres for each of its Senators and Representatives in Congress, shall extend to the State of Nevada, and that the diversion of the proceeds of these lands in Nevada from the teaching of agriculture and the mechanic arts to that of the theory and practice of mining is allowed and authorized without causing a forfeiture of the grant."

This is equivalent to saying that if such diversion should be made without its consent, it would work a forfeiture; and makes it clear that, without its consent, a failure in any respect to make "agriculture and the mechanic arts" the "leading object" of the College, will work a forfeiture of the grant. Do the Managers and Faculty in our case expect, or have they already, the promise of our Senators and Representatives to obtain the consent of Congress to such a perversion as they have attempted? I think our farmers and mechanics at least, will have a word to say on that subject.

Very Respectfully,

G. P.

September 7, 1867.

[No. 1.]

OUR SYSTEM OF GOVERNMENT—WHAT IS IT?

Editors Wheeling Register:

When lust for power with personal hatred, has become the ruling motive of those whom we have entrusted with the powers of any of the great Departments of our National Government, it is well for us to refer back and ascertain clearly what was the plan or theory intended by the great Founders, to the end that we may be better prepared to act understandingly in any emergency that may arise.

The System of Civil Polity the fathers established, consists of distinct governments, the several State and National Governments, peculiarly and indissolutely (save by accomplished Revolution) united. These are all Constitutional representative Republics, or Democracies, as all power emanates from the People.

In all political and civil associations worthy the name of Government, there have been three great departments—the Legislative, which makes the laws; the Executive, which carries them into operation; and the Judicial, which expounds and applies them to cases as they arise, in a manner to advance and protect right, and repress and punish wrong. The powers of these three departments united, constitute the governing power of a State, which is the source of all legitimate authority, and head to which such authority is amenable, and by which it can be regulated or resumed. For many centuries before our fathers' experiment, the sovereign power had been lodged in one person, with none, or varying limitations, styled King or Emperor. Being only a man, and subject to the selfish passions of the race, he too often used the immense powers for selfish ends, to the great detriment and oppression of his subjects. This experience prompted our fathers when they undertook to erect governments in the woods, as it were, where the way was clear, after displacing the British authority, to adopt a new mode of structure, and our present system of civil polity is the result. Their plan was to reverse the location of the sovereign power, which had to rest somewhere, and instead of vesting it in one man, to retain it in the body of the peo-

ple, of whom the framers were to be a part, and execute its powers and functions through agents, with written Constitutions for their guidance, and thus avoid the great expense and oppression attendant on Kings and Emperors, with their Thrones and Courts. It was a bold experiment to be attempted in the woods even, and required men that feared God, that had subdued a wilderness in part, a savage race, and dared then and ever after to defy the strongest nation on earth, to do it. The theory, plan or ideal of our fathers has now stood the practical test of nearly a century, with no other change than the plan itself provided for, and with results that astonish the world.

We live in a world where everything is subject to unvarying laws, which we call the divine will. These laws in themselves are not subjects of sense, but are manifested to us only through their physical expression in natural phenomena and divine revelation. These divine laws are self-existent, and in no sense dependant upon physical expression, which is only their effect. Every human enterprise, whether of government or other thing, must conform to these divine laws in order to be successful. Hence correct theory, plan or ideal, must *precede* successful practice, otherwise the practice must be blind, labor in the dark, and efforts made at random. Hence good government *presupposes* the prior existence of correct theory, plan or ideal, which is self-existent, and independent of physical embodiment, and manifestation. True Christianity is such a theory, physically manifested by the New Testament and its good effects on those who practice it. The system of Civil Polity of Ancient Rome still exists, and is manifested to us by its records, laws, &c., though the Roman people that practiced and gave it physical expression disappeared centuries ago, and their system was displaced or more or less modified by their conquerors, through accomplished revolution. So the Feudal system of the middle ages, though nearly obsolete in practice, still exists and is evidenced to us by the writings of LITTLETON, COKE, BLACKSTONE, &c.; and so the system of Civil Polity inaugurated by our Fathers still exists, except so far as it has been modified by legitimate amendments, (for no accomplished revolution has displaced it in any part) and is evidenced to us by our written Constitutions and laws made in pursuance thereof. People are necessary to give the system, or any department, as a State, physical expression and practical results, but not necessary to its existence. This can only be displaced by legitimate amendments of the system, or by accomplish-

ed revolution. An unsuccessful attempt at revolution in whole or in part cannot displace it to any extent. It may change the practical working of the system for a time, until the disturbing element is removed, but not the system itself, which remains the same. The People that are required to give physical expression are all the time changing. Three generations have come and gone already since our system was inaugurated.

If all the people now living in Rhode Island should leave that State to-morrow, or should make an unsuccessful attempt, as DORR and his party did some years since, to change by force that department of our national polity, it would not affect it. The system would none the less consist of thirty-seven States, though in one, its practical working was temporarily suspended, or inharmoniously worked. Any other theory would necessarily subject the whole to the absolute control of its constituent parts—the Nation, to its thirty seven constituent departments—to be destroyed by piecemeal; which would be far more disastrous than to let erring and discontented sisters depart in peace, without first obliging them to commit voluntary suicide. Our system of civil polity makes the very existence of the National Government depend on the continued existence and perpetuity of the State Governments. Destroy the latter, and how can a National Senate be chosen, where there are no State Legislatures? How can a National House of Representatives be elected, or President, or Vice President, without the co-operation of State Governments? How can Judges of the National Courts be appointed, where there is no President to nominate and commission, or Senate to confirm? If it be admitted that one, or ten States can destroy themselves by unsuccessful attempts by their People at Revolution—then all can, or enough to stop the National Government altogether—and what authority is there then, to take charge of the Territory, which the States and Nation now cover? Who can make and enforce laws to govern it? Who—assent, and admit new States into a Union that has ceased to exist? The doctrine that unsuccessful attempts at revolution can destroy any of our State Governments, or impair their organic structures, is worse in practical results, by far, than the doctrine of peaceable secession, and ten times more absurd. The chastisement of the inanimate abstraction of State organism, by attempting their destruction for wrongs men have done through or under them, is like a man's destroying an apartment of his own house, in order to punish the person that had attempted to rob it;

or the Connecticut Puritan, who whipped his beer barrel because the beer that was in it continued to work on Sunday.

Very Respectfully,

G. P.

January 29, 1868.

[No. 2.]

OUR SYSTEM OF GOVERNMENT—WHAT IS IT?

Editors Wheeling Register:

I attempted in a former article to show that our system of Civil Polity consisted of the theory, plan, or ideal, which the Fathers conceived and evidenced to us by the Constitution they established; that this system is self-existent, and not dependent for its existence, but only for physical expression and practical results, on the People, who are constantly changing, and that this system can only be displaced, modified, or impaired by amendments of the Constitution in the modes pointed out, or by *successful and accomplished Revolution*—the right of which our Fathers admitted to exist, and its exercise justifiable in extreme cases. I will now attempt to give an outline of the system of Civil Polity that they established.

Prior to July 4th, 1776, the thirteen Colonies, though separate, were united by a common allegiance to the British Crown. That on that day they unitedly declared their Independence to sustain which, they conducted to complete success, the most unequal war ever known. Immediately after the Declaration these Colonies assumed for themselves the dignity and character of sovereign States, and the people of nearly all formed for themselves respectively, State Constitutions; and in them, while the terrible and unequal war was raging—laid the foundations of our present polity. They placed the sovereign power, which in the mother State was vested in the King, in their respective peoples, who were to execute the same through agents whom they periodically elected or appointed, made responsible to the people and who were sworn to obey and conform to the respective State Constitutions, which provided for the three great departments of Government: Legislative, Executive and Judicial, carefully defining the duties and powers of each, and in many instances expressly forbidding any interference with each other in the discharge of their respective duties. The Legislative was to

confine itself to making the laws; the Executive, who was made Commander-in-Chief of the army, to carrying the laws into execution; and the Judicial to interpreting and applying the same to cases as they should arise. In 1777 the thirteen States, through their Legislatures, entered into a compact, which they called "Articles of Confederation." This was a compact or league between the several sovereign States, to which the States in their corporate capacity were the parties, and not their respective peoples who held the sovereign power. These articles provided for no Federal Executive, nor Judiciary department, but only a Legislature, called the Congress, constituted of delegates appointed by the Legislatures of the States. This Congress was empowered to pass laws, but it had no Federal Executive to enforce them after they were passed, nor Federal Courts to expound and apply them. All that Congress could do, was to entreat the respective sovereign States to make their respective peoples obey them. While the war lasted and the outside pressure was strong, the authorities of the States generally complied; but when peace came in 1783, and the outside pressure was removed, many of the States declined, and the Congress became remediless—unless it could persuade the complying States to compel those that were recusant, by declaring war against them. A more deplorable state of things cannot be imagined. No taxes could be raised to pay the heavy debt, or interest, or even the current expenses of the Congress. It was "a rope of sand," in truth.

Thus circumstanced, the great men who had carried through the unequal war, aroused themselves to make secure the precious boon they had purchased at so great sacrifice, met in Convention in Philadelphia, and with GEORGE WASHINGTON in the Chair, devised and put in form our present National Constitution. It describes the parties whose work it was to be thus: "We, the people of the United States, *do ordain and establish* this Constitution for the United States of America," and when the draft was completed it was submitted to the people convened in their respective States to sign or ratify; and provided when ratified by the people of nine of the thirteen States, it should be binding to that extent, and might be put in operation, which was done in 1789, and the other States ratified after. Article 6, Section 2nd, declares, "that the Constitution and Laws of the United States made in pursuance thereof, treaties, &c., shall be the Supreme Law of the Land, and the Judges of every State shall be bound thereby, anything in the Constitution or laws

thereof to the contrary notwithstanding." Article 9, amendment, reads thus: "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the People." Article 10, amendment, reads thus: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States are reserved to the States respectively, or to the People."

These are the clauses showing that it was the people, who possessed the sovereign power, that made it; that declared that the powers expressly granted to the National Government thereby, should be the Supreme Law of the Land, any State Constitution or laws thereof, to the contrary notwithstanding; and that all powers not so granted were reserved to the States respectively, or to the people. They express the distribution of powers made, and the relation of those powers so clearly as to leave no room for comment, which is the case generally with the production of these great men. The reasons why the Fathers submitted the ratification to the people instead of the Legislatures, was that the people held *or controlled* all sovereign power, and so were able to *resume*, or *take back* any powers, they had previously granted to their respective State Governments, and bestow them on the National Government they were then forming, and to that extent of course, abridge the powers of their State Governments. It was submitted to the people of each State instead of meeting all in one Convention, because it was more convenient; and the people of each State became consolidated to the extent of the powers granted to the United States, but no farther—as fast as they ratified.

The people thereby made themselves subject to two Governments, the National, which was supreme within the scope of powers expressly granted with those necessarily incidental, and the respective State Governments, to the extent of the remaining powers that continued vested in them. The people then are the sovereigns, and as such the source of all power—who conduct their Governments, National and State, through their chosen agents, whose guide and warrant are the Constitutions—National and State, and which, so far as they are to act under them, they swear to support.

It is the duty and right of the people therefore, who are the principals and masters, to keep their respective agents, National and State, within their proper spheres of duty. If one agent attempts to encroach on another—a National on a State, or the reverse; or in

the same government, the Legislative, on a Judicial or Executive, or the reverse—in all such cases, it is the imperative duty and right of the people to check and punish the intruder. The keeping of the National agents to their appropriate spheres, and to check and punish all encroachment upon what is properly State authority, is as vitally essential to the safety of the system as the reverse would be. The safety and harmonious action of the entire system consist in the people keeping all their agents, National and State, to their appointed spheres, as clearly defined in the Constitution.

The Fathers were equally careful to separate and clearly define the duties pertaining to the three great departments of the National Government; the Legislative, consisting of the Congress, the Executive, being the President, and the Judicial, being the Supreme Court of the United States, and such inferior tribunals as Congress should establish by law. The people directly or indirectly appoint the officers and agents to represent them, and to perform in their place and stead, the duties pertaining to each of these three great departments of sovereignty; and although to each is allotted by the Constitution separate, distinct and peculiar duties, they are styled and treated as co-ordinate, which means of equal dignity and importance, and equally essential. A majority of each House of Congress, with the approval of the President, or two-thirds where he disapproves, make the national laws, and here its duty and power stops. The Senate concurs with the President, in appointing certain officers and concluding treaties, and there its executive duty and power stops. The executive powers are devolved on the President, who takes an oath to the best of his ability to preserve, protect and uphold the National Constitution, and to "take care that the laws are faithfully executed." To enable him to do this, he is made "Commander-in-Chief of the Army and Navy of the United States, and Militia of the States when called into actual service." He with the advice and consent of the Senate, appoints his Cabinet officers, who are made his confidential advisers, and for whose conduct he is made responsible; and for this reason he has uniformly, since the Government was formed, dismissed such Cabinet officers, when he saw fit, without being held accountable to either of the other co-ordinate departments, but only to the people, whose immediate representative he is. The judicial powers are devolved by the Constitution on "one Supreme Court" and such inferior tribunals as Congress shall establish by law. The Constitution provides that the Judges shall hold their office during good be-

havior, (which is in effect for life) and receive for their services a fixed compensation that shall not be diminished during their continuance in office—thus making the Judicial agents as independent and far removed from partisan influence as the system would admit. The Constitution expressly provides that the jurisdiction of these Courts "shall extend to all cases in law and equity arising under the Constitution and laws and treaties made by the United States," and some other cases not necessary here to mention. The Constitution also expressly provides that all the civil officers of each of the three great departments, may be impeached by the House of Representatives, and tried and convicted by the Senate and removed from office, for treason, bribery or other high crimes and misdemeanors.

It is also made the express duty of Congress to make all laws necessary and proper, to carry into effect all powers granted to the Government or Department, or officer thereof; "to make rules for the Government and regulation of the Land and Naval forces," in pursuance of which Congress established in 1806, the rules known as the "Articles of War." It also authorizes each House of Congress to establish "rules" for the Government or regulation of its own Body.

Article 4, Section 4, of the Constitution reads thus: "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."

This is an outline of the system of Civil Polity which our Fathers established. In my next and last, I will examine the recent measures and conduct of some of our public agents by the light the Constitution sheds.

Very Respectfully,

G. P.

February 4, 1868.

[No. 3.]

OUR SYSTEM OF GOVERNMENT—WHAT IS IT?

Editors Wheeling Register:

I have attempted in former numbers to show that our system of

Civil Polity is distinct from, and exists independently of, a people, who are only necessary to give to the system physical expression and practical manifestation, and that this system can only be displaced or overturned, in whole or in part, by legitimate amendments or, forcibly, by *accomplished revolution*; and also the designs of its founders, and the distribution they made of powers in order to accomplish their designs. I feel myself warranted in saying that there is not a man in the country, soldier or civilian, who was true to the Government during the late war, that does not know that the theory of the Government substantially as I have stated it, was the one the friends of the Government adopted at the commencement of the war, and continued to act on and fight for, until the insurgents surrendered in the Spring of 1865. Every act of the Government, some of which were solemn declarations of this fact as its purpose, and tendered solemn guarantees to the insurgents, if they would submit and return; every expression of the loyal people; every act and proceeding relating to the re-organization of the Government of Virginia, and forming of the New State, affirms the fact: that the sole object and purpose of the Government was to suppress the insurrection and preserve and maintain the national system unbroken and as little impaired as possible by the necessary wear and tear of the war. To take time therefore, to advance proof of a fact so well known would be like attempting to prove that the sun shines in a cloudless midday, or that we exist.

The annihilation of States now set up is a theory brought about since our triumphant suppression of the insurrection in 1865, when all the insurgents surrendered their arms and persons to our Generals upon terms dictated by President LINCOLN. These terms assured to the vanquished entire protection against civil or military punishment, so long as they obeyed the laws, thereby securing the sacred pledge of the Government to all actually in arms, who were, of course, the most dangerous portion of the insurgents. None of these, as I have heard, have broken their parole, but have, as a general thing, demeaned themselves in a manner becoming brave, honorable and sincere men. It becomes, therefore, a curious inquiry how ten States have been annihilated during the calm and general exhaustion consequent on such a war. Certainly President LINCOLN did not consider them annihilated when, immediately upon the surrender, he invited the members of the Virginia Legislature who had been elected while the insurgents were operating her Government as a part,

and in harmony with, the bogus Confederacy before it was overthrown, to convene, renew their oath of allegiance to the Government and operate the State in harmony therewith. Though he revoked this invitation afterwards, at the instance of others and for reasons other than the annihilation of the States, it shows, nevertheless, very clearly what his views were after the war had ceased. And it satisfies me, also, that if he had been spared to the nation this phantasm of State annihilation would never have been started with any success. Mr. LINCOLN was not prepared to admit that, after having suppressed the insurrection, at a cost of half a million of lives and three billions of treasure, that the integrity of the Nation was still broken, and the Departments or States, in which the insurrection had raged, were annihilated. The sound head and patriotic heart of ABRAHAM LINCOLN would never have made so humilating, so self-stultifying, so fatal a concession. He saw clearly that the integrity of the Government was saved and unimpared, save the wear and tear of the war, and that all that was necessary to be done, was to place those State Governments again in practical relation and harmonious working with the Nation—from which they had been temporarily diverted by the treasonable acts of the insurgents who were subject to be punished for their crimes in the manner the laws of the Nation and of war prescribe. No! his great spirit, set free by the assassin's hand, as it took its flight to a more deserving world, cast its last lingering and smiling look on no broken Government, with one-third of its States destroyed as is now pretended, but on a Government saved, vindicated and entire in all its parts as when it came from the hands of its makers, save only such wear and tear as successful war had occasioned. He saw that the changes made by the war required amendments of the National Constitution, and at his suggestion, Congress had inaugurated an amendment pending at his death, forever abolishing slavery, which has since been duly ratified and is now a part of that instrument.

President JOHNSON adopted the plan of re-organization (for the term "Reconstruction" has been manufactured since) that had been inaugurated by Mr. LINCOLN, only with greater stringency, as is clearly proved by General GRANT and others testimony before the Impeachment Committee. He by the great calamity and without a day's preparation, had the great and delicate work devolved on him, Congress having adjourned. He as Commander-in-Chief of the Army of the Nation, then flushed with victory, and the late insurgents

vanquished, their arms having been surrendered, asking mercy at his feet. It was a trying and responsible position for any man of brave and generous heart. His first acts were to avenge the murder of his lamented predecessor, and he seized the authors and the fleeing leaders of the late insurrection, then supposed to be implicated, with an iron hand. The former he caused promptly to be tried by a military commission, and being convicted and sentenced, he ordered to be executed, and rightly so, it seems to me, for the framers of the Constitution must have contemplated that the army should protect itself as well as the country, and if its Commander-in-Chief were murdered in his camp by a soldier or civilian, the offender subjected himself to punishment by military law, and was not entitled to a trial by jury. The leader of the defunct insurrection has through imbecility proved to be an elephant on the hands of all, President, Congress and Court, and they are not rid of him yet.

Mr. JOHNSON had sworn to support the Constitution and "take care that the laws are faithfully executed." The national laws are here doubtless meant, but the reorganizing of the State governments at the same time would facilitate their execution; and as Commander-in-Chief of the Army it was his duty to govern the surrendered insurgents until a civil government could be inaugurated to do it; and besides, being vested with all the Executive power of the Government, which its Constitution expressly requires shall guarantee to each State a government republican in form, and being earnestly urged by General GRANT and others, as appears from his testimony and the members of his Cabinet, and having before him the example and plan of his predecessor, it seems to me he was clearly justified in undertaking to reorganize the State governments as he did, without first convening Congress. He never pretended that his work would not be subject to revision by that body, though he might, in my judgment, have well taken that ground, except so far as the admission of members to Congress was concerned. To have waited for the calling and convening of Congress and for its determination, which would probably have taken many months, and which, when obtained, could have been, it seems to me, only advisory in the case. —would not have met the urgent necessity of the time; if the known and uniform theory and practice of his predecessor and of the entire Government before that time, were correct, Congress had no power to legislate, touching the system of Civil Polity then existing in the States respectively as established by their respective Constitutions.

and laws prior to the commencement of the war. To procure men who would operate the already existing laws in harmony with the Nation, was all that could be Constitutionally done. Of course the vanquished insurgents were subject to be punished as the law prescribed—unless shielded—as all that had been in arms were, by their parole so long as they obeyed the laws. If the Government's theory and practice to that time were correct, then the internal polity of these States could only be changed by the action of their respective peoples, or by amendments of the National Constitution, which latter of course, amends and displaces whatever comes in conflict, both State Constitutions and laws.

Mr. Johnson, in his proclamation of May, appointed Provisional Governors and authorized the call of Conventions in the several States to appoint proper men to operate the State Governments, prescribing, substantially, that loyal men who were voters at the commencement of the war should alone be entitled to vote for delegates. The Conventions convened and the requisite State officers were elected and their oath of allegiance to the Governments, both National and State, was renewed; Representatives and Senators to Congress were chosen; the National Courts opened, as far as practicable; the blockade removed, the postal system established, and the pending amendment of the Constitution, abolishing slavery, he insisted the Legislatures should ratify, &c., and reported his doings to Congress in December, 1865. During this session the quarrel between the President and Congress commenced. Congress inaugurated the pending amendment of the National Constitution for "*reconstructing*" the States. This, Mr. Johnson advised the late insurrectionary States not to ratify, but continued to urge them to ratify the one abolishing slavery; he also induced them to declare void their ordinances of secession and repudiate the debts incurred in their rebellious movements and reported again to Congress in December 1866. Meanwhile, Mr. Johnson had "swung round the circle," and the Fall elections had taken place, in which the friends of Congress signally triumphed. This result greatly emboldened the members of the then existing Congress, and, pretending great indignation that the Legislatures of the late insurrectionary States declined to ratify the pending amendment, it passed in February, 1867, what is called the "Reconstruction Act," which with its supplementary act in June following assumed to abolish the very State Legislatures to which it had submitted the proposed amendment for ratification, and estab-

lishing a Military Government in ten of the States. And as the President, whom the Constitution makes Commander-in-Chief of the Army and Navy of the United States, did not co-operate as they thought he ought, they propose, by the bill now pending, to withdraw from him the portion of the army used for the government of the ten States, and vest the supreme command thereof in General GRANT—making him, in effect, Supreme Military Dictator. so far as ten States and that portion of the army are concerned, as he will be accountable to no one, for being a military officer, he is not impeachable, and, being supreme in the military, there will be no superior officer to order a court-martial to try him.

The present Congress has also passed what is called a "civil tenure law," prohibiting the President from removing any of his Cabinet officers without the consent of the Senate. The right of the President to remove such officers at pleasure was established immediately after the Government went into operation, and has been exercised since by the successive Presidents, without any objection from any source. This uniform practice of eighty years, with entire acquiesence, would certainly give the Constitution a construction not to be departed from, especially when the untrammeled exercise of the right is so manifestly necessary to the prompt and due execution of the Executive power. Moreover, as the Constitutionality of the Reconstruction Acts is pending before the Supreme Court of the United States, and apprehending that five of the eight Judges of that Court, entertain opinions adverse to their Constitutionality, Congress has inaugurated a bill requiring at least six of the Judges to concur in order to declare any of its acts Unconstitutional. It has always been the practice in this and all other Courts in the Nation since its origin, as well as the Courts of England, for many centuries before, that a *majority* should be competent to decide all Judicial questions of whatever character. Can it with any reason be supposed that the framers of the Constitution who were eminent lawyers most of them, and well acquainted with this long and uniform practice in both countries would not have made an express exception, if they had intended there should be any, to the uniform and long established rule? They make no such exception. They establish by the Constitution one "Supreme Court of the United States," and provide that the President, with the advice of the Senate, shall appoint and commission during good behavior the Judges of this Court, and they shall be compensated by fixed salaries not to be diminished

during their term of office, thereby making the tribunal as independent and impartial as possible. It authorizes this Court to decide on the Constitutionality of all laws that Congress shall pass. Can there be any doubt but that the framers meant that the *majority* of that Court should be competent to decide in conformity to the universal practice, that the concurrence of a majority should be competent? And if they had intended any exception to this long established practice in declaring a law of Congress unconstitutional, would they not have said so? It seems to me there can be but one answer. If then such was the meaning and intention of the framers, Congress, I submit, has no right to disregard it any more than it has an express provision of that instrument.

In the same way we are to arrive at what the framers meant when they said "the President shall be Commander-in-Chief of the Army and Navy of the United States," without using any qualifying or restrictive terms. They meant to confer upon him all powers then properly belonging to such an officer, to be determined by the practice and usage of the mother country and public law. If they had not so intended, they would have made qualifications. But some members of Congress say the proposed law does not abridge his power as Commander-in Chief, although the proposed law subjects the President to a fine of not more than $5,000 and imprisonment for not more than two years if he issue any order or interferes in any way with General GRANT or any of his subordinates. Others pretend to justify by the clause in the Constitution authorizing Congress to make "*rules* for the government and regulation of the land and naval forces." Congress gave a construction to this clause soon after the Government was formed in enacting what is known as the "Articles of War." The long and established acquiescence in and practice under these rules show what authority the framers meant to give Congress by this clause. The Constitution also says each House of Congress may establish "rules" for the regulation of its body. The assumption of power derived from this clause, to take the command of the Army and Navy from the President, is too palpably unmaintainable to admit of comment. If Congress can take it in part, it can take it in whole, and thus usurp all power and means which the President possesses to execute tne laws.

These manifest violations of the Constitution the Radicals have endeavored to shelter, first under one, then another provision, without success, and having ransacked the entire instrument they rest at last

on this: "The *United States* shall guarantee to every *State in the Union*, a republican form of Government, and shall protect each of *them* against invasion; and on application of the Legislature or the Executive (where the Legislature cannot be convened) against domestic violence."

Now can any one doubt, but that the makers had in view the thirteen then existing States with those of similar structure that should be admitted afterwards, and that such State Governments were considered by them as being republican in form, that slavery existed in all but one at the time, and the right of suffrage existing in all was far more restricted than in any of the late insurrectionary States at the commencement of the war. The makers then not only meant to enjoin on the United States Government, to guarantee to each of the then existing States and to all of similar character admitted afterward, but expressly declared what was necessary to constitute a *republican form of government as they understood it.* Beside, it is States existing and in the Union, that this clause contemplates, shall be guaranteed Republican forms of government and be protected against invasion, and on application as before stated, against domestic violence. What invasion of any of the ten States has been attempted since the war to warrant the Government's interference? What Legislature or Executive where that could not be convened, has applied to the Government for protection against domestic violence. How is it possible, then, that this clause can have any application, if their theory is correct that the States have ceased to exist? The Constitution does not authorize, nor ask, the United States to erect or set up State Governments in order to guarantee them afterward. And if the States exist, as they no doubt do, where is the invasion to justify or precedent application required to authorize interference to protect against domestic violence? The clause affords no warrant or shield for their measures in any view of the case, but leaves exposed all their destructive abnormities; and even where a case does exist, it is the United States which consists of three "co-ordinate" departments, all of equal dignity, that is to so guarantee and protect. What new *inflatus* of the "higher law" has so expanded Congress that it absorbs, in this case, the other two departments? The whole affair strikingly illustrates the general truth, that one departure from the right track in government, as in individuals, necessitates many, if persisted in. Speedy retracing or inevitable ruin is the only alternative in any case.

Hence we have before us the spectacle of a great party, highly vitalized by its late signal victory in war, plunging headlong to the destruction of itself, and the very Government it had formerly done so much to protect. Its great men, like Ex-Governor MORTON for instance who exemplified in his recent speech in Congress, how small and pitiable a strong man makes himself appear, when he undertakes to war against truth, conscience, and *his own record*—he who is claimed to be their WEBSTER in Constitutional law, *assumes* for his premises and foundation of his argument, a declaration which he says, President JOHNSON made in his proclamation of May, 1865, "that the late insurrectionary States were without civil Government"—meaning of course that there were no suitable officers to operate them, and these had to be furnished in some way in order to restore these States to their former harmonious relations with the Nation. Having thus perverted Mr. JOHNSON's statement and meaning, to State annihilation, he set to work to reconstruct them in order to give Congress States to guarantee Republican forms of Government to. His clear seeing mind admonished him to *assume* as his premises State annihilation, and not to undertake to establish it by argument. It takes the old and stereotyped doctors of the "higher law" to establish that by argument. Fools rush in where their "WEBSTER" dare not tread. There are many others in the same predicament with the Ex-Governor. And all this, it seems to me, is attributable to the great mis-step Congress made when it undertook a year ago to pass and carry out these "reconstruction" measures—when it would have been competent it seems to me, for that body to have inaugurated such amendments to the National Constitution as the occasion required, and have sought their ratification through conventions, which the Constitution expressly authorizes, convened in each State, and in the construction and organization of which, Congress must necessarily have plenary power, instead of making the miserable botch they have in adopting the Legislature mode of ratification, over which Legislatures they can have no constitutional control.

Now I can account for this strange and unnatural course of conduct only in this way: We all know there were two extreme parties of forty years standing that got up the recent war—the authors of the "Higher Law" doctrine on one side, and the fire-eaters of the South on the other. Slavery was the subject of contention up to the time of the war, and each party placed it above the Constitution in dignity and importance, which as far back as I can remember the

doctors of the "Higher Law" denounced as a "Compact with Hell and League with the Devil," and in this faith kept pushing until they had placed on the Statue Books of fifteen States nullification in the guise of "Personal Liberty Laws," wanting the "overt act" only, which their fiery opponents were indiscreet enough to commit, to have reversed their present condition. These doctors are peculiarly constituted. They possess every kind of sense but honest, hard common sense, and to this they are utter strangers. They never sleep, but are always pushing for some one idea. Slavery and the negro absorbed their whole being. Reckless of consequences they kept pushing, declaring all the while the fire eaters could not fight, while the latter maintained their opponents dared not. When the war came with its dreadful fury, the doctors for a time stood far in the rear, amazed and confounded, till at length their anxiety for the fate of slavery and the negro, their capital stock in trade, aroused them. They saw if the rebellion succeeded their stock was gone, and if slavery should be abolished and the Government succeed, and the insurrectionary State Governments should remain undestroyed, then the freedmen would remain in those States where there would be no way to manipulate them without going and living in those States—and this they dared not do. At this point it was we heard the first cry from far in the rear of State annihilation, and nothing but "territory" left, if the Government should succeed. This increased and became more emphatic after the proclamation abolishing slavery was issued, and as the prospects of the Government to success brightened.

When the rebellion fell, nearly or quite all of the doctors sprang from the rear to the front, claimed the merit and glory of having saved the Government and abolished slavery, but were ready to swear that all the late insurrectionary State Governments were annulled and nothing but the "territory" and the freedmen remained, and as their former fire eating opponents, whose presence heretofore had been their check, were vanquished and chained, and State Governments destroyed, and field for future operation left clear, their exultation, lust of power and pelf, and hatred toward a fallen foe, knew no bounds, and, under military protection and escort hastened to explore the "territories," look to their stock in trade, now become freedmen, and show them their love, and the *scars* received in their behalf. They at this time made little, if any, impression on the Government or loyal people. But the great exhaustion and general

desire for repose consequent on such a struggle, and the doctors having become rested during the strife, have plied their vocation with ceaseless energy until they have driven things to the pass we find them in now. They have beguiled strong men to their fanciful dogmas of State annihilation, as they formerly did CLAY and WEBSTER Whigs and JACKSONIAN Democrats to their Abolition dogmas. And why is it? Because men love a crooked rather than straight path, darkness rather than light—illusion rather than truth? Or is it rather, the irresistible charm and promising prospects proffered through the variegated political hobbies they get up, which allure men whose political aspirations run away with their heads and conscience? I ascribe it mainly to the latter.

Now the people have got to dispose of these irrepressible doctors of the "higher law," before they can hope to have their respective governments operated in accordance with their Constitutions, and peace and prosperity restored to the Nation. They must either vanquish and chain them as they have their old co-workers, the fire-eaters, or else unloose the latter and let them, like the Kilkenny Cats, destroy each other. The encounter could not be an unpleasing sight, I submit, to all patriots and honest men. It seems to me cowardly and unwise in a great Nation, that has conquered such an insurrection and disarmed the insurgents, to fear to trust its pardoned authors in any relation a sound State policy might dictate, now that slavery is removed.

The authors of both extremes consigned to their proper places, with the abnormity of slavery which gave them birth, and was entailed on the Nation by the Mother Country, and the ten State Governments restored to their "practical relations" and harmonious co-operations with the national system, with such amendments of the National Constitution as the wear and tear of the war and changes occasioned thereby require—may we not hope for a happy and prosperous future? But I submit that our written Constitutions, National and State, in their true spirit and meaning, altered in the modes pointed out as occasion shall require, form the only star that can safely guide us on our way, and to them all should be made to rigidly adhere.

Very Respectfully,

G. P.

February 13, 1868.

[No. 1.]

THE IMPEACHMENT OF THE PRESIDENT—WHAT IS IT FOR?

Editors Wheeling Register:

The question propounded addresses itself to us all with an emphasis that demands inquiry. When the agents we have placed in one of the three great Departments of the National Government undertake to trespass upon and crush another of our agents, the President, whom we have appointed and placed in another of the great Departments to perform other and distinct works for us, with the oath of God upon him to the best of his ability to do it faithfully, according to the Constitution and *laws made in accordance therewith*—no one of us, however humble, can stand indifferent. No matter who the assailed agent may be, if unjustly and unconstitutionally assailed it is not he alone that is to fall, but our National Constitution, and our liberties are to fall with him. The weapon they aim at his side has first to pierce the Constitution, and not ourselves and posterity only, but humanity, must share the wound. Hence the transcendant importance of the measure inaugurated by the lower House of Congress against the President—and for what? For what the flatulent and agonizing travail of the lower House on the 21st ult? For what the solemn and imposing march of THADDEUS STEVENS and JOHN A. BINGHAM up to the Senate—and then down again? For what the malicious and exultant gleam from the eyes of the members of that body when their announcement was made? For what the tender to Congress of hundreds of thousands of armed men with their God speeds by Governor OGLESBY and others—including our own Legislature—a simultaneous concert of action, indicating unmistakably the widely extended, the perfectly organized and prepared conspiracy, to perpetuate power at all hazards—that slumbers like a hidden mine beneath us—another "Golden Circle," only enlarged to the bounds of our country and animated by the Northern instead of the Southern branch of the first originators of treason? For what the rules of the Senate, when sitting as a high Court of Impeachment of twenty-five Sections, and many columns long? And all this too by agents of ours, who at the close of the war, when Government and people were groaning under accumulated debt, voted themselves $5,000 instead of $3,000 per session, averaging four or five months, exclusive of travel-

ing fees, when not one in twenty of them can earn the lesser amount in the same time anywhere else.

Now such of us as are not skilled in the "higher law" arts would naturally suppose that all this parade, circumstance and dramatic preparation either denoted that something awful had taken place, or else betokened that something of that sort was to take place. What their future action will be no "uninitiated" man will undertake to predict. But we do know that all the President has done is to order Mr. STANTON, whom he had heretofore permitted to act as Secretary of War, on sufferance merely, (for he had never appointed him,) that his services were no longer needed, and ordered Adjutant General THOMAS to take charge of the office until a Secretary could be regularly appointed. *That is all.* That the National Constitution gives our Chief Executive Officer this right no legal or common sense mind has ever doubted. The Doctors of the "higher law" and their disciples stand alone in its denial. The framers of the Constitution vested in the President the "Executive Power" of the Government they were framing, which embraced all powers then understood to be included in that term, and not by them in express terms excluded. The absolute power of the Chief Executive to remove Cabinet officers at pleasure was then embraced in the term "Executive Power," and there is not a word in the Constitution abridging it in this respect. So the first Congress, embracing many of the makers of the Constitution, decided, after careful deliberation, in 1789, and the Nation and all her great men since, without a dissenting voice, excepting the doctors of the "higher law" and their disciples of our day. These by virtue of their transcendental art claim to get around it in this way, that whenever Congress by a two-third vote passes a bill over the President's veto, whatever be his reasons for that veto, the same becomes a valid law, so far as the President is concerned, and he is bound whatever be his own conscientious convictions as to its constitutionality, to see it carried into execution, and in all things to obey it, and if he fails in any particular he is subject to impeachment, conviction and removal. It would follow then as a necessary consequence, that if Congress should pass a law abolishing the entire Executive and Judicial Departments of our Government and send it to the President, who should veto and return it, giving as his reasons that both his and the Judiciary Departments were co-ordinate and independent branches of the Government, so made and established by the Constitution, and that Congress, which

could only act in subordination to that Constitution, had no power over them, and still Congress passes it over his veto by a two-thirds vote, it thereby becomes, as they say, a law, which the President, although thereby abolished, is bound to execute and obey by virtue of the clause in the Constitution, that "he shall take care that the laws be faithfully executed," and bound to do it too until the Federal Court shall pronounce it void. But as the Federal Court is also abolished by the same act, I suppose they mean the defunct President is to keep on executing. A pretty fix to place the President's oath-bound conscience in. I mentioned this necessary consequence that must follow to some of the disciples who seemed to doubt the power to do so much at once, but contended it could be done gradually, by piecemeal, and not violate the Constitution any to hurt! When the President shall veto a bill solely on the ground that he believes it *inexpedient*, and it is passed by a two-thirds vote, it should, perhaps, with propriety, be taken to be a valid law which he is bound to execute. But when he vetoes a bill *because he conscientiously believes it conflicts* with the Constitution, which he has sworn "to preserve, protect and defend," a two-thirds vote of Congress can neither justify nor oblige him to commit legal and moral perjury by carrying it into execution, or obeying it—for the Constitution is in that case, to the President's conscience at least, *the only existing law* that he is to see executed, or to obey; and the *conflicting act* of Congress is a *nullity*; at all events until the Supreme Court of the Nation shall have declared otherwise; and then it must clearly appear that he acted *corruptly* before he can be impeached. If President JOHNSON be impeachable for what he has done, then all former Presidents, from WASHINGTON down, were equally so, for they all did, or claimed a Constitutional right to do, the same things.

I observe the tenth article of the impeachment is based solely on the following casual remarks of the President to General EMORY, while inquiring as to his command. Upon the General's calling his attention to section second of the Army Appropriation Law passed March 2d, 1867, which the General thought the President must have overlooked when he approved the bill, as the section restricted, and unconstitutionally so too it would seem, the President and his Secretary of War issuing any orders except through General GRANT or the next in command in his absence, and made it highly penal for the President or other giver, as well as the receiver, for any disobedience thereof—upon reading the section at the request of the Gen-

eral, he remarked: "Am I understand that the President of the United States can issue no order except through General GRANT or the Commanding General?" "This is not in accordance with the Constitution of the United States, which makes me Commander-in-Chief of the Army and Navy or the commission you hold"—all of which was doubtless true, and he might have added, the General's oath of office also—and yet these casual remarks of the President are made a distinct ground for his impeachment. If the President is impeachable at all—is it not for his having submitted as far as he has to the unwarranted and unconstitutional aggressions of Congress upon the clearly defined prerogatives of his office?

Very Respectfully,

G. P.

March 4, 1868.

[No. 2.]

THE IMPEACHMENT SO FAR—WHAT HAS IT PROVED?

Editors Wheeling Register:

The evidence has been closed. The Senate which is claimed to be "a law unto itself," which implies absolutism or unlimited power, has admitted everything that years of preparation and all the power and money Congress possesses, could manufacture or scrape together, against the accused, and arbitrarily excluded the most pertinent evidence offered in his defence. And still sufficient light has been let in to dispel the fog and fumes with which they at first enveloped the case, and what do we see now upon the stage? First and foremost we see the accused, sitting "grand and calm," though it may be "upon his coffin lid," ("for the doctors of the higher law in their utter desperation still encompass him") with his legal advisers, who have proved themselves in all respects worthy their client and his cause; while from the prosecuting side, we have seen and now see, what? A conspiracy, a persecution, which for wickedness, meanness and folly has no parallel in the annals of the world; and how worthily have the managers represented *their side* of the scene, well befitting the final exit and extinction of the Northern branch of the getters-up of the late rebellion.

But what honest heart in the nation in view of the scene, does not swell with sympathy, admiration and gratitude towards the accused? The sole architect of his own fortune—rising from poverty and ob-

scurity through the voluntary suffrage of a free people to the highest office in their gift; and at no time or step in this ascent have the people permitted him to be defeated. How extraordinary this fact, and how conclusive the evidence it furnishes, that under his rough exterior, and though wanting in some of the graces and accomplishments which so often cover modern degeneracy—ANDREW JOHNSON possesses an honest heart, a brave spirit and a sound head, worthy his great patron, General JACKSON, whose precept and example early taught him to be true, amidst all trials, to conscience, his country and God, who always takes care of the consequences. Hence we saw him in 1861 on the floor of the Senate, when his present persecutors and judges were dumb and overwhelmed with fear, rising in the very face of treason, with that heroic courage and moral grandeur which astonished and electrified the nation. As it was with his great patron, so he is being made the object of unmerited and fiendish persecution by those whose selfish, unwise and impracticable schemes he opposes. The fame and character of his great master are now safe, and whatever may be the decision or action of the President's present persecutors and judges, the name of ANDREW JOHNSON will be remembered and honored by a just and grateful people when they will have been forgotten, or remembered only for their unparalleled wickedness, meanness and folly.

This is the Impeachment which the very "loil" members of our Legislature last winter by joint resolution urged Congress to undertake, and came so near *instructing* our Senators while sitting as Judges to sustain, regardless, of course, of their oaths and the evidence that should be adduced; and in the ardor of their "loilty" tendered to Congress the military power of the State, while at that very time the protection and defence of "loilty" at home, required, as they pretended, the presence and co-operation of Federal soldiers sent a short time before by General GRANT at the earnest request of our very "loil" Governor. So stands this branch of the bastard loyalty of the country with its higher law inflatus, which now assumes to trample under foot our Constitutions, both National and State.

Very Respectfully,

G. P.

May 4, 1868.

[No. 3.]

HOW THE DOCTORS OF THE "HIGHER LAW" ADMINISTER JUDICIAL POWER—ITS DEMORALIZING EFFECT UPON THE COUNTRY.

Editors Wheeling Register:

The freedom from all restraint, whether by the Constitution or otherwise, with which the present Congress legislates and enacts what it calls laws, has ceased to excite surprise; whereas the present impeachment trial is the first exhibition we have had of their mode of exercising judicial functions—performing the duties of a Court, and that the highest judicial tribunal known to the law—the Senate, sitting as a High Court of Impeachment, presided over by the Chief Justice, to try the Chief Executive Magistrate of the Nation. That the Senate, when acting in this capacity, is *such a Court*, the Constitution, the uniform practice heretofore under it, and the *oath* required of each member *to decide the issues before him "according to the law and the evidence,"* abundantly prove. Because the people have confined its jurisdiction to the trial and punishment of their other agents, engaged in the different departments when charged by the lower House with having committed grave offences while in office, makes it no less a Court, a judicial tribunal, and subject to the rules of judicial procedure—no less so than the Supreme Court of the United States, which the same people have established to hear and determine other matters in dispute. It performs what judges and juries combined perform in the trial of criminal cases in our ordinary Courts, and its duties rise in importance and responsibility according to the magnitude of the issue and station of the accused. We can readily conceive therefore the demoralizing or beneficial influences its conduct must have upon all inferior judicial tribunals throughout the country. Its example must be potent, either for good, or for evil.

We have been educated to regard our Courts of whatever grade as temples of justice wherein the Goddess sits blindfolded, that she shall not be influenced by the characters of the parties, or other accompanying circumstances, but decide only *from the law and the evidence*. Nothing, the Altar and Temple of God excepted, have our people been taught to approach with so profound respect and reverence as our Courts of Justice. Who dares to approach or tamper with a Judge or jury, while they have in charge an indictment for a criminal offence, though against the humblest and vilest individual?

And where is the Judge or juryman that dares to be approached or tampered with? The popular abhorrence of such conduct has, through the law of every State, denounced the severest penalties on him who tampers, and on him who suffers himself to be tampered with. Nor is any person who has formed or expressed an opinion in respect to the guilt or innocence of the party about to be tried, allowed by the law of any of the States, to sit as Judge or juryman on the trial. Such has been the practice *under* the Constitution and laws since the Government was formed, at least among all who do not belong to the "higher law" school.

But what do we see in this High Court of Impeachment, which has been inaugurated and conducted on the "Higher Law" plan by the doctors and their disciples? Why, some two years ago, the tryers, Judges and jurymen, as members of a co-ordinate branch of the Government, publicly denounced the accused as a traitor—a JUDAS ISCARIOT—a tyrant, &c., and have continued to heap obloquy of every description upon him since; and on the 21st of February last, by solemn resolution, publicly declared that he was guilty of the very offence now charged against him, and which in the capacity of judges and jury they now set to hear and determine! And their disciples from every part of the country echoed back—impeach him! and tendered hundreds of thousands of armed men to back Congress in doing it. Nor were those of our little State behind, in will at least, though we might well doubt their ability, as they had just called in bands of Federal soldiers to guard their exceedingly great "loyalty" at home from rebel attack. But, nevertheless, by solemn resolution of the Legislature, they did tender all the military power of the State—though as empty a tender as the personage we read of made eighteen centuries ago.

How does this agree with our notions of a fair and impartial judicial trial under the Constitution and established rules of law, which have been handed down to us from our fathers? Would not such previously expressed opinion of the guilt of the accused disqualify? But then we must remember, "their ways are above our ways, and their thoughts above our thoughts," and this may account for what looks so strange to us.

But what further strange things do we see, saying nothing of their unprecedented decisions excluding and admitting evidence during the trial? We see the "Higher Law" members of this Court of Im-

peachment, since committed to their deliberation, encompassed and embraced by the whole "loil," once happy, but now terribly frightened family—rushing to Washington from every quarter, and crying, "Crucify him—Crucify him!" and others—"save us Cassius or we sink!" and so also shrieks the entire Press of the "Higher Law" persuasion, and even the faithful of the lower House, who acted as the Grand Jury to impeach, now join in this stupendous outcry. The trouble has been, I am inclined to think, that in this High Court of Impeachment Case, to which they were unaccustomed, the "Higher Law" inflatus carried them to an altitude, where their heads began to swim—and some begin to show a disposition to get down; others, to have a faint remembrance that *they had taken an oath to decide according to the law and the evidence.* These are set upon and badgered in all sorts of ways, some shaking clenched fists in their faces, some threatening to take their offices from them, others pointing to the past and reminding them how many times before the trial commenced, they had publicly proclaimed the guilt of the accused, and denouncing eternal disgrace and infamy on them and their posterity, if they should suffer either conscience or the evidence adduced at the trial, to stop or change their course now, when the life of the party is at stake.

This is a faint outline of what was going on at Washington on Tuesday, and is it any wonder the High Court of Impeachment, thus encompassed and distracted, should adjourn till Saturday—to take breath, make new imprecations to the heavenly bodies, especially the *moon*, their tutelar deity, if for no worse purpose. What *embracery* there will be in the intermediate time! Suppose a similar mob should gather around our Circuit Court Judge and jury while deliberating on an ordinary criminal case—what should we old fashioned folks think of this mode of procuring a verdict?

This is the first criminal trial conducted wholly on the "Higher Law" plan, that has occurred in the country. May we not hope it will be the last? But the inquiry naturally arises—what great object is sought to be accomplished by this unprecedented and extraordinary conduct? The only answer that can be given is that the doctors and their disciples hope thereby in some way to perpetuate their power, and restore peace, happiness and prosperity to the South and nation, by forcing at the point of the bayonet the intelligent and enlightened white race of the South to swear before high Heaven that they "accept the civil and political equality of all men," including the

recently emancipated slaves, denouncing the severest penalties if they should not conscientiously believe what they so swear to, and that they will never say or do anything contrary thereto during their lives. Such are the terms of the new condition on which the whites of the South are to be re-admitted to participate in the Government. True, to our vision there may be no logical sequence or connection in all this—still may we not regard them as the manifestations of higher agencies, which we fail to appreciate, because we do not comprehend? In a few days we may expect to see them attach their car, freighted with all these "Higher Law" wonders, to General GRANT, whom they long since made Commander in-Chief of the Army. So let us prepare to witness another exhibition of the "Higher Law" wonders at Chicago.

Very Respectfully,

G. P.

May 18, 1868.

[No. 4]

ANOTHER ACT IN THE GRAND DRAMA, AND PROBABLY THE LAST—THE PRESIDENT ACQUITTED.

Editors Wheeling Register:

So we see the High Court of Impeachment, after having been badgered, embraced and squeezed as no mortals ever were before—convened again on Saturday, at twelve. The faithful of the lower House—failing to appear with the promptness they were wont to do in the earlier stages, were sent for, and with slow funereal step soon made their appearance. General GRANT had given out word that he should decline to lead the grotesque and fantastic party in the coming campaign, unless they impeached ANDREW JOHNSON and got him out of the way. This greatly heightened their anxiety and fears. The scene of HAMAN and MORDECAI, and the gallows too, rose up before them. But in the "Higher Law," so fruitful of expedients, they soon found a way, with scriptural authority, "the last shall be first, and the first last," to justify, and so determined to have the last article put first, though contrary to their previously established order that the articles should be put and voted on, in the order they stood in the bill of Impeachment, and according to uniform practice. But as the Eleventh and last contained all that was material in the

previous articles, and also the additional matter, without which Mr. STEVENS had assured them any County Court lawyer could upset the case—they resolved to try this first; and in case of failure to beat a retreat under cover of the smoke as best they could. The Eleventh article was put, and on this the President was acquitted, notwithstanding Mr. WADE, who was to become President in case of conviction, *voted guilty*. A Nation's thanks and gratitude to the heroic nineteen, who, in defiance of such unparalleled presure and appliance, dared to be true to the Constitution, their oath and their God.

But how to retreat and still secure General GRANT for their leader—that was the question with the faithful. One moved to adjourn before the result of the vote was declared, but on reflection that the public was already in possession of the vote, they concluded to let the Chief Justice declare it, which he did. It was then moved that they adjourn to the 26th inst. It was objected that the order previously passed required that the vote should be then taken on the other articles, and the Chief Justice sustained the objection; but the faithful took an appeal, overruled the Chief Justice, and adjourned till the 26th inst; whereupon the House, accompanied by the Managers, paced back to their quarters at the tune of the rogue's or dead man's march—which of the two the telegram omitted to name—and then its Chairman, the redoubtable WASHBURNE, reported—*progress!* Soon after the faithful of both Houses adjourned to Chicago, where the whole distressed family is expected to be gathered, and General GRANT is expected to consent to become their standard bearer, upon all the faithful declaring, by solemn adjuration, that the President shall hereafter be convicted on some of the ten remaining articles. So they have got more wonders in store for us.

So we see the way this High Court of Impeachment makes its decisions is no less strange and wonderful than other parts of its proceedings. This is indeed a day of wonders for a plain Republican people who are the sovereigns, and who pay the getters up $5,000 apiece for three or four months time, with traveling fees and incidentals, which amount to at least as much more, besides paying the immense cost of the show.

One fact has been disclosed which has for some time been suspected to exist: That the Methodist Episcopal Church North is in secret league with the whole proceedings, and that its share in the spoils is to be the establishment of its Church throughout the Southern States

in connection with the bogus political reconstruction, at the same time, and by means of the same bayonets, and when accomplished, is to be recognized as the established Church of the nation. To be satisfied of this, one has only to read the proceedings of the General Conference at Chicago, the 14th inst., and the use made of them by the Radical press throughout the country, including Apostle GREELEY's, and "Dead Duck" FORNEY's. That Conference is represented to contain nine Bishops and two hundred and forty-two delegates, and with a view to impress the country with their importance, they claim to represent 1,100,000 American citizens, and to collect and distribute annually "to various connectional and local objects," $8,311,662 15—unanimously resolved in substance as follows: That, "whereas, the impeachment case is pending, and the pleadings and evidence having been laid before the people, and being deeply impressed that upon its rightful decision will largely depend the safety and prosperity of the Nation, as well as the religious privileges of our Ministers and members in many parts of the South, and whereas painful rumors are in circulation that partly by unworthy jealousies and partly by corrupt influences by money and otherwise most actively employed, efforts are being made to influence Senators improperly, and to prevent them from performing their high duty," and therefore the Conference appoints an hour from nine to ten on the 15th inst. to *pray* for the High Court of Impeachment! At the same time the irrepressible negroes assembled in Washington in Methodist Episcopal Conference, echo the sentiments of the Chicago Conference, without its guise and hypocrisy, but in plain English, "convict ANDY JOHNSON."

Notwithstanding the studied effort by the Chicago Conference to conceal their partisan purpose, and at the same time throw their whole weight and influence for the conviction of the President, their purpose is sufficiently apparent; and if there was any doubt on the face of their proceedings, the immediate and pointed use made of them by their confederates, the Radical press of the country, without any attempt at correction or explanation on the part of the authors, confirms it. It is another exhibition, though on a far greater scale, of the all-grasping sectarian power, that recently by like false and hypocritical pretences, diverted the money given for the purpose of instructing our young farmers and mechanics in a knowledge of Agriculture and the Mechanic Arts, to the support of a Methodist

Episcopal "instrumentality" in our own State; so, also, with our Normal Schools, &c.

It is painful that a set of Christian men, as they profess to be, who claim to represent 1,100,000 Christian people, and who contrive to draw from the people's pockets $8,000,000 or $9,000,000 a year, to be expended in ways few of the contributors know anything about, should be so ignorant or regardless of the solemn duty of every oath-bound Judge or juryman to decide according to the law and evidence in the case, as he conscientiously understands and believes, and not as others, moved by personal interest or partisan prejudices, who are not under oath, nor have heard the evidence—shall dictate—though they may be as important personages as the members of that Conference claim and are represented to be. The means employed to convey their sentiments and impress their influence upon the Court, must greatly aggravate instead of mitigating their great offence, in the judgment of honest men at least. I think the community may well doubt the propriety of intrusting the application of $8,000,000 to $9,000,000 annually, to men of their consciences and sense of right and just propriety. However prepared they may be to "render CÆSAR the things which are God's," and to unite Church and State, they will find, I submit, the people of this country not so far advanced as themselves. The old Methodist ship seems to have gotten into as bad hands as our ship of State—so far as Congress manages, I mean.

The Republican members who dared to obey the behests of the Constitution and their own consciences rather than the behests of this cabal, are denounced as traitors and as having sold themselves for money! The mind and heart which, in view of the evidence of the case, are capable of ascribing no higher motive for the action of FESSENDEN, TRUMBULL, HENDERSON, GRIMES, VAN WINKLE, FOWLER and Ross will find but few to envy them. These are denounced as far more guilty than Mr. JOHNSON, against whom the faithful have been thundering for the last two years, and to punish whom have got up the stupendous drama which we have witnessed at an expense which we have all got to feel, and now they confess that the guilt of these Republican members, as measured by their standard of right, is far greater than Mr. JOHNSON'S.

The facts, I submit, show the party corrupt and debauched beyond

a parallel, and the facts disclosed ought to awaken every true patriot and Christian in the land, of whatever party or religious sect, to consider and weigh them well, and profit by the lesson they teach. "To be forewarned is to be forearmed."

Very Respectfully,

G. P.

May 21, 1868.

THE CHICAGO PLATFORM AND ITS CANDIDATES.

Editors Wheeling Register:

The present deplorable condition of the country, in its organic, pecuniary, moral and religious aspects, demands a candid and careful analysis of any measures of relief which are proposed. The gravity of the subject, the present and future of this great nation, will justify no other. What is really promised, and the degree of faith honest men can really put in the promises, are the vital questions now. In order to interpret aright the present doings and promises of the party in power, we should bear in mind that the authors are the party that has exercised unlimited control of the Government during the last three years—ever since the war ceased. What then have they really promised which, in view of their past conduct, should command our confidence?

The first and second sections of their platform justify, with exultation, the annihilation by Congress of ten State Governments, which were at the close of the war in full existence, and which Presidents LINCOLN and JOHNSON had restored to their practical relation with the Nation in all things except the admission of Representatives and Senators to Congress; also the present structures now being erected by Congress through military power in their stead, and in which they place the making of the laws and the administration of the State Governments in the hands of recently emancipated slaves and ignorant and propertyless whites—less competent than the negro—to the exclusion of the intelligent, the enlightened and the property-owning natives of the ten States—these to be made the slaves and victims of

this mass of ignorance and vice, which is now and is to be moulded and managed by carpet-bag adventurers from the Old Free States, while under the protection of Federal bayonets, and at a cost and sacrifice to the Nation of $300,000,000 annually. They have the brazen impudence to then affirm to the common sense and conscience of the Nation that this state of things must be continued and upheld or "anarchy will ensue!" "Safety, gratitude and justice" they say demand this! When two years ago this same party proposed a Constitutional amendment known as Article 14th, they referred it for ratification to the Legislatures of the States, including the ten, which they claim now are annihilated, and this amendment if it had been adopted would have left the law-making and administrative power of these States, so far as voting was concerned, in the hands of the then holders, and have left the entire negro population, every one of them, disfranchised, without hope of ever acquiring the right to vote except through the voluntary concession of their former masters.

Where then was the "safety, the gratitude and the justice" towards the blacks, which they now put forth with so much flourish, to justify their present political monstrosities? The party then aimed to perpetuate its power by *restricting* the representation of these ten States; and "the safety, gratitude and justice" for the blacks was not included, and so not mentioned, or probably thought of, by the Christian philanthropists. But when the amendment failed, then the programme was entirely changed, and "safety, gratitude and justice" towards the blacks, the stone theretofore rejected, was made "the head of the corner." Besides, the fourteenth Article proposed, assumes to change and break up the very foundation on which the makers placed the National Government, viz:—that all free inhabitants (except Indians not taxed) were included in the basis of National representation and were therefore represented in all the departments of that Government, whether they were voters or not, and each of course had the right to call on his Representative and Government for protection, which they were bound to give. But the proposed amendment clothes each State with the power to throw any United States citizens residing within its limits, out of this National representation, simply by "denying or *abridging*" the right of any to vote, and of course denationalizing and expatriating them with their families and dependants, by taking from them all part and lot in the Government, except what any foreigner may have. Suppose the

people of any State, as it may do, if the amendment be adopted—withdraw, withhold, or abridge by imposing a property or intelligence qualification, the right of suffrage, as to all males of twenty-one years of age of Irish, German, African or other descent, not only each male, but all their families and dependants, go out of the National basis of representation, cease to be represented, and as a consequence lose all right to claim protection—and what are they then practically but foreigners! I submit that no person not within the basis of representation can form any part of the constituency either of the President of the United States or of a Representative in Congress, nor can the latter be said with any propriety to represent the former. In case of the adoption of this amendment then, will not the colored people of the Old Free States, to whom suffrage is denied, abridged or qualified as well as the white population, whose right is abridged or qualified by requiring a property or intelligence qualification, all be thrown out of the National basis of representation, cease to be represented and lose the right to claim its protection? It strikes me this consequence must follow, and if so the present plan of reconstruction will be likely to eject from the Government as many or more than it brings in; and eject the intelligent and tax-paying, and bring in benighted paupers—this would leave a poor chance for elevating and improving the voters of the Nation.

This is the amendment which the ten States declined to ratify, and in punishment therefor Congress has assumed to annihilate their State Governments and to erect the things they are trying to establish by military force, with GRANT as the Generalissimo—they having displaced the President, the Constitutional Commander. And this is the State of things now congratulated and with brazen impudence it is proclaimed to the common sense and conscience of the Nation that ruin and "anarchy" will ensue if anybody attempts to change or arrest their course.

The only other points worth noticing in their long non-committal rigmarole, running through twelve Sections, with the outside fly nets of Doctor SCHURZ hung on the outside—are the 3d, 4th, 5th, 6th, 7th and 8th Sections, relating to the finance. Here they neither fly nor light, but hover like other birds of prey, watching for what they can catch. The substance and pith of all these is simply this: "That they denounce repudiation in any form"—pray, who don't? They say the public indebtedness "ought to be paid according to

the letter and spirit of the laws under which it was contracted"—Who has ever said otherwise? and the people would make this addition: "also in accordance with the judicial construction our Courts shall give to the written evidences of the indebtedness which the Government has signed and issued." Do the Doctors object to this? While J. COOKE and his co-fleecers do, all honest men do not, nor can they. In the 4th they say "it is due to labor to equalize taxation and reduce the same as fast as the National faith will allow." They mean as fast as the wild, crazy schemes of their party, like Reconstruction at a cost and sacrifice of three hundred millions annually, and Impeachment at a cost of $200,000 already—with loss of two or three months time, will allow. This is what they mean, no more nor less. If as they say there is due to labor an equalization and reduction of taxation, why on earth has not the party made it during the last three years, during which time it has had supreme control of the legislation of the Nation? In the fifth they say, the debt should be spread over a long future period with reduced interest. This is catering to the plan proposed by Senator SHERMAN, which proposes to pay twice the amount of the debt in interest, and then leave the debt itself for our children to pay. But how are they going to get the interest reduced below what is written in the bond, unless by repudiation to that extent? In the sixth they affirm that the true policy for the Government is to brighten up its credit, so it can easily borrow more money. This doubtless would best accommodate their extravagance, as they appear to be a little cramped at present. But how borrowing more money is to get the Government out of debt, I think the Doctors only can tell. In the seventh, they say the Government should be administered with the strictest economy, and without such corruption as ANDREW JOHNSON practices. With this single amendment, by striking out the words ANDREW JOHNSON and inserting Congress with its fanciful schemes of reconstruction, impeachment, &c., and I venture to say the whole Nation, except the "loil" portion, will say—Amen. But why, I would ask, has not this party, while it has had unlimited control for the last three years, been at this work of retrenchment and economy before now? Do they expect, with their present record, that honest people will agree to extend their lease of power for four years more upon such a promise? What a party *has done*, and not what it now promises, is the guarantee required for what is to be its future action.

Their attack on President JOHNSON is merely a repetition of the vile

slanders they have filled the air with for the last two or three years, only uttered with the emphasis and condensed venom which their recent defeat inspired. They affirm he is *convicted*, when their Court through its presiding officer has pronounced him "acquitted." The remaining sections only announce facts and sentiments which nobody thinks of disputing, except honest men think it would be wrong to entice foreigners here to become naturalized, and then to place it in the power of any State to expatriate them with their families and dependants at pleasure, by throwing them out of the National basis of representation.

The addendum offered by Doctor SCHURZ proclaims to all ex-Rebels that the only way back into the sheepfold is to make confession under oath, "that the benighted African and clay-eating whites are their civil and *political* equals, and that they will never say nor do anything contrary thereto as long as they live; and that they believe the present mode of reconstruction to be the perfect thing, and accept the pains and penalties of perjury in case they do not conscientiously believe all they swear to!" This together with the Declaration of Independence was excluded from the platform, but both were by unanimous vote ordered to be placed as fly-nets to the outside, to catch scattering gudgeons and fools. By this way, and this way only, they say our once erring but now repentant fellow-citizens—a term that should imply a knowledge of their duties, with will, courage and intelligence to rightly perform them—may return to the Government. What say the high souled men of the Old Free States that have persistently denied the right of suffrage to the few scattering blacks among them—is the way proposed for the return of their "kith and kin" in the South, just and right?

This is the sum and substance of what the present party proposes, and upon which they ask to be continued in power for four years more. I submit they propose to do nothing of advantage, which they have not possessed the amplest power of doing during the last two years, but have wholly failed to perform; while the evil they propose to continue, if permitted for four years more, will become past remedy.

The party, conscious of its own weakness, has selected a candidate by whose popular wing they hope to be sustained and continued in power. General GRANT, though he possesses the wings of an eagle, will find himself in the predicament of that bird of the storm that after

carrying away in triumph several lambs of the flock, fastened his talons to the carcass of the old ram, which, on trial, he found he could not lift, nor could he disentangle or unloose his talons so as to escape, and both rotted there together. *Let us not be deceived.*

The party and the platform are to swallow, digest and assimilate General GRANT, and not General GRANT, them; if he refuses to be so swallowed, digested and assimilated, the party will spew him out, as we have notable instances of. So when we analyze the party and determine its constituent elements, we know, with mathematical certainty, what the General is to become—whatever he be now—unless he shall elect to be spewed out; and then he becomes a President *without a party—a nonentity.*

SCHUYLER COLFAX is the representative of the Methodist Episcopal Church North, which has a very large interest in the fanciful reconstruction enterprise, as well as all others connected with the party. Those who have observed the partisan manner in which he often discharges the duties of his present high office, can readily guage the man.

Very Respectfully,

G. P.

May 27, 1868.

THE CRISIS—WHAT SHOULD HONEST MEN DO TO SAVE THE COUNTRY?

Editors Wheeling Register:

It is already manifest that the present party in power is beginning to fall to pieces from its own rottenness and folly. Its attempt to impeach the President, whatever may be the result, must finish the party if the opposition act wisely. The recent statement in the Richmond press of the settled course to be pursued by our friends in the South—than whom I don't believe any in the country are at present more loyal to the good old Institutions of our Fathers, if fairly treated—looks well. Like the prodigal son they have wandered, lost their substance, fed upon the husks, and returned fully pre-

pared to appreciate aright the excellence of our Institutions, when administered in accordance with their true spirit and meaning. They say they will vote for any candidates their friends in the old free States shall select—expecting of course, that the selection of candidates will be such as will secure success, and thereby save the Government. This wise and deferential offer on their part imposes additional responsibility on us, and should evoke all the energy, wisdom and prudence we possess. The work to be accomplished is no light task. The present party in power has the prestige of victory in the late war, and the deep seated prejudices which that long and bloody struggle engendered, in its favor; and they will appeal to both with the unscrupulousness and energy of desperation itself. It behooves the opposition then, I submit, to treat these prejudices, however unreasonable they may appear at this time, as *realities*, and to use every precaution, and husband wisely and prudently every resource. It must surrender any peculiar dogmas which the safety and protection of slavery, while existing, necessitated and invoked—as that of extreme State rights, which culminated in attempted secession; and modify at least its party name, which, however accurately descriptive of the true structure of our Government, has been rendered offensive to many by the use it has been put to in the late war, though its true definition contains no warrant for such a use.

I submit the "Constitutional Democratic Party" would well express the qualities and truths now required to be exemplified and enforced, viz: that the *people* and not Congress, as is now assumed by the party in power, possess the *sovereign power*, and that it is their right and duty to administer the Government through their chosen agents, who are religiously bound to conform at all times, to the written Constitution and their oaths, as they *conscientiously understand them*, and that each is accountable for his acts to his God, and the people, his masters, *and to no other power*. It will, at the same time, most strikingly distinguish the opposition from the party in power, which sets all Constitutions at defiance, as well as their masters.

The persons who are selected for candidates should have made for themselves such records during the war as shall not be objectionable to any who were active, earnest Union men during that period. Any other will be artfully applied to stir up deep-seated prejudice, and repel many whose co-operation is indispensable to success. We all know that it was CLAY and WEBSTER Whigs and JACKSONIAN Democrats, impelled by love of country, that constituted the Union war party

and achieved the victory. These have no love or affinity for the present crack-brained leaders of the party in power, but yearn for new and more congenial affiliation. But many have a deep-seated prejudice engendered by the war, which cannot be ignored, but should be respected and conciliated in the selection of candidates.

The statesman and successful leader accepts men as he finds them —treats their predilections and prejudices, however unreasonable they may appear to some, as substantial realities to those possessing them, and shapes his course accordingly. No other will be successful. Many of the grave errors of the party in power arise from their profound ignorance of the true nature and disposition of the subjects they are at work upon. They do not understand the people they are trying to reconstruct, either white or black; and therefore, while impelled by the worst passions, they "go it blind"—and attempt by mere acts of Congress and the sword, to restore peace and harmony, and love and fidelity to the Government by reversing God's law and making those of profoundest ignorance with all its terrible accompaniments—the law makers and rulers over people of intelligence and character—as unwise and unphilosophical as their taking the rhetorical flourishes contained in the Declaration of Independence and their own wild fancies and abnormal consciences, instead of the written Constitution—for their guide. The people are tired of these vagaries, and demand for their leaders men, possessing in some degree at least, the honest hard common sense which so signally distinguished the founders of the Republic.

There is another thing the opposition must do to secure success. They must proclaim what they expect *to do*, in a clearly defined platform. The absorbing desire of the people is, to restore the whole country, in the speediest manner, to contentedness and prosperity, so that all shall feel, "it is well for us to be here." They have lost all confidence in the present party in power to accomplish this, and are ready to unite with any party that can assure them that this result shall be speedily accomplished. Nothing short of such assurance will secure success—mark that. The "outs," merely folding their arms and finding fault with the "ins," will not secure success at this time—a full assurance of a vigorous action that will save the country and restore harmony and prosperity, alone will do it. The opposition, then, I submit, should place themselves upon the broad and elevated plane which the present crisis and true spirit of the Constitution demand—leaving beneath them, as things of the past,

abnormal dogmas, with narrow, sectional prejudices which the result of the war has rendered obsolete, master the present, and prepare for the future, of this great nation.

Such, I submit, is the great absorbing wish of the people, who are already looking about for means with which to accomplish that purpose. They wish all unconstitutional laws with the fanciful reconstruction of States, whether in progress, or accomplished by the present party, swept away by legitimate means, and such amendments to the National Constitution inaugurated as the changes occasioned by the war, the light of experience, and the present and future of the nation demand. Are the opposition wise and patriotic enough to adopt and pursue such a course and thereby secure success? I may venture hereafter to suggest some amendments to the National Constitution which it seems to me the present juncture requires, and which the opposition should pledge itself beforehand to inaugurate on its accession to power.

Very Respectfully,

G. P.

May 13, 1868.

AMENDMENTS TO OUR NATIONAL CONSTITUTION, PROPOSED FOR THE CONSIDERATION OF MY COUNTRYMEN, IRRESPECTIVE OF PARTY, WITH A STATEMENT OF THE REASONS WHICH WOULD SEEM TO REQUIRE THEIR ADOPTION AT THE PRESENT TIME.

It may be well, before stating the proposed Amendments, to briefly notice the aversion which some of our people have to amending the Constitution. I agree with them where time and experience has not demonstrated that the Amendments proposed will materially improve the Instrument. The Instrument, itself, shows that the Framers contemplated that a great Nation was to grow up under it, and hence they provided a plain and easy mode to alter and amend it, as the changes and growth of the Nation should require. A strict adherence to the letter and spirit of the Instrument, they assured us, could alone preserve our liberties. It was never contemplated that the Na-

tion should grow from 3,000,000 to 35,000,000, increase its territory eight or ten fold, that eighty years should elapse, and civil and political commotions like those we have recently experienced, occur, without rendering necessary, amendments to the Organic Law. It would be as impossible as for an infant to grow into manhood without changing or enlarging its dress. As the expanding limbs of the child would rend its garments unless changed to fit its varying size and proportions, so will a written Constitution be rent and frittered away by a changing and growing people, unless altered to meet the changes. Hence Amendments, when clearly required, can alone assure strict adherence to the letter and spirit of what is written, and preserve the Instrument from continual violation.

It is wise and prudent, therefore, I submit, for a People living under a written Constitution, to amend it whenever necessary, as the only way to preserve it from infraction, and from being frittered away.

No one, I trust, is weak enough to believe that the unconstitutional and unwise measures now in progress, with the vast expense and sacrifice attending, are to supply what the Country needs, even though they should secure what the dominant party appear alone to seek—its continuance in power. The great changes and events of the last eighty years, as well as the mighty Future, call, I submit, for different measures, and that these be inaugurated and carried into effect in accordance with, and not in violation of, the present organic law. An amendment of our National Constitution is a solemn expression of the People of the Nation in their sovereign capacity, before whose will, when thus expressed, Congress and Officers, State Constitutions and Legislatures, with all their sectional or partisan structures, and corrupt party contrivances, have to give way. It cuts, or rather unties, the "Gordian knot." Is not the present a fit occasion for this sovereign power to speak? I believe it is—and that the following is in substance what it wishes and purposes to say, viz:

ARTICLE 14.

SEC. 1. "The system of Civil Polity of the United States, including National and State Governments, is indissoluble, indestructible, and unalterable, except by Amendments of its Constitution, National or State, in the modes prescribed therein, respectively, or by successful and accomplished Revolution."

This section expressly declares and re-affirms, I submit, the intention and meaning of the makers of the Instrument, viz: to consoli-

date the People of all the States into a National Supreme Government to the extent of powers granted, either in express terms or by necessary implication, by the Constitution, but no further—leaving the States and their respective peoples in possession of all other powers; and which together constitute the system of Civil Polity described in the Amendment proposed. I believe the results of the late war dispose, if they do not compel, all candid minds to admit the truth and soundness of the proposition, whatever may have been their views in times past.

SEC. 2. "All persons (except Indians not taxed) born or naturalized within the jurisdiction and under the laws of the United States, are citizens of the United States and of the States in which they reside, and are alike entitled to full protection against the unlawful acts and claims of all foreign powers; and neither Congress nor the people, nor Legislature of any State or Territory, shall establish any rule or pass any law impairing the right of any such citizen to equal protection under the laws. Any citizen hereafter committing treason against the Government of the United States, or any State, shall be deemed thereby to forfeit all right of protection from, and participation in, the same; and such right shall be restored only through the clemency of the Government assailed."

This section defines citizenship, National and State, which becomes forfeited by hereafter committing treason against the United States, or any member thereof; the civil rights of citizens; their equal right to protection at home and abroad, and their equality before the law. It settles the question so much mooted during the late war, as to the legal status of citizens, who shall hereafter levy or openly participate in war against the Government of the United States, or of any State.

SEC. 3. "Every male citizen of the United States of the age of twenty-one years, of sound mind, not a public pauper, nor under conviction of treason, felony, or bribery at an election, who shall have resided before offering to vote, one year in the State or District, and six months in the County, Parish, City or Township, in which he claims such right, and shall have paid or tendered, for the support of Free Schools, or other public use, within the year next preceding such offer to vote, a tax of not less than two dollars, shall be entitled to vote at all elections of National and State officers elective by the people, upon first taking an oath, if requested thereto, before the conductor of the election, to support the Constitution of the United States and of the State wherein he resides, but no other person;

provided nevertheless that such right to vote shall at the end of five years from the time this article goes into operation, be suspended as to all such voters then under forty-five years of age, who shall be unable to read and write intelligibly the English language, until such time as they can so read and write. All qualified voters shall be eligible to office, both State and National."

This section proposes to establish a uniform qualification for voters throughout the Nation. The propriety of such a uniform rule is manifest when we consider the direct and important interest which the Nation has in the establishment of a general rule, and its duty to assure political equality among the citizens, and the States. The Nation is bound by law and usage to recognize a perfect equality between the Senators and Representatives of the United States, however dissimilar or unequal may have been the qualifications of the voters who elected such Representatives, or the members of their respective State Legislatures, which elected such Senators; and the same may be said in respect to Presidential Electors. The qualifications of electors of Representatives to Congress, and Presidential Electors, as well as State Legislators, are at present in no two States the same. They all differ in the qualifications required. Some admit foreigners who have just landed; some, I think, admit public paupers; some, liberated convicts; some States require two years previous residence, while others require only a few months; some require a property or intelligence qualification, while others require none, and so on.

Now this great diversity in the qualification of voters, I submit, is inconsistent and irreconcilable with the recognized equality of the persons elected, as Representatives and Senators in Congress, and Presidential Electors. Nothing can justify the glaring inconsistency but the admission that we are not a Nation, but a Confederacy. That our Union is a compact between sovereign States, which are the Representatives in Congress that are recognized as equals, without regard to the qualification prescribed for voters, or other internal policy of the several States.

Such an admission, I apprehend, the Nation is not prepared to make, after the experience we have had; but, on the contrary, to affirm and maintain that the Constitution constitutes us a Nation to the extent of the powers granted, and those necessarily incidental thereto, deriving its support from, and resting immediately upon, the

people of all the States, who elect the Federal officers, either by direct vote, as their Representatives in Congress, or through chosen agencies, as their Legislatures and Colleges of Presidential Electors—the former electing their Senators in Congress, while the latter elect their President and Vice President; and hence the propriety and reason for the Nation establishing a uniform qualification for voters throughout its jurisdiction.

It may be objected, that such an Amendment will impair the just and necessary rights of the States, and tend too much to consolidation. I submit, neither the experience of the past, nor the nature of the Amendment proposed, warrant any such conclusion; but on the contrary, that it will make a wiser and safer distribution of powers by the people, to their Governmental agencies, Federal and State, and secure thereby to each, greater harmony and efficiency. None, I think, will deny the propriety of the Amendment so far as electing Federal officers is concerned; nor will any, I think, its extension to the election of State officers, in whom the Nation has only an indirect interest, when they shall have carefully considered what must be the result—the confusion, often the loss of votes, and injustice to a people, changing as ours are, that are occasioned by the widely differing and imperfectly understood qualifications for voting, in the different States. The proposed Amendment will, in a great measure, obviate these evils, and be to our migratory people, like sound National Currency that every one knows and has confidence in, in place of State Bank money, whose character is neither known nor appreciated. Besides, it will help to prevent fraud at elections, and assure to all the States a more perfect Republican form of Government. There can well be but one qualification for voters in any State, and the Nation must either fix a general one, as proposed, or each State continue to fix a particular qualification for its own citizens. The general jurisdiction, and superior dignity and functions of the National Government, as well as the great advantages to be derived from a general and uniform rule require, it seems to me, that the people of the Nation should establish a general rule, by making it a part of their National Constitution. Of course it will be left to each State, with this single exception, to continue to regulate its elections, as at present.

Many of the particulars of the general qualification I venture to suggest, are already recognized, in some form, by many of the States; the others, I submit, the Present and Future of our Great Nation require, and past experience dictates. We had, in 1861, 2,983,553

square miles of territory, stretching from ocean to ocean, and lying between those parallels of latitude, within which only, the great Powers of the Earth have hitherto grown and flourished, with a soil unsurpassed in diversity and fertility. At the same date we had 31,652,821 inhabitants—about 4,000,000 of whom were slaves, since made free by the war, and the 13th Amendment to the National Constitution. The capacity of our territory, when settled as thickly only as Massachusetts is at present—127½ inhabitants to the square mile—is sufficient to contain 280,403,007 inhabitants. Compared, then, with the present density of Massachusetts' population, our territory is only one-ninth filled. God has given the "Earth and the fullness thereof" for the sustenance and support of man, which means mankind. None can suppose that the few Anglo Saxon race now here, and their descendants, are to appropriate, contrary to the Divine gift, all this immense territory, to the exclusion of the now crowded and overflowing populations of the Old World, who come equally within the terms of the gift. The thought is no less vain than impious. God has made it our duty, as the more favored race, not foolishly to attempt to thwart His will, but to give our best efforts towards executing it, by so modifying and improving our system of Civil Polity as shall fit it to answer the great mission He seems to have assigned it; and through the light of His Gospel and the influence of Institutions which are its offspring—to elevate and improve the human race. All nations, colors, kindred and tongues are now coming, and will continue to flock to our shores, and we have got to let them in. Look at the Asiatics, already swarming our Pacific, and Europeans, our Atlantic coast. It is these considerations, and the mighty and certain Future, that moves me no less than the 4,000,000 of the African race, that have so recently emerged from slavery to the status of freemen among us. Every Government, truly Republican in form, must, of necessity, rest on the consent of the governed. There is no other foundation. In order to secure this consent, we have got to award them equal civil rights, and as soon as prepared and qualified, equal political rights also. It is impossible to secure their voluntary and cordial support in any other way. Whenever these are unnecessarily denied to any class of our inhabitants, they become discontented and alien in their feelings, and instead of giving the Government support, they require the constant exercise of its vigilance and power, to ward off their assaults. Hence reason and sound policy dictate that we secure their affections by dealing justly

and bettering their condition. For this reason I have ignored color and race in qualification to vote; nor have I made disloyalty to the Government during the late war, a disqualification, unless where the party is under conviction of Treason. The leaders, at least, should have been tried, convicted and punished, according to law, when the war closed, and in that way, they and their controlling influence over their recent followers, would have been removed. But as that course was not taken, and it has now become impracticable, there remains, I submit, but one course to pursue, which is to forgive them, together with their followers, and try to win all back by kind and generous treatment. I have no faith in any intermediate course or ground the Government may now take. Practically, human nature admits of no such. No man can be conciliated, or his affections won, through unnecessary annoyance, or tantalization. Nor can an American citizen, who has been bred in the exercise of our political rights, whatever may have been his fault, ever be conciliated and won to a love and support of the Government, while it denies him the exercise of these rights, whatever other concessions it shall make.

No man in this country, where labor is so much in demand, and so well paid, who shall be unable or unwilling to pay $2,00 a year towards supporting Free Schools that educate his children gratis, is worthy a vote, in my opinion; and I have made the payment or tender (as the omission of the authorities to assess or receive should not deprive him) of that sum within the preceding year, a pre-requisite of his right to vote. I am aware some have thought otherwise, and that payment or tender of any tax ought not to be required, even for the exercise of this highest earthly trust, that can be reposed in an American citizen. Duty and true charity in government as in individuals, consist in adopting a policy that shall stimulate men to do for themselves and families, and not in encouraging and rewarding their vice and idleness. I repeat therefore, that any American citizen that cannot, or will not, in the space of a year, give what a common laborer can earn in one day, towards the education of his children, or sustaining the Government that protects him and them, ought not to vote. To thrust it upon any citizen that will not make so small a sacrifice to gain it, is degrading to the lowest degree, the great trust. I know the humblest of my fellow citizens possess too much pride of character and self respect to ask or desire it. Political demagogues may say, however, in excuse for citizens without visible property, voting without paying any tax, that they are subject

to be called to help defend the Government in time of war, and for that reason ought to be allowed to vote. The answer is: they are abundantly compensated for this service by wages and bounties, and by the protection of their civil rights by the Government, as is also the case with minors, who have to help defend, though they are not allowed to vote. Besides, the man of visible property who pays taxes, however large, is equally subject to perform the same duty.

I come now to another important element in the proposed qualification, viz: an ability to read and write the English language intelligibly. That every voter should be able to act understandingly when he votes, none will deny; for otherwise it is not the individual that votes, but he is an instrument or tool merely in the hands of others, or else "goes it blind." In either case the tool or blind man is not benefitted, but through him, as a general thing, the Government is injured, and selfish unprincipled demagogues are the only gainers. As the press has become almost the exclusive medium of information, and printed ballots of almost universal use, and the English the only language recognized by law,—to be able to read and write this language intelligibly, seems to be the most practical and useful test of adequate understanding, that can be applied. No person unable to read the name printed on his ballot can vote according to his own personal knowledge, but must necessarily act on the advice of others, saying nothing of the uninformed state of his mind on the great subject in hand. How does this comport with the dignity and importance of the trust? The art of reading and writing intelligibly, it is true, is but a means for acquiring and imparting knowledge of men and things, and not a measure of innate capability. RAPHAEL and MICHAEL ANGELO, if they had been born blind, could never have been competent to judge of color; nor he who is born deaf, to judge of music or eloquence, whatever may be his native mental endowment.

Though not a perfect test therefore of mental capability in all cases, it is the most practical and useful, it seems to me, that can be applied—for the acquisition of the art, which shall qualify him to vote, at the same time qualifies the voter to read his Bible at least, and transact with safety and ease his private business—a sufficient reward of itself for the labor. In no view therefore, can there be, any reasonable objection urged against it. Selfish, unprincipled demagogues must be its only opposers.

But as there are many adult male freemen throughout the country who have not had an opportunity to learn the art, many of whom are at present voters, it would seem right and reasonable to give such a reasonable time to qualify, before suspending their right. Five years after the ratification of the amendment would seem to be ample time for the purpose, and if not qualified in that time, their right to be suspended until they shall be qualified; at least, as to all persons then under forty-five years of age. Those above that age may be excused for obvious reasons, notwithstanding the proverb, "never too old to learn." The effect would be to set all that come within the probation, native and naturalized, and of whatever color or race, to acquiring the art, in earnest, and thereby advance their intellectual, moral and religious character, their temporal and spiritual well-being.

SEC. 4. "All monies raised or authorized, and donations made by Congress or any of the States for educational purposes, shall be impartially distributed according to the number of citizens, and applied within the limits designated, without regard in any case, to religious sect or belief."

This section, I submit, is required to secure impartial popular education, and silence forever the clamor of different religious sects to have their proportions of public monies raised for school purposes allowed them, that they may the better propagate their respective religious tenets. The genius and policy of the Government are to respect and tolerate all modes of religious faith alike, so long as they do not violate any of the great principles of policy and right on which our Institutions rest, nor disturb the public peace. Public schools are the Nation's nurseries wherein all its youth should be taught the art that enables them to educate themselves, and become enlightened christian citizens, and not mere sectaries.

SEC. 5. "Polygamy under any form, guise, or pretext, is a crime, and is prohibited within the jurisdiction of the United States."

The quiet sufferance and undisturbed toleration on the part of our Representatives for so long a time of this great crime as practiced by the Mormons, subverting in effect the divine institution of family, which is the corner stone of all Republican Governments—must certainly indicate a want of power in our Representatives to act, and a necessity, I submit, for the people conferring the requisite power and

insisting upon its speedy and thorough execution in suppressing so great a public nuisance.

SEC. 6. "The President and Vice-President of the United States shall hereafter be chosen by a pluralty of the votes cast directly by the qualified voters of the several States, for said officers respectively, at elections to be held on the same day in the several States, for the term of six years, and both shall be ineligible to either of said offices afterwards. In case of vacancies in both the offices of President and Vice-President, so to be chosen, the executive powers and duties shall devolve for, and during the unexpired term, or until supplied by regular election, upon the associate justice of the Supreme Court of the United States, whose commission shall be third in point of seniority among those held at the time by the associate justices of said court; and in case of declination or vacancy for any cause after acceptance and qualification by any such associate justice, the same powers and duties shall devolve upon the associate justice who holds the next junior commission to him who so declines or vacates. Upon any associate justice accepting the chief executive office and duly qualifying, his office of judge shall become vacant. The President, or chief executive officer for the time being, shall have power to remove his cabinet officers without the consent of the Senate."

This section will enable the qualified voters of the Nation to elect by direct vote and by a plurality of the votes cast, the President and Vice-President, whose term of office will be six years, and both to be ineligible to either office afterwards. The President and Vice-President hold the same immediate relation to the people of the Nation as the Governors of the several States hold to their respective peoples. Why, then, should not the same mode of choosing be adopted? Why should not a plurality of the votes cast in the Nation elect a President and Vice-President as well as a plurality of those in a State elect its Governor? According to the present mode the person receiving the least number of popular votes may be elected. The Presidential electors of nearly every State are, I think, chosen by general ticket. A majority of one vote in the great State of New York may give its thirty-three electors all to one party, and the minority, whose votes may be as numerous as the majority into one vote, has no voice whatever; and so in the other States. And then, if no candidate gets a majority of the electors chosen, the President has to be chosen by the House of Representatives where every State,

however disproportionate in wealth and population, is entitled to one vote. The great State of New York, with its 4,000,000 people and 800,000 voters, has no more voice than Delaware, with her 90,000 population and less than 20,000 voters. In case the Electoral College fail to elect a vice-President, the Senate elects by vote of a majority of its members. Besides, the corruption and intrigue, and the danger attending such an election by Congress! Suppose the task should devolve upon the present Congress—what might we expect? The necessity for a change in this particular, I submit, is too apparent to admit of argument.

The necessity for substituting a six for a four year's term, and making both President and vice-President ineligible to either office afterward, our experience, I submit, has made equally plain. The avoidance of the attending danger, the derangement and depression of the business of the country, the additional time consumed and money expended, will more than outweigh any additional security or advantage the present four year's term gives. It makes both ineligible to either office afterwards, and therefore secures the best efforts of the incumbents to promoting the country's weal, and not in securing a re-election. The duties of the President have become so arduous that one term of six years is as much as one man can stand, and retain the requisite vigor; and if the people, his masters, can keep him straight four years, there is no good reason why they may not six.

Present and recent experience admonish that a different succession than is now provided should be established in case of vacancies in both offices. In such case the proposed amendment devolves the executive powers and duties on the associate justice of the Supreme Court of the United States, whose commission shall be third in point of age among the associate justices, and if he declines, or the office becomes vacant from any cause, the same devolves on the associate justice holding the next junior commission, and so on to the youngest associate justice on the bench; and upon any of these judges accepting and qualifying, he vacates his office of judge. The Chief Justice is excluded because he is obliged to preside in case of impeachment of the President. The two senior associate justices are also excluded because their age and infirmities would be likely to render them unequal to the arduous task. The associate justices of this court are selected because their position gives assurance of competency, and precludes any participation in proceedings to create a vacancy,

which has become painfully conspicuous on the part of the President of the Senate pro tem. and Speaker of the House, in the present emergency.

The proposed amendment will silence forever further disputes as to the right of the Chief Executive to remove his cabinet officers, who are his confidential advisers, at pleasure, and without the consent or interference of the Senate, and be responsible for his action in this respect immediately to the people, his masters, in the manner already provided in the Constitution; and not dependant upon a hostile and partisan Senate which may delight to embarrass and shackle his administration, as is now being exemplified.

SEC. 7. "The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned, but shall be paid in accordance with the laws creating the same, and the written contracts which evidence such debt, *as the same shall be interpreted by the Supreme Court.* But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void."

By the adoption of this section the people themselves will definitely settle the validity of the public debt and assure its payment in accordance with the laws and written evidences by which it has been contracted—these laws and evidences to be interpreted by the Courts of the Nation. These I submit, are the only proper authorities to decide and interpret these laws and evidences, and their decisions should satisfy both citizen, and foreign creditors. It will take the delicate subject out of the stormy arena of politics, and leave to our Legislative servants the sole task of raising the means to pay in the manner the Courts shall decide these laws and evidences in good faith require. They will at the same time settle, definitely and forever, the invalidity of any supposed debt or obligation contracted or incurred in the interest of the late rebellion, or sacrifice of slave property.

These are the principal considerations that have induced me to suggest the amendments, and I respectfully submit both to the careful and earnest consideration of my fellow citizens. We all feel that

something should be done different from what has been attempted, in order to meet the present and future wants of the Nation, and secure to it the just fruits of the great sacrifices that have been made. My knowledge of the structure of Southern society forbids any confidence in the present mode of "reconstructing" the Southern States; and the pending Constitutional amendment, known as Article 14th, the adoption of which is made a part of their plan, appears to me incongruous and subversive of the fundamental principles on which our Institutions are based. Its second section proposes to clothe each State with the power to throw any United States citizens residing within its limits out of the "National Basis of Representation," by "*denying or in any way abridging*, except for participation in the rebellion, or other crime," the right of any of its male citizens over twenty-one years of age to vote for any State or National officer, elective by the people. To be thrown out of the National Basis of Representation is to be thrown out of the Government, and beyond its protection; for neither the Government nor its officers can be said to represent, or be under obligation to protect, any but their constituency, which are those only who are included in the Basis of Representation. The theory of our Fathers was that all "white inhabitants" were included in the Basis of Representation, and so had equal right to claim protection whether they were voters or not. According to their theory, the non-voting expressed their wishes through the voting portion, as females and minor children, through husbands, fathers, brothers, adult sons, etc.

If this be a correct interpretation of the second Section, and their Amendment be adopted, what is to become of the people of Massachusetts, Connecticut, and some other States, where the right of all to vote is at present subject to the condition that they can read and write. This is certainly an "abridgement" of their right to vote, as defined in the pending Amendment proposed by Congress, and applies to all. So in those States that require a property qualification, either general, or partial as New York requires of her colored population. The language used in the second Section "deny, or abridge in any form" must certainly include the conditions or restrictions named. It utterly disables the people of any State to improve the qualification of its voters while they remain in and part of the Government. These suggestions will suffice to show the crudity and anarchial effects of the pending Amendment, if adopted.

To secure the adoption of the Amendments suggested, it will be

necessary that the people elect a Congress that shall by a two-thirds vote of each House propose them, or that the Legislatures of two-thirds of the States shall direct Congress to call a National Convention to propose amendments; and in either case, such proposed amendments have to be ratified by three-fourths of the States, either through their respective Legislatures, or through Conventions held in each State, composed of Delegates elected by the people thereof. The Congress proposing the Amendments can select either mode of Ratification. The reason for the makers giving this option doubtless was, to enable the people of the Nation to effect amendments to their organic law, through the Convention mode of Ratification, when the Legislature mode should be impracticable—for over the latter Congress has no control; whereas in the formation and constitution of State Conventions for the purpose, it is clothed with absolute control. The Constitution only provides that the Convention mode of Ratification *may* be selected by the Congress proposing the amendments, or calling a National Convention to propose them, but is wholly silent as to who shall call or determine the structure and composition of the State Conventions called for ratification, which, by necessary implication, leaves this duty with the power that makes the selection. Nor can this power be confined, I submit, in forming such State Conventions and electing delegates, to the *then* legal voters in the several States, but is at liberty to say who may vote in the choice of Delegates. The uniform practice of the peoples of the States who have heretofore amended their respective State Constitutions, extending the right of suffrage, and have submitted the ratification to all who were to be made voters for the first time by the proposed Amendment, as well as to those who were already voters—affords sufficient precedent and warrant for this course.

The people of the Nation, then, have it in their power to make the Amendments proposed, or any others they may wish, if they shall so resolve, and set about it in earnest. May I not hope that this will take place at no distant day? I am aware their adoption may conflict with some partizan prejudices and schemes existing at the present moment; nevertheless, I believe the patriotism and sound sense of the people are prepared to ignore narrow, selfish, temporary and partizan considerations, so far at least, as may be necessary to secure to the Nation what its Present and Future so manifestly require.

THE foregoing was published in pamphlet form in the Spring of 1868, and sent to many of the leading men of both political parties, of the press, and educational Institutions of the country, but with little apparent effect, save President JOHNSON soon after sent a special message to Congress, recommending an Amendment to the Constitution, making the President and Vice President elective by the direct vote of the people for a term of six years, and both, I think, ineligible after.

When I wrote and published the pamphlet I felt there was an opportunity that a century to come might not offer again, to correct manifest existing errors or defects in our National organism, as its people were then situated, and implant therein a strong incentive for every citizen to educate and improve himself, as an individual, worthy to become an American sovereign, instead of burden to the Body Politic. I thought as my fellow citizens were then situated, the restriction or condition proposed, might be accepted and incorporated into our National Constitution. I thought both the white and colored people of the ten recently Slave States, might accept unanimously, as they were then situated; and that their respective friends in the loyal States would accept also—if not for their own and country's sake, for the sake of their respective friends in the South, in whom they felt, or professed to feel, so strong interest. I thought that Congress would propose some Amendments similar, and provide for their ratification by *Conventions* in the several States, composed of Delegates, chosen by the adult males of the States, irrespective of color, race, previous condition of servitude, or previous disloyalty, as it had the Constitutional power to do, as well as to assure a fair election of Delegates in all the States. I suggested all I thought necessary at the time, and warranted, without appearing obtrusive; and am convinced now, if the suggestion had been adopted and vigorously acted on by Congress at the time, their substance at least might have been secured to the country—a result now perhaps unattainable by peaceful means; for in a Government like ours, men have never voluntarily given up, or restricted powers and privileges, they already possessed. Physical force, amounting to war, alone retracts or abridges, as all past history shows.

What would have been the consequence, if such a measure had been carried out at that time, both in the old Free, and the Slave States? I need only mention the additional amount that would have been derived to the Free School fund throughout the Nation, the

strong incentive it would have placed in all American breasts, to educate themselves and children, and soon in a great measure relieve every section of the country of unintelligent, venal voting, as well as pauperism and crime. With such an incentive I believe both White and Black would have done for themselves and children as individuals, what now the Government, the industrious and producing portion I mean, have got to do, or our Government will prove a failure. All a Republican Government can ever hope for, through pacific means, is to inspire and incite its individual members to make of themselves and children, worthy citizens. Our political servants allowed the opportune time to pass, and only gave us the Fourteenth Amendment then pending, with a subsequent one styled the Fifteenth Amendment, with various kinds of Congressional Acts to enforce them—of the fruits hitherto the country has partaken, and must for some time to come. The Fifteenth Amendment changed or modified the Fourteenth to this extent only: that no "denying or abridging" of the right to vote, should be made by any State "on account of color, race, or previous condition of servitude." Beyond that the Fourteenth Amendment remains unchanged.

[No. 1.]

"TROO LOILTY"—IT IS TOO EXPENSIVE FOR US TO KEEP.

Editors Wheeling Register:

On comparing the financial statements of the National Government since the war ceased, with those under former Administrations, every thinking person, it would seem, must concur with me in the above sentiment; for however rare and extraordinary their qualities may be, our people cannot stand the expense. The "trooly loil" party, it is known, did not assume the exclusive control of the entire Government until the last session of the Thirty-Ninth Congress, during the winter of "66–7."

The reports of the Secretary of the Treasury show the entire public indebtedness on the 30th of June, 1866, to have been $2,785,425,879.21, without taking into account the money then in the Treasury, which of course could not vary the amount of the outstanding debt, and it seems a report was made by some official the first of the pres-

ent month, showing it to be $2,633,589,757.00, showing a reduction during the twenty-five months of $151,836,122.21. It appears from the Secretary's report for 1866–7 that $103,788,912.87 was paid before October 31st, 1866, and before "troo loilty" had taken exclusive control of the Government.

The remaining $49,048,110.34, on the supposition the report of the present month be true—is all this party has paid of the debt during the twenty-two months last past. The Secretary, in his report of 1866–7, states the amount of debt on the 30th of June and also the 31st of October, 1866, in a plain and unambiguous manner, without reference to the amount of cash in the Treasury at either time, but simply notes at the foot of his account what the amounts in the Treasury were at the time. In the report for 1867–8, the amount of outstanding indebtedness at the different periods is stated in this wise: "Total debt, less the amount of money in the Treasury," stating only the balance, after deducting the amount in the Treasury, which, at the time, considerably exceeded $100,000,000, the deduction of which would, of course, considerably vary the amount of outstanding indebtedness. The amounts in the Treasury at different periods were as follows, viz: June 30, 1866, $132,887,849.11; October 31, 1866, $130,326,960.62; July 1, 1867, $180,399,201.79; and 1st of November, 1867, $133,998,398.02. The true measure of the public debt at any time is, of course, the amount of its outstanding liabilities, and what money it may have in the Treasury does not alter the extent of its liability, though it may vary its ability to pay. If A owes B $1,000, and has $200 in his pocket, this fact does not diminish the extent of his liability to B, for he, nevertheless, owes him the $1,000. Besides, suppose the next day A squanders the $200, as it looks as though this "troo loilty" has done with what was in the Treasury, it would pay no part of the debt to B. Mr. GREELEY says the official report made the first of this month makes the debt $2,510,000,000.00, over and above the money in the Treasury. That is, this amount added to the money in the Treasury gives the amount of the outstanding debt. Why did not that official or Mr. GREELEY give us the amount of money in the Treasury at the same time, so we could add them together and see what the present outstanding debt really is? If we add the amount in the Treasury June 30th, 1867, to the amount Mr. GREELEY'S official gives, it places the debt where it stood October 31, 1866, after the $103,788,912.87 was paid, viz: $2,681,636,966.94, and more.

This statement of the amount of the outstanding debt "less the money in the Treasury" at the time, which must be taken to mean that the sum of the two gives its extent, and the parading of the one and squandering of the other has doubtless been the cause of the confusion, and has been made, it would seem, an instrument in the hands of this "troo loilty," to juggle and plunder us with. I submit this unusual, unprecedented and ambiguous mode of stating the amount of the outstanding debt, was adopted for the express purpose of being used and played upon in just the way it has. I have not been able to see the official statement, reported to have been made the first of the month. I have examined the papers in my reach, among them, the *Weekly Tribune*, issuing during this month, and can not find it. On the whole, the evidence makes it clear, the sum stated by this official, when added to the amount in the Treasury at the time, will swell the debt to what it was October 31, 1866, and very probably much more. Such kind of jugglery with the people's earning, by the *hundreds of millions*, certainly exhibits this "troo loilty" in a new and striking light. It is as wonderful and unprecedented as other things they have done—but far more expensive!

But how much have they received since taking the exclusive control of the Government in December, 1866? There was received for the fiscal year, ending June 30, 1867, $490,634,010.27; and for the fiscal year ending June 30, 1868, $471,300,000—making in all $961,934,001.27. What have they done with this immense amount of the people's earnings? The evidence as it stands makes it very clear they have paid no part of the principal of the public debt, but on the contrary have increased the principal since October 1, 1866.

To show we cannot possibly afford to keep this "troo loilty" longer, however agreeable may be their company, or unrivalled their excellencies, I will refer to the expenditures under some of the former administrations. The annual average expenditure during the eight years of General JACKSON'S administration was $31,000,000. The last year of President POLK'S administration in 1848–49, just after the close of the Mexican war, amounted to $42,811,670.03. During Gen. TAYLOR'S they were $76,798,667.82. The last year of President PIERCE'S administration, they were $57,674,461. I have not the means at hand to furnish further. All are easily accessable to your readers. The foregoing are sufficient, however, to enable the reader to

make the necessary comparison. The Government did something under these administrations, but they had no parties of the "troo loilty" stamp then.

Very Respectfully,

G. P.

August, 28, 1868.

[No. 2.]

"TROO LOILTY"—IT IS TOO EXPENSIVE FOR US TO KEEP.

Editors Wheeling Register:

I was glad to find in your paper of to-day the official statement of the public debt made the first of this month, which is as follows: "Total public debt, 1st of August, 1868, less cash in the Treasury, $2,523,534,180.67."

The Secretary is careful to limit his certificate to what the officers in charge have presented to him, and does not certify of his own knowledge. The officers in charge have been made immediately responsible to Congress, and not to the Secretary or President—both of whom Congress has assumed to displace and bind fast. The officers immediately in charge of this subject now, and the majority of Congress, belong to this same "ring."

It will be found by adding the amount of debt reported as outstanding the first instant, "less the amount of money in the Treasury" on that day—to the amount that was in the Treasury October 31st, 1866, when the Ring took exclusive possession and control, viz: $130,326,960.62—adding the forty per cent. premium to the portion of it that was coin—and it makes the amount of the outstanding indebtment October 31st, 1866, and more. The amount in the Treasury October 31, 1866, which came into the hands of the Ring when they ousted the Constitutional custodians, should be counted as against them, as liquidating the debt to that extent, and reducing it to the amount stated the first instant, irrespective of the amount of money in the Treasury on the last named day. This would be a just rule where both parties were innocent, and especially so where the money is taken through acts of usurpation. It may be safely affirmed then that this Ring has not paid a dollar of the public debt since it usurped the exclusive control, twenty two months ago; but increased it during the first nine months rising ten millions. This is certain.

Now how much have the Ring received from the customs which is in coin, and Internal Revenue and other sources, which is in currency? Adding the accustomed premium of forty per cent. to the coin, and it will amount to rising a billion. Deduct the amount of interest on the public debt for the twenty-two months, (allowing proportionately to that paid during the year ending June 30th, 1867,) viz: $262,505,485;79 from a billion, leaves $737,498,514,21—which is *four hundred and one million; two hundred and seventy-one thousand, nine hundred and sixteen dollars and seventy-six cents, a year; thirty-three million five hundred and twenty-two thousand, six hundred and fifty-nine dollars and seventy-three cents, a month; and one million one hundred and seventeen thousand, four hundred and twenty-one dollars and ninety-seven cents; a day!* I need not carry this further. Whoever will take the trouble can pursue it to hours, minutes and seconds; and thereby realize more sensibly where this Ring is hastening us to; and this to defray the ordinary expenses in a time of profound peace; except the disturbance and turmoil these devils are kicking up, by their myriads of agents throughout the country—all of which are paid with this money, and all for the purpose of upholding and perpetuating the rule and plunder of this Ring of "troo loilty." Preparatory to going before the people to ask a re-election, the present Congress have reduced appropriations to some extent the present session, with a view to secure re-election, and then restore these to what they were before, by passing what they call "deficiency bills." This is one of their recent contrivances. It is in keeping with their others.

Many of the people are led to believe that this money is not drawn from their pockets. Never was there a greater mistake. Every dollar of it is drawn from the labor and not the capital of the country. Every employer deducts what he has to pay from the wages of operatives; and every merchant and trader adds to the price of every article he sells, every cent of revenue and duty he pays. The parents have to pay the tribute during the period of gestation, infancy and minority of the child, until he is able to assume it, and then he pays not only for himself, but family in turn, and escapes only in the grave, and the executor pays it on his coffin and shroud. Yes—the curse of oppressive taxation reaches us at all times and everywhere; through our mothers before we are born—

> Whate'er we do, or wheresoe'er we fly,
> It still adheres, "nor quits us when we die!"

By

Is it not right that they give us a satisfactory account of this money, before we consent to support them further?

I would ask your readers, and every honest man, to read the expose of the doings of Congress and the rest of the "Rings," recently made by Mr. W. J. MANKER and published at length in the *National Weekly Intelligencer* of the 6th ult. It appears Mr. MANKER has belonged to the Republican party since its formation, has held the important office of Doorkeeper of the House of Representatives during the present Congress, and had the fullest opportunity to witness the doings of the "Ring"—his conscience being unable to witness it longer in silence, he resigned the office and made the exposition. The spirit and style, the documentary evidence he invokes, and the general acquiescence in its truth by the parties implicated, would seem to commend it to the attention of every patriot. As a sample, I give one item: The Sergeant-at-Arms of the House, a member of the "Ring," of course, charged and was allowed traveling fees at the rate of twenty cents per mile, for travelling a distance that would carry him *around the earth, eight times and two-thirds!*

Very Respectfully,

G. P.

September 1, 1868.

THIS exceeding greed of the doctors for lucre, culminated finally in the "Credit Mobilier" and its like, which has become history.

As the Presidential candidate of the opposition appeared to me altogether objectionable at that time, I voted at the ensuing November election neither party's electoral ticket, but voted for General W. S. HANCOCK, of Pennsylvania, for President, and Hon. T. A. HENDRICKS, of Indiana, for Vice President. I have not learned to this day whether any one else voted for these gentlemen. I am sure, however, neither was elected.

THE State Legislature, as well as the dominant party throughout the State being in deep sympathy with the National party—at its session in 1869, ratified the Fifteenth Amendment, but refused to inaug-

urate an Amendment to the State Constitution, enfranchising ex-Rebels, which I have no doubt a decided majority of the then legal voters desired to have done. The next Legislature passed a Resolution inaugurating such an Amendment, which from the name of the gentleman who introduced the Resolution, Mr. Flick, a Republican member from Pendleton County, was called the "Flick Amendment." About the same time, Congress passed the Enforcement Act. Touching its construction, and effect in our State, I published the following:

[No. 1.]

THE ENFORCEMENT ACT PASSED BY CONGRESS—JUDGES BOND AND JACKSON'S INTERPRETATION OF IT.

Editors Wheeling Register:

I have read the above Act, and conflicting opinions of the above named Judges upon it. Judge Bond makes the words "without distinction of race, color, or previous condition of servitude," in the first section, *restrictive* of the preceding language, viz: "that *all* citizens of the United States who are or who shall be *otherwise* qualified by law to vote at any election by the people in any State, &c., shall be entitled and allowed to vote at all such elections," and limits the effect of the section to the prevention only of distinction being made on account of the causes named, and limits the offence and penalty correspondingly; while Judge Jackson holds the words first above quoted *not restrictive* of the general terms preceding.

It seems to me Judge Jackson is right in his interpretation; that the words "without distinction of race, color, or previous condition of servitude" cannot, in the common acceptation of language, or by the well established rules of construction, limit the right of "all citizens otherwise qualified to vote," nor exempt any officer preventing such voting, from the prescribed penalty.

If our Legislature should pass an act granting *all* citizens twenty-one years of age a right to retail spirituous liquors "without distinction of race, color, or previous condition of servitude," and make it the duty of certain officers to grant licenses to those qualified as aforesaid, and impose a penality for failure to perform, would there be any doubt that in such a case the words last above quoted, would

be mere surplusage or redundancy, and in no sense restrictive of the general grant to all citizens "twenty-one years of age?" And could an officer withhold license from any citizen twenty-one years of age, without incurring the penalty? Certainly not. But if the Legislature had, in express terms, confined the penalty to cases where officers should withhold license because of "race, color, or previous condition of servitude," then the construction would be different, and liability and penalty limited to withholding license for that cause only.

Or if A. grants to B. *all* his stock of cattle then being on his farm called C. "without distinction" of color, age, or sex, it is clear these last words would not restrict the grant; but all A.'s cattle on farm C. would pass, whatever might be their size, weight, breed or other distinguishing qualities not mentioned or particularized. The phrase, without "distinction of color, age, or sex" would be in such case, mere surplusage and not restrictive in any sense of the general terms of the grant.

The phrase "without distinction of race, color, or previous condition of servitude," as used in the act in question, is by no means useless, for in its peculiar connection it extends to colored citizens the same privilege of voting the white men have, which in many of the States they had not before; but beyond this, it can have no effect; certainly not to limit or restrict the general terms that precede. Every citizen, therefore, of West Virginia "otherwise qualified to vote," that is, having the age, sex, residence, freedom from participation in the rebellion, &c., that our Constitution and laws require, comes within the act, and any officer debarring him of the right the act confers, is liable to the penalty, it seems to me. And the Title of the act, and its other parts, are irreconcilable with any other construction.

The second section makes, in express terms, the duties of all registering officers, and penalties for failure therein, commensurate with the right conferred by the first.

The third section makes it the duty of the presiding officer at the election, under like penalty, to receive and count the votes of every person wrongfully debarred registration, upon presenting his affidavit stating his application for registration, the time and place that he was wrongfully refused, and the name of the officer refusing, &c., as provided in said third section.

Especially, is the protecting aid of such an act needed in West

Virginia, where partisanship has placed the appointment and control of the registering officers in the hands of one man, and, in effect, absolves them from personal liability for injuries committed.

Very Respectfully,

G. P.

September 23, 1870.

[No. 2.]

ENFORCEMENT ACT PASSED BY CONGRESS.

Editors Wheeling Register:

I was not a little surprised to see the party that enacted the enforcement act raise a question as to its Constitutionality. I confined my few remarks to its legal construction. There can be no doubt the Supreme Court of the United States will sustain the construction we contend for, and hold that Congress had the right to pass it under the broad, if not wholly discretionary power, conferred by the following clause, contained in both the Fourteenth and Fifteenth Amendments of the United States Constitution, viz: "The Congress shall have power to enforce this article by appropriate legislation." Certainly, there is no such palpable inappropriateness as would justify interference by the judicial power, in the exercise of its purely judicial functions. Moreover, that court must hold the infamous and disgraceful features of their registration law void, for being wholly unauthorized by the letter and spirit of the State Constitution.

One word as to the way to get the question before that court; about which many, myself included, were uncertain. After a careful examination of the law it seems to me clear that our Federal Circuit and District Courts have concurrent jurisdiction in both civil and criminal proceedings under it. If proceedings are instituted in the District Court, writs of error lie from its decision to the Circuit Court, where it will be for Chief Justice CHASE and Judge BOND to revise and decide, and if they disagree as to the construction of the act, it becomes their duty on request of either party, to certify the point of their disagreement to the Supreme Court for decision. If the proceedings are originally instituted in the Circuit Court, Judges BOND and JACKSON, and perhaps Chief Justice CHASE will be present; and if only the two former and they disagree as to the construction, it

becomes their duty to certify the point in the manner before stated, to the Supreme Court. By either course the Supreme Court can be reached, so far as regards the legal construction of the act. The damages to the party wrongfully rejected to be recovered in an action on the case in his name, and the penalties enforced by indictment, and in some cases by filing information merely.

The second and third sections of the Enforcement Act show what steps those legally qualified by our State Constitution are required to take. These should all be seasonably and carefully taken. None but those clearly qualified should attempt, for the Act bristles all over with penalties. The prerequisites all done, the party can proceed against both Registering Boards and conductors of the election, and have the decisions of both revised, upon a full hearing of the evidence by impartial juries in the Federal Courts, in the manner before stated. So it strikes me.

Our people, then, whose motto is "Mountaineers are always free," possess the power to rid the State and themselves of the despotism of the "one man power," which the dominant party pledged itself to remove a year ago, as well as to inaugurate an amendment enfranchising ex-rebels, and upon that pledge secured the last Legislature; and still they have made no attempt to abrogate this "one man power," and through a most singular omission on the part of the Executive to publish, as the Constitution requires, the amendment inaugurated last winter may have become defunct.

Very Respectfully,

G. P.

September 26, 1870.

[No. 3.]

THE ENFORCEMENT ACT PASSED BY CONGRESS.

Editors Wheeling Register:

A few words more in answer to the claim made that a true construction of said act necessarily limits its effect to the Fifteenth Amendment. Let us see what that Amendment is. It reads thus:

SEC. 1. "The right of a citizen of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude."

SEC. 2. "The Congress shall have power to enforce this Act by *appropriate* legislation."

Now I submit, any legislative body intending to enforce this Amendment *only*, would have enacted merely the language of the first section of the Amendment, and prescribed suitable penalties, securing its faithful observance. Three or four short sections would have said all deemed necessary by any sane mind. But instead, the Enforcement Act contains twenty-three sections and covers nearly one page of a good sized newspaper. To ascribe such a purpose as is claimed, would stultify Congress and grossly pervert the language used.

The Title whose object is to indicate the substance and purpose of the Act, and is always considered an important key for opening its meaning, reads thus: "An Act to enforce the right of citizens of the United States to vote in the States of this Union, and for other purposes."

Its first section then opens: "That all citizens of the United States who are or shall be otherwise qualified by law to vote," &c. What law had qualified male African citizens to vote? The most obvious and natural meaning of this in the connection, is, I submit: Having the other qualifications, other than and beside citizenship, which is one indispensible requisite. A far more natural and reasonable interpretation than that they contend for, viz: "Otherwise than distinction of race, color, or previous condition of servitude." What known substantive qualification for voting does such "distinction" represent? It is a mere mental abstraction, and not the substantive, personal, quality the word "otherwise" calls for or has relation to. Such a mere airy abstraction cannot be that part wanting indicated by the word "otherwise," to complete a full qualification to vote. And if this interpretation of the effect the word "otherwise" has, should be sustained, then all the adult colored citizens would be excluded, for they are not as a general thing, "otherwise qualified" aside from being citizens; and only those remaining would have to vote "without distinction of race, color or previous condition of servitude," according to the Enforcement Act. This would be sad indeed, after so much labor and fuss. The dominant party had better, it seems to me, forego what they expected to gain at the coming election by manipulating the registering officers through their "one man power," and give to all citizens, white and black, justly qualified under our State Constitution, or designed to be so by the

Fifteenth Amendment—a fair and equal chance to vote. This I understand is all the opposition ask. But if they decline—if they insist on practicing their iniquity as heretofore, then I say, and know all honest men will agree with me, make them pay the penalties the Enforcement Act provides. The nineteenth, twentieth and twenty-first sections show that Congress assumed to exercise unqualified control over State elections at which Representatives to Congress should be elected, (and such will be our coming election), and make it a crime in any person, including Governor and other State officers, to hinder by any means, including advice or counsel, those lawfully qualified by law, from voting, or assisting those to vote, who are not qualified, and affixing as a penalty imprisonment or fine, or both. 'Distinction of race, color or previous condition of servitude," is not mentioned or referred to in these sections. Congress claims it as a National right, and its authority, the whole Constitution; and even our State officials, including their "one man" who holds the ballot box and sword is not exempt, nor are our present members of Congress who must certainly know what Congress meant by the Enforcement Act, exempt. They may be caught in the snare they helped to set. Where is Senator BOREMAN, and his famous circular, so full of gratuitous counsel and advice?

Very Respectfully,

September 30, 1870. G. P.

[No. 4.]

ENFORCEMENT ACT PASSED BY CONGRESS.

Editors Wheeling Register:

The *Intelligencer* of yesterday would seem to concede the correctness of our construction, but denies that Congress had authority to pass it, and demands that some one point out the authority. This is a singular position for one that wants to be considered the leading paper in the State, to take, and call on others to show its party had not violated the Federal Constitution. However its party has been in the habit of compelling us to prove negatives, or be disfranchised, and as the Act in question happens to be one of the few passed by Congress of late years, that would admit of a satisfactory answer to the call—I refer to the last clause of the first section of the Fourteenth Amendment, which reads thus: "No State shall deny to any person within its jurisdiction the *equal protection of the laws*."

The last section of the same amendment makes it the express duty of Congress to see and take care that no State denies this legal protection of the law, which law in our State is our State Constitution as amended. This gives the qualification and defines the right, and by proper construction gives to all male adult resident citizens *prima facie* the right to vote, of which he can be deprived only by the State or its officers proving affirmatively that the applicant comes within some one or more of the exceptions named. The proper enforcement of this right is what Congress intended to do by the Enforcement Act in our case. And in view of the published opinion of the *Intelligencer* a year ago, of the iniquitous working of our State registration law, I can't think its editors will regard it as inappropriate or unauthorized.

There is then Section 4, Article 1 of the United States Constitution, which reads thus: "The times, place and *manner* of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; *but the Congress may at any time, by law, make or alter such regulations*—except as to the place of choosing Senators."

Here is express authority for Congress altering the "manner" and "regulations" of holding State elections fixed by the State, at which Representatives to Congress are to be chosen. This clause certainly authorizes the 19th, 20th, 21st and 22d sections of the Enforcement Act, which forbids all persons embracing State officials and Congressmen, interfering in such elections.

It seems to me your correspondent "Justice," in his able article in Friday's paper, errs if he means to be understood that no matter touching the Enforcement Act is revisable by the higher Federal Courts. Civil actions for the recovery of the $500 damages are removable by writ of error from the District to the Circuit Court. See BRIGHTLY'S Digest, page 257, section 2.

Very Respectfully,

October 4, 1870. G. P.

AT the election that Fall the opposition secured a majority in the Legislature, which convened the 17th of January, 1871. This Legislature gave its consent to the Amendment proposed by the previous Legislature, and provided for submitting it to the People for Ratifica-

tion the fourth Thursday of April following—when the same was ratified by a very large majority, though many of the old fogy politicians disapproved, or openly opposed the Ratification! Thinking doubtless it would interfere with their ulterior scheme. The same Legislature the 23d of February, 1871, passed an Act for taking the sense of the People, the fourth Thursday of August then next, upon the call of a Convention to alter the Constitution of the State; and if called the delegates chosen to assemble at the seat of Government the third Monday of January, 1872, in general Convention, with power "to consider, discuss and propose a new Constitution, or alteration and amendments to the existing Constitution of the State."

Touching the pending Amendment enfranchising ex-rebels, the call and the final work of such Convention, I published what appears in the sequel upon these subjects.

[No. 1.]

ENFRANCHISEMENT.

Editor Cabell County Press:

I read in the *Press* of the 5th ult., with much interest, your manly, and it seems to me wise remarks upon what is called the Flick Amendment. I know a very large majority of our people are in favor of the result that that amendment, if carried through, will produce, viz: the enfranchisement of all, otherwise qualified, that are now disfranchised. It is true, there has been a serious defect in the publication required by the Constitution. A neglect on the part of the officer charged with the duty, *to move at all* for eight or ten days after it is too late to give the "at least three months notice," required by the Constitution, the Courts must regard, it seems to me, as material defect; and quite distinguishable from a case where such officer has seasonably moved and discharged his duty, but through miscarriage of letters, or fault of publishers of newspapers, the notice failed to seasonably appear in all the papers the Constitution requires. In the latter case, the Court would hold a substantial compliance.

But as the wish to have the thing accomplished is so unanimous, there is none, or but very few to complain. And even if any one should be so hostile and persistent as to carry the question before the courts, the defense would be at liberty to avail itself of any defect existing in the amendment the last is designed to abrogate. The course therefore, that you ask to have taken in behalf of yourself and others disfranchised appears to me, wise, ingenuous and just, commanding my entire sympathy; and I doubt not, a large majority of the enfranchised, feel as I do.

I have carefully read the remarks of the now dominant party who propose to abrogate the disfranchising amendment by a joint resolution, to be passed by the coming Legislature, on the ground, it is void for not having been submitted for ratification to all who would have been legal voters, in case the late rebellion had not taken place, and rely upon Section 6, Article 1, and Section 1, Article 3, of the Constitution which went into operation June 20, 1863.

This raises the question that was so much discussed during and since the war, viz: did persons, who were citizens of the United States, by joining the rebellion and committing the overt acts which constitute treason, thereby forfeit their right to participate in, vote in, and help to run the government they were warring against—that is to vote with one hand, while they drove daggers to the heart of the Government with the other. Every individual and department of Government, National and State, adhering to the old Government, have decided they did so forfeit, and thereby losing the attributes of citizenship of the United States, they never come within the sections of our Constitution before quoted. Old Virginia was re-organized on that principle, the New State formed on that principle, and the re-organization and reconstruction by the National Government since the war, have all proceeded on that principle.

It would seem to me unwise for the party just coming into power in our little State, to butt its head against all these, at least, until it has tried the measure its opponents have inaugurated, waiving the omission that party permitted. The party that inaugurated the measure, certainly will not plead the omission, but on the contrary, do all in its power to consummate the measure.

Scrupulous as I am against sanctioning any measure that does not appear to me to conform substantially to the requirements of the Constitution, I should in this particular exigency, vote for the ratifi-

cation, under the belief that its approval would be so unanimous as to embody the popular will.

The objection made by some to the proposed amendment, because it strikes out the word "white," *now that the negro has become in fact a voter*, must look to you and others desiring relief, and in fact to all, more fastidious than wise, I should think.

You speak of a Convention to revise the Constitution. No such Convention can be held unless the people by their votes shall first order it. I do not believe they, even after the disfranchised are restored, will be disposed to order such a Convention, but will choose to correct any present existing defects by specific amendments, proposed by the Legislature and ratified by themselves.

Very Respectfully,

G. P.

January 2, 1871.

[No. 2.]

SHOULD WE RATIFY THE FLICK AMENDMENT?

Editors Pan-Handle News:

This question the Legislature decided to submit to the vote of the People. If the Flick Amendment to be submitted next month shall be ratified, it will restore to full Political Rights, all heretofore disfranchised for Participation in the late Rebellion, being many thousands, and enough as the Political parties in the State now stand, to hold the balance of power, if united. Two considerations seem to suggest themselves:

1st. What does sound State policy require of us who are to act, whether Politicians or no Politicians?

2nd. What does *party expediency* require of such as act from mere party considerations?

There is no one I think who will deny that sound State policy requires their restoration now, and if there has been error in this respect, it consists in having deferred too long already. Nor does it seem to me the second question is less clear, when the members of both Political parties consider the aspect and situation of those in relation to whose rights they are to act. They, as a general thing, are Confederate Soldiers, who, during the late Rebellion, left their

homes, families and property, joined the Confederate Army, and hazarded all, including life, in the terrible struggle. There can be no doubt the great mass of these acted from conscientious motives; and however much error there may have been in the judgment, or want of success in the undertaking, they were in down-right earnest, or they never would have sacrificed or hazarded what they did. Besides, the discipline of such a terrible experience, necessarily changed in no small degree, their thoughts and characters—substituting clear cool reason, for heated prejudice; facts and realities, for extravagant fancies. The discipline of those who went to the Front must have been as thorough as it was severe. Their Political and Party sympathies became modified or destroyed. They returned home after surrender, resolved to accept the great changes wrought during their absence, submit to them, save what they could of their property, and make the best provision possible for themselves and families under the new state of things, in whose success and prosperity their Future as well as that of their Families, had become identified.

Such it seems to me is about the feelings and views of a large majority of those on whose future Political rights we are to act. They are altogether different from the stay-at-home heroes and sympathizers, who having eyes, seem to see not the great changes that have taken place.

The Disfranchised are qualified and will be quick to discriminate between real and pretended friends, between them who turn out and vote for the Amendment for their sakes, and those whose indifference keep them from the Polls, or who suffer some senseless whim or prejudice to cast a vote against. The disfranchised have carefully marked the motives and efforts hitherto of the originators and supporters, as well as opposers of the Measure, and will continue to do so in future, and reward accordingly. "A friend in need is a friend indeed," becomes to them intensely real.

Such I believe to be the character of the Disfranchised and their views and feelings in regard to the Flick Amendment, and that both sound State Policy and Party expediency call on every voter to turn out and vote for its Ratification.

As regards the Expediency of a Convention to revise and remodel our Constitution, I may say something hereafter.

Very Respectfully,

G. P.

March 31, 1871.

HOW OUR PECULIAR FORM OF GOVERNMENT REQUIRES ITS YOUTH TO BE EDUCATED.

Editors Wheeling Intelligencer:

No good citizen can stand indifferent to this subject now. He sees his government, though so young, is already hardly second to any on earth, in power, wealth, and influence. He sees its structure is unique and antagonistic in form and purpose to the other great powers. He sees, therefore, what it achieves it has got to do for itself, not only without the aid, but in spite of the active opposition of the other great powers, united in "holy alliance" to uphold and perpetuate their antagonizing systems. He sees that ours is an experiment heretofore tried, but to fail—the governed being at the same time the governors, or sovereigns as we say—the people themselves holding the sovereign power, and enacting and administering the laws, through agencies whom they appoint, and whose powers and duties are defined in written Constitutions.

In view of these facts, no one can help feeling how important it is that the coming voters, who are to be the sovereigns, should be properly educated and trained. The history of the race points us to the kind of men who make the best rulers; they are those who are most normally and harmoniously developed, physically, intellectually, morally and religiously, with their animal natures subjected to their higher faculties—"masters of themselves!"

No one, I think, will say, it is not desirable that our voters should attain to this standard; while every one concedes that the continuance and success of NAPOLEON'S and the CZAR of Russia's despotic rule, would not admit it at all. They require their subjects to be so educated, trained and moulded, as to make obedient and submissive subjects to Sovereigns, whose right they are taught to believe, is Divine—or their despotisms would soon cease. Hence it is seen the two forms of Government require entirely different modes of education and training. Indeed, our coming sovereigns should be educated and trained in the mode NAPOLEON and ALEXANDER are educating and training their sons, whom they expect to succeed them, only not, of course, in so high, broad, and varied culture; but as far as

they do go the education and training of our youth should be the same, to the end they may be wise Legislators, and at the same time obedient to the laws they help make.

Now, in order to thus train and develop our youth, they should be taught—what? I answer emphatically, the Truth on all subjects—which every human soul, unperverted by human agency, naturally loves, grows, and thrives upon. This is as necessary to healthy, normal growth and development of our intellectual, moral, and religious natures, as good nourishing food, pure water, and fresh air are to our physical. The infant mind, before it has been perverted, has an equally natural, innate desire to find out the cause and reason of things. First, by its taste, which is awakened by the Mother's breast, and so it tries everything by putting it to its mouth. Then by touch—and how constantly it keeps its little hands agoing. Hand it a rattle, and show it how, and with how much glee it will make it go for a short time, when it stops and begins to examine for the *cause* that makes it rattle; open the rattle and show the cause, and what a joy beams from its little face. But it soon throws it down and cries for something new, for its instinct tells it there is no time to lose, as it has got everything to learn. How early, and how easily the smile of the Mother awakens responsive smiles upon its dimpling face. It seems to smile all over, and so sincere and deep.

Now this is humanity as it comes to us from God's hand. And is it any wonder Jesus so loved little children, and selected them so often to typify the Kingdom He came to establish? No one need tell me there is not in these little ones what may be educated and trained into noble manhood and womanhood. It is the errors in the culture they receive that, in no small degree, produces the abnormalties in soul and body which we witness. "As the twig is bent, the tree inclines"—a few early touches serve to give shape and direction to the whole after character. Truth, which is God's law, and is always simple and harmonious, and readily adjusts itself to the comprehension and love of the "pure in heart," though an infant child, and feeds and nourishes, and makes both mind and heart to grow in soundness and strength, and produce such youth as are required to be Sovereigns in our Government.

But if it be required to educate and train them to become obedient and submissive subjects of despotic power, we should feed their intellectual and moral natures with awe-inspiring, incomprehensible

things, in order to muddle and paralyze the reasoning faculty, after which it is easy to corrupt, mould and use the balance; and to this end, employ large corps of Ecclesiastics to cram their heads with the Nicene creed, Westminster Catechism, and Confessions of Faith, and thereby engulf, or enshroud, in Theological mysticism, God's divinest gift, the reasoning faculty, and destroy individuality; making them tools and things in the hands of a subsidized Priesthood, and submissive subjects to a tyrant's yoke, who may be said to own them, and whose right to do so they are taught to believe is divine. But totally different are the needs under our Government, where the people themselves own the Government, and in which they alone are Sovereign.

I think all will concede that history shows these subsidized orders of ecclesiastics in the hands of despotic rulers, have proved themselves to be the vilest and cruelest of men. Do we, the people, who are our own rulers, stand in need of their like?

If I am right it would seem to follow that Educators and Teachers, under our institutions, whether ecclesiastical or secular, should strive to build up in our youth the largest, and most normally developed manhood and womanhood possible; and that efforts otherwise directed, render the authors hurtful in the highest degree, in view of the wants of our Republican Institutions. Nor can our Educators expect salutary aid from the like class of persons who operate under Governments altogether antagonistic in form, structure and purpose, unless it should be by antithesis.

In building up men worthy to be sovereigns in our Government, every true man must feel how much is devolved upon our women—mothers especially. May we not hope that they will become disenthralled of present anti-christian, embarrassing, man-made theologies, and adequately appreciate, and be content with, so broad and exalted a mission?

Very Respectfully,

G. P.

HOW IMPORTANT IT IS THAT WE HAVE CORRECT IDEAS OF GOD.

Editors Pan-Handle News:

All our experience teaches and our very constitutions require, that theory, Ideal, or plan, formed in our minds, precedes and governs our practice, or action. We cannot act at all as *rational* beings, unless in this way, even in the most ordinary matters—as taking our accustomed meals, taking a pleasure ride, or visiting a neighbor. The mind first determines what is to be done. Every one who takes any note of himself, must feel this to be true.

Now if that theory, plan or ideal, first formed in the mind, be true and in harmony with God's Laws, then the practice, the work accomplished in accordance with it, will be successful and pleasurable; and as nearly perfect as man, in his present state, can attain. This course is the "straight and narrow way," as there can be but *one right* way. While we know the departures from this are numerous; and these departures constitute the "broad way." When the Theory, plan, or Ideal, formed by the mind, is in *conflict* with God's Laws, and the practice or action conforms, (as it must unless it be aimless, or random action)—there will necessarily be failure, disappointment and discomfiture. Builders of Material Structures of every description, who are worthy of their calling, work in this way. The Naval, House and Machine builder, alike. These first form their models or plans. And so with Statesmen and political Economists in the Measures, Constitutions and laws they adopt.

Exactly the same principle applies in building up *human character*—the germ of which lies in the new born infant, full of capabilities, and with instinctive yearnings for the Right and the True in God and Nature; but to be reared and fashioned, first by those immediately about it, and then by the child, for himself. The highest and most controlling model or ideal humanity has to fashion after in building up character, is its God. The attributes ascribed to Him in each case, parent, teacher and child will aspire to imitate, but never to excel, for He is to them, perfection itself. If the God of the parent or teacher be the vengeful, fickle and cruel Despot of the Old Testament, or JOHN CALVIN, he will not fail to impress Him as the highest ideal of perfection and aspiration, on the plastic and susceptible

infant mind, so unfortunate as to fall into such hands. Just so it is with all the present religious Sects in our country. Each strives to impress its own peculiar ideal of God and His attributes upon the infant mind. Like insects, each strives to deposit its own egg however noxious. The professed believer in the ATHANASIAN creed, established by pagan CONSTANTINE at Nice in the year 325, and amended afterwards by adding a third person called the "Holy Ghost" to their firm of the God-head, thereafter called the "Holy-Trinity," with the idolatries and fooleries peculiar to each subordinate species or sect; or that other class who see and feel that another Sun of Righteousness is rising, but like the faithless and cowardly—(not "blessed") PETER, they have not the courage or unselfishness to face the prejudice and ignorance that would arrest its progress, and shut out its beams from yearning Souls.

The supreme ideals of the foregoing, are as much unlike the one living and true God, that Science and true philosophy with the recent Revealments, have displayed, as were the heathen idols, and far more debasing; for the latter were regarded as only imperfect Symbols, suggestive of true Deity; while the former are regarded as, and taught to be, Deity itself.

I am brought to this conclusion: that the human character and mind can no more attain healthy, normal growth with such false ideals of God to pattern after, than the sensitive glass of the photographer can produce the form of APOLLO when that of HUNCHBACK is placed before it; or indian corn grow, ripen and mature, beneath the spreading branches of the oak, or deadly upas; and that either this false theology, or American character and mind, must go down—nor have I a doubt which it will be.

I know the advocates of the present pseudo theology have the arrogance to claim that their doctrine and teachings have been the main cause of the advancement that humanity has made under our Free, Tolerant Institutions. Nothing is further from the truth. Our nation has advanced *in spite* of them and their theology. Its advance is attributable to our free and inspiring civil Institutions, dissevered and divorced from every form of their theological Dogmas, mummery and clap-trap; and to our system of Free Schools. The latter, the theological profession, including Protestant no less than Catholic, would abolish to-morrow if they had the power; for the plain reason: the radiating light from the one must inevitably destroy the darkness and ignorance on which so monstrous a Theology depends. The

effulgence of noon and darkness of midnight are not less reconcilable. Mark—I speak of the fabricated, patched up Theology, as embodied in their creeds, to the truth of which they make their benighted, or corrupt followers, before God and the world, accept, swear, or confess to—and not of the little that is genuine and true, of the teachings and life of Jesus, as it faintly gleams through their dark, bewildering wrappings. This, I profoundly reverence, as I do every ray coming through whatever medium, from the one living and true God.

Again, where were these advocates and their theology during the late rebellion when the life of the Government hung as it were by a thread, as well as before and since. It is now apparent to all candid minds, their influence North and South, did the most to bring it about; and that during the struggle, where these opposing theological elements met, the fight was most fierce and relentless. These, the most hostile of all the elements, were but a few years before, parts of some one of the great National Sects. Those living in the Slave States maintained that their theology *sanctioned Slavery as a divine institution*, while those in the Free States maintained directly the reverse—that it was "the sum of all villainies;" and hence the unexampled fight. Look then to the conduct and feelings exhibited in time of peace, among their different rival sects. And then, judging "the tree by its fruit," say, dear reader, whether in your conscience you believe their system of theology represents correctly the one only living and true God, or a false God, of human manufacture, with his deformities and imperfections impressed upon the minds and character of his worshipers; for it is invariably the case, that the mental characteristics of a people display the leading attributes ascribed to the God they worship. Then glance at its history from the reign of pagan CONSTANTINE, its author, to the present; and mark how it has treated the discoverers and revealers of the great truths in science and philosophy that have advanced civilization to its present condition. Look at the condition of the present people of Rome, Spain, Portugal and other countries, where their theology has held largest control in both spiritual and civil matters.

Nor has the theology of these peoples been essentially different from the so-called orthodox theology in this country. The creed, manufactured in the year 325 and subsequently, is identical, in all essential particulars, with the Protestant orthodox creed in this country. The clergy and their confederates are withdrawing the printed copies of their creed and confession of faith, as fast as they can, from public

view; but nevertheless, they make them the sole criterion of their faith, and require their followers to confess, or swear to their truth, and be unmercifully "church malled" if they backslide, or become skeptic, afterwards. What crime does not this involve the controlling actors in? What blasphemy to Deity, and wrong to man, to interpose such a deformed and debasing creed between the yearning soul of a fellow being, and the truth as it beams through all nature, from the living God! And if the votary subscribes to it, feeling its falsity, he commits moral perjury, which, he that influences him to it, suborns. But I forbear to say more on a subject so abhorrent. The enlightened conscience of the candid reader will of itself point out the enormity and magnitude of the guilt.

For the teachers and followers of such a theology to claim that it has had anything to do but retard and repress civilization, under our Free and Tolerant Institutions, can only be ascribed to the deformity, moral and intellectual, impressed upon them by so false a theology, which I trust and pray the rising Sun of Righteousness may speedily abolish, *in toto*, and forever. Remove the over-hanging shadows and noxious weeds from out our corn fields and gardens, let in the blessed sunshine, and God will take care of the corn and the vegetables. He certainly does not require us to furnish *substitutes* for these, when once removed.

Very Respectfully,

G. P.

April 11, 1871.

THE BIBLE IN OUR FREE SCHOOLS.

Editor of the Christian Union:

A friend sent me the February number of the *Christian World*, and I have carefully read the "different views and reasonings of all parties to the controversy," relating to the Bible being read or used in our Free Public Schools, which is contained therein, and must say, that it seems to me Mr. BEECHER, Dr. SPEAR, and their associates have the best of the argument.

Taking the statement of Dr. R. W. CLARK, their leading adver-

sary, as true, (see page 50 of the number) the opposition composed, as he says, of "Catholics, Atheists and Infidels," number twenty millions, which is one-half of our population, and are presumed to pay one-half of the taxes—what other course can be taken but the one suggested by Messrs. BEECHER, SPEAR and others? Do the twenty millions who insist on its continuance in the Schools, expect to set at naught the opinions, equally conscientious it is to be presumed—of the twenty millions that oppose? And this too on a subject, the framers of our National Constitution abstracted wholly from Governmental interference, and left to individual conscience solely. Article 6th, Section 3d, and Article 1st (of Amendments)—of our National Constitution, is all that Instrument contains on the subject, and warrants fully my statement. That Instrument contains no such clause as Mr. RANKIN says it does (see pages 43, 44 and 45 of the number) viz: "Religion, morality and knowledge being necessary to a good Government, and the happiness of mankind, Schools and the means for Education shall forever be encouraged;" nor any phrase like it. It is strange fair minded, intelligent men should commit such an error. The State Constitutions are equally explicit in guaranteeing freedom of conscience. The argument of Mr. WEBSTER, made under the influence of a large fee, in the GIRARD will case, is equally without value here. The opinion of the Court in that case, delivered by the late Judge STORY, affords the truer light, if the case be at all applicable.

The friends seeming to feel their weakness, attempt to fortify, or divert attention from the true issue, by affirming this move on the part of the "Catholics, Atheists and Infidels," to be only the first step in a matured plan to destroy our Free School system altogether, and at once; or gradually, by getting a division of the money raised for their support, among the different religious sects, so each may use its portion for inculcating its peculiar religious tenets, which would prove equally destructive to the system. Admitting this to be true, which I have no doubt is, so far as the Catholic Priesthood and bigoted devotees are concerned, but no further—how are we successfully to resist them? By making up an issue with them on a question in which they clearly have the right, and must prevail in the end; or waiving this untenable ground, and taking our stand at once on ground which is right and tenable, and which we can and must hold at all hazards—the defence and preservation of our Free School system as it now exists? Skillful managers, whether in the Forum or at the Bar, always scrupu-

lously avoid making false, untenable issues, when they have a good case on the merits. The preservation of our Free School system intact, of the character our Institutions contemplate—constitutes the true merits in the present case.

Of what character do these Institutions contemplate the Schools shall be? They certainly leave the consciences of all citizens free in respect to Religion, and *compel* no one to contribute in any form towards the support of Religious Institutions, or worship. They leave this to the free choice of each individual, who is in this respect just as free, so far as regards his Government, as he would be in a state of nature, where there was no civil Government. And how happens this to be so with us, when in all European Governments it is made compulsory? The answer is, with us the People are Sovereign, and make and control civil Government, which is only a common agent or arbiter, to which of course they surrender no more of their natural right, than the temporal safety and protection of the whole require, in their present condition. The preparation of their spiritual nature for existence beyond this life, our People have wisely reserved to themselves as individuals, for each to "work out his own salvation," through *voluntary* association and means—over which they expressly forbid their Governmental agencies, exercising any control. This is in exact conformity to the teachings of the Gospel, in which the idea of the supreme importance of man as an individual first originated, and from which our peculiar form of Government sprung.

When CONSTANTINE placed Christianity upon the throne of the CÆSARS, he took from it this God given, developing principle, and substituted the then existing dogma, that man was made not for himself and his God, but for the State, as a temporal power. The Roman Hierarchy continues to propagate the same dogma to this day, as do also the monarchies of the Old World, as far as they are able. "The many made for one," or the few.

To make the many submit to the will of this one man, or the few, it became necessary for the Government, consisting of that one, or of the few, to avail themselves of the superstitious element of our nature, and pervert, darken and dwarf the reasoning faculties of the masses—hence the union of Church and State, and a necessity for subsidized and pensioned ecclesiastical orders. The dwafirng and cruel effects of this policy, the great founders of our Institutions had realized, and they resolved to prevent its introduction into the new

and peculiar Institutions they were founding—basing them on primitive Christianity, whose divine author uniformly declared His "Kingdom was not of this world"—with free individual manhood and womanhood as the prime, ultimate object, to which civil Government, though a necessary auxiliary, should always be subordinate.

They early saw the absolute necessity of the citizens, who were to take part in the Governmental agencies, being early possessed of the art or ability of educating themselves, mentally, morally and religiously, and hence they established Free Schools, built School houses, and passed laws levying and collecting taxes to support them—not so much with a view to thus educate the citizens, which takes a whole life time, and then only to make a beginning—as to teach youth the *art*, by which to thus educate themselves, as every one must, after acquiring the art. This art consisted in qualifying each to read and write intelligibly the English language, read useful books, the newspapers, and transact correctly ordinary business—an art which enables each youth to add to his limited knowledge of things cognizable by his five senses, or acquired through conversation, and communicable in the latter mode only—all that vast store of useful knowledge that comes, and is imparted, through printed and written language, and numbers, or figures, when understood or skillfully combined. And what should we think of the teacher of an art, music, for instance, who selects lessons for his pupils, which, without having any especial fitness to promote proficiency, should be offensive to the consciences of one-half his pupils and their parents? I think none of us would hesitate to call such teacher very unwise. It does not seem to me our Governmental agencies have any right or warrant to go further than I have stated, while the existence and safety of such agencies require they should go thus far. But to compel me to contribute money to educate mentally, morally, or religiously, my neighbor's children further, can find no warrant, I submit, in our Institutions—their purpose and policy being to leave all youth thus on a level, to their own resources and voluntary aid; and such as possess the genius and capacity entitling them to go further, will always find the means; and those that have not, far better stop where they are, as the great mass of our youth always must. Carry the latter beyond, and they are likely to think themselves above manual labor, and still they are unfit to make an honest livelihood without it, and hence more likely to become idlers, loafers, beggars, paupers, convicts.

If such then be the structure of our Political Institutions, what

light can the course pursued by the monarchies of the Old World, which use Religion as a means to oppress the masses, give us on the subject? What light their perverted and abused theology give to us whose Institutions are constructed in conformity to the primitive and genuine Gospel of JESUS? What right have the twenty millions friends to say to the twenty millions opponents, who pay equally towards the support of Free Schools—a particular version of the Bible must and shall be read in the presence of their children in these Schools, when the latter conscientiously believe such version either materially incorrect, or in part a mere fiction, as the Jews believe the Christian interpretation to be, saying nothing of other forms of faith, entertained by portions of our citizens?

Very Respectfully,

G. P.

[No. 1.]

THE AMENDMENT TO OUR NATIONAL CONSTITUTION —PROPOSED BY THE EVANGELICAL CHURCHES OF THE COUNTRY.

Editors Pan-Handle News:

We all admire and venerate the exalted characters of the Founders of our Institutions; and this feeling increases as we see the consummate wisdom of their plan verified by practical experience and results. For the evidence of the latter, I need only say, to our American citizens, "look around you."

Now, does any one believe our country would have become what it is, if these Founders, in imitation of the persecuting despotisms they fled from, had incorporated in that Instrument a State religion, to mould the conscience and judgment of the citizen, and interpose its arbitrary power between his free conscience and reason—thereby shutting out the *truth* as it beams from all nature, to his naturally yearning and enquiring soul?

The Institutions they founded left the individual absolutely free, save such restraints as the Peace of the State required. They, as a general thing, made liberal provision for Free Schools wherein all,

including the humblest, could without price, acquire the Art and Power of educating themselves, intellectually, morally and religiously. This done, the Founders felt it safe to leave the youth to fashion and build up their own character—guided by parents, a divine instinct within, and reasoning faculty; and inspired by the free and equal political Institutions placed around them. From these influences have been produced our Wisest and Best men. The children of parents of every religious belief stand on equal footing, enjoying equal privileges, and equal protection. Thus conditioned and surrounded, each child, "with heart within and God o'er head," is left *free* to build up his own character. It is clear these great Founders had faith in humanity, and in its divine instincts, when unperverted by human agency—and did *not* believe it was totally depraved. They must have believed that humanity possessed in itself divine germs, requiring only the rays of truth beaming as they do from all nature; to properly and normally develop. If they had not so thought they would not have stopped where they did; but would have added to the Supreme Organic Law they were framing, something like the amendment now *proposed* by the pseudo orthodoxy of the country, which I read to-day in a Christian newspaper. It reads thus:

1st. "That all Civil Government owes its authority and power to Almighty God.

2nd. "That the Lord Jesus Christ is the ruler among the Nations.

3d. "That his revealed will—the Bible—is the supreme authority in a Christian Government."

Imagine, reader, this proposed Amendment were incorporated into our National Constitution, either with or without that recently appended, but superfluous section: "Congress shall have power to enforce this Amendment by appropriate legislation." What would be the result? The moment it became part of the Constitution, it would become the sworn duty of Congress and the Executive to see the principles it enunciates carried out and enforced.

Principles and doctrines introduced into that Instrument are not for ornament, or for affording matter for political and theological harangue and buncum, but for practical use and execution. The crafty Ecclesiastics who are moving this matter understand this. And now for the result: Down must go every other religious belief, but Christian, as interpreted and defined by the orthodox creed.

This is the Athanasian creed. Every citizen has the right, and should *know* the origin, nature and history of what is *proposed* to be incorporated into our National Organic Law.

Very Respectfully,

G. P.

March 10, 1871.

[No. 2.]

THE AMENDMENT TO OUR NATIONAL CONSTITUTION —PROPOSED BY THE EVANGELICAL CHURCHES OF THE COUNTRY.

Editors Pan-Handle News:

As I said in a former number, it is the right, and becomes the duty of every citizen to *know* the *origin, nature* and *history* of what is proposed to be incorporated into that Instrument, which is the Palladium of the civil and religious rights and liberties we now enjoy. I concede, if the instincts of any of my fellow-citizens should dispose them to worship in church or private dwelling golden calves as the Israelites did in the wilderness, or pin their faith to creeds, to my mind equally absurd, idolatrous and demoralizing—they have the constitutional right under our Institutions to do it, while I enjoy a privilege equally broad.

But when that portion of my fellow citizens ask that their golden calf or creed be incorporated into and made a part of our National Constitution, in which all citizens of whatever religious belief have equal interest, our relation and rights become entirely changed. The origin, nature, and history of the matter proposed, is made by its proposers, a most vital political question, in which all have equal interest, and as citizens it becomes their imperative duty to analyze and sift with the same thoroughness and freedom they would any other matter proposed for a like purpose. I am sure no honest, fair minded citizen will dispute this proposition.

Now with these views I propose briefly to examine their proposed Amendment in the order of the branches into which they divide it; and, 1st, "That all civil government owes its authority and power to Almighty God."

May not the authority and power of all human structures and con-

trivances be with equal propriety claimed to be derived directly from God, as the system of civil polity established by our Fathers? The famous Resolutions of '98, '99; the Nullification Act of South Carolina in 1832; the equally Nullifying Personal Liberty bills passed by the free States in 1855–56; the ordinances of Secession, passed in 1860–61; the unwise, to say the least, so-called *Reconstruction* Acts of Congress since the war, which assumed a result to be accomplished, that the whole fight on the loyal side was professedly to prevent, and I supposed did prevent—viz: The dismemberment or breaking of the Government. And descending to lower orders of human structure and contrivance, that of a merchant prince like A. T. STEWART of New York—the fiats of whose original and energetic mind are felt and heeded throughout the commercial world; or the great incorporated companies of our country, for railroad, navigation, manufacturing, telegraphic or other purposes—with a VANDERBILT, GARRETT, THOMPSON, HUNTINGTON and their like, at their heads—each wielding its forty or fifty millions, organizing, working and paying its scores of thousands of men.

These, and in fact every individual enterprise, are organized and administered by the same *processes of enlightened mind*, as our National Government, differing only in the fact that in the latter all its citizens are equally interested. Success or failure in each and all depends alike upon organizing and working in harmony, or out of harmony, with God's fixed and unalterable laws. When in harmony each may with propriety be said to owe its "authority and power," as well as success, to the efficacy of His *co-operative* laws.

Now if this co-operative aid of God's laws to every mind acting in harmony with them, is to be enunciated in our National Constitution—why limit the declaration to that governmental agent? why not extend it to all below, to include individuals? and also to all above to which the ascription is equally applicable; as no sane man will claim there is more of the *divine* in the construction and administration of civil government, than in other human operations.

But then, which of the different Gods of the American people is to be the favored one? The awful and cruel Jehovah of the Jews—The Triune God of the orthodox, with His eternal counterpoise, a personal devil—or some other, of still different attributes? What a *harmonious* figure head this would be to our Republic! Our present corrupt politicians, aided by our seventy thousand Ministers, whose relative morality I leave the reader to settle.

But the motive for proposing this limited enunciation, is explained by a reference to its origin and history. It had its birth in the civil and religious despotisms of the ages past, and sprung from the same womb as the "divine right of Kings," and established orders of Priests and Clergy, whose business it was to make the people quietly submit to this kingly divine right, by abusing and misdirecting the religious instinct inherent in our nature.

This branch of their Amendment once incorporated, and our government made theocratic thereby, the evangelical churches and ministers being as they claim the only true and accredited interpreters of God's will, will become an integral and indispensible part of the government, and their Church and the State indissolubly united; and then, backed by the civil power, they will "let slip the dogs of war" on all who shall presume to dissent. Just such another despotism as our Fathers fled from.

The second branch of their proposed Amendment, viz: "that the Lord Jesus Christ is the Ruler among Nations," I propose to examine in my next.

Very Respectfully,

April 21, 1871. G. P.

P. S.—One word to such of your cotemporaries as favor a union of Church and State by adopting this proposed Amendment—touching anarchical France as she is to-day and was from 1789 to 1800, to which they significantly point. Is there a people in the world that have been so priestridden, so priest-befooled and cheated, as the French from their earliest history? Who that has studied at all the causes of their Revolution, commencing in 1789, does not know that it was the oppression and fraud practiced upon that impulsive and sentimental people, by successive Kings and their nobility, conspicuously aided by a subsidized and corrupt priesthood, until human nature could bear no more? and hence the reaction—the volcanic outburst of that period—sending these combined oppressors where they belonged? and hence this condensed hatred towards the like unprincipled cheats at the present time. For authority I need only refer to the conservative SIR WALTER SCOTT'S life of NAPOLEON the First, American edition, by J. and R. WILLIAMS in 1834, Volume 1, page 24, and subsequent. It belongs to us who oppose the introduction of the same causes into our government, to invoke the example of that suffering people as a warning, and not to those who would wilfully or ignorantly introduce them.

[No. 3.]

THE AMENDMENT TO OUR NATIONAL CONSTITUTION —PROPOSED BY THE EVANGELICAL CHURCHES OF THE COUNTRY.

Editors of Pan-Handle News:

The second branch of the proposed Amendment is this: "The Lord Jesus Christ is the Ruler among the Nations." Is this proposition true? If it is not, then no honest citizen can wish to see it incorporated in our Supreme Organic Law. NOAH WEBSTER defines the term Ruler thus: First, "one that governs, whether Emperor, King, Pope, or Governor; any one that exercises supreme power over others." Second: "one that makes or executes laws in a limited or free Government. Thus legislators or magistrates are called rulers."

Now it is clear Jesus is not the ruler of nations in the sense and meaning of this definition. And it is also clear according to His four biographers, that during his sojourn on earth He uniformly renounced and disclaimed all Civil and Political power. "My Kingdom is not of this world," was His constant asseveration, and to this all His acts conformed. Its utter falsity in this sense, therefore, is too obvious to justify comment. It can be true, if at all, in a spiritual sense only; that He governs the hearts and guides the intellects of the people of nations in the making and administering of their laws. And now let us see how this is with our own American people?

To determine this, we must refer to His teachings and life as given by His biographers, MATTHEW, MARK, LUKE and JOHN, and then to the laws, and practice of the Courts, through which the people express their thoughts and feelings in governmental affairs, and see how the latter conforms to the former; and if we find no conformity then will their proposed Amendment be shown to be equally foreign and inapplicable in this last sense. I will refer to a few of the ethical teachings of Jesus, and then to our American legislation and practice on the same subjects. I refer, first, to His sermon on the Mount, 5th Matthew, from 33d to 37th verse, both inclusive. They read thus: verse 33d, "Again ye have heard it hath been said by those of old

time, thou shalt not forswear thyself, but shalt perform unto the Lord thine oaths."

Verse 34: "But I say unto you, *swear not at all*, neither by Heaven for it is God's throne;" Verse 35: "Nor by the earth, for it is God's footstool; neither by Jerusalem for it is the City of the Great King." Verse 36: "Neither shalt thou swear by thy head, because thou canst not make one hair white or black." Verse 37: "But let your communication be yea, yea, and nay, nay; for whatsoever is more than this cometh of evil."

Now this is plain language. No person of common sense can fail to understand its import. He tells us in the 33d verse that the practice theretofore was to take oaths, calling God to witness. He then proceeds to abrogate, not only this practice, but all other oaths in which inferior objects are called on to witness. The pith and substance of all is, using His own language, "swear not at all."

Now, what is the practice of the professed Christian people of our Nation in this respect? Do not all its officers, civil and military, from President to Town Constable, take an oath before entering upon the duties of his office, to be faithful, and calling upon the Supreme Ruler of the Universe to be witness? And then how does he keep this oath afterwards? No juror enters the box, nor witness takes the stand without taking a like oath. Nor an official act done under our system anywhere, but is done under a like sanction. This is done daily and hourly by all the so-called Christian sects, except Quakers and Moravians, who substitute an affirmation.

Let us now advert to His teachings in regard to personal injuries, and injuries to rights of property. Matthew 5th, verse 39: "But I say unto you that ye resist not evil, but whosoever shall smite thee on thy right cheek turn to him the other also." Verse 40: "And if any man will sue thee at the law and take away thy coat, let him have thy cloak also." Verse 41: "And whosoever shall compel thee to go a mile, go with him twain." Verse 42: "Give to him that asketh thee, and from him that would borrow of thee, turn not thou away."

This is also plain language which no person can mistake. But what is the legislation and practice of our so called Christian people upon the same subjects? Has not the people of every State a law and action for assault and battery against any one that slaps another in the face, or even attempts to, having the ability to hit, with exemplary damages? Do not these "Christian" people avail themselves

of this remedy—many after pitching in personally, instead of turning the other cheek; and do not the Courts sustain and encourage these actions? Has not each State its action for assault and false imprisonment? And is there a "Christian" citizen in any of the States that would not avail himself of it after being forced to go a mile, instead of *volunteering* to go another mile? Has not every State its laws to punish felonious, forcible, and even any wrongful taking another ones property, including cloaks, coats, &c., and what Court has ever adjusted a dispute by ordering the prosecutor or suiter to give to the rogue who had taken his coat, his cloak also? Or of any prosecutor or suiter volunteering to adjust in that way? What State has not its Usury laws to prevent its "Christian" citizens from extortion on the necessitous by exacting unconscionable interest for the loan of money? And where is the "Christian" citizen that hesitates to forclose a mortgage and appropriate to himself property worth twice the amount due when he gets the chance?

I might touch upon all the moral duties and obligations, and show the practice of our "Christian" citizens as foreign and antagonistic to the teachings of Jesus as the foregoing. But those mentioned are sufficient to illustrate and establish the truth of my proposition: that neither the example nor teachings of Jesus actuate the hearts, guide the intellects, or shape the legislation and practice of our "Christian" people, in either Church or State, and therefore He could not in this be recognized as a Ruler of our nation without uttering what is shown to be utterly false. Suppose I was about to travel through Japan and should be told before entering who the Emperor was, and have a copy of his laws placed in my hand, and on traveling through I should find as great antagonism between the laws, and the practice and habits of the people as that before shown, could I hesitate for a moment in concluding that it was not the author of these laws that reigned in Japan? Should I not conclude there was some mistake?

Other thoughts suggested by the foregoing comparison between the professions and acts of our "Christian" people I leave with the reader as they are not germain to my present inquiry.

The spiritual Ideal presented by Jesus, *our Brother*, to humanity more than eighteen centuries since, when science and philosophy were far behind what they are now; when "the light shown in darkness and the darkness comprehended it not;" when, as has since been, and is now, traffickers and speculators in religion and politics sought to mammonize and use Him in their worldly, selfish schemes,

He indignantly exclaimed from the depths of the richest and purest soul, "my Kingdom is not of this world." A spiritual Ideal that, seen from our present undeveloped state it would seem, can never be excelled; but nevertheless one altogether too utopian and millenial to be made the Supreme Rule by which to govern our political affairs. Divest and disabuse Him of what king-craft and priest-craft have woven around during the last 1545 years, open fearlessly the heart and head to the reception of Truth coming from whatever source, the spirit of which Jesus tells us "alone makes free,"—determine for ourselves what is Truth by "the God within the mind," *and then practice it*, and we shall not fail to feel the throbs of His great brotherly soul, with others, warming, quickening, and inspiring our whole being. When American citizens shall adopt this course of thinking and acting, they may hope to gradually approach that state of earthly perfection when the *real* life and teachings of Jesus may properly be made supreme canons in civil Governments; but not before.

In my next I will examine the third branch of their proposed Amendment, viz: "that his revealed will, the Bible, is the *Supreme* authority in a Christian Government."

Very Respectfully,

G. P.

April 28, 1871.

[No. 4.]

THE AMENDMENT TO OUR NATIONAL CONSTITUTION—PROPOSED BY THE EVANGELICAL CHURCHES OF THE COUNTRY.

Editors Pan-Handle News:

The third branch of their proposed Amendment reads thus: "His revealed will, the *Bible*, is the *Supreme* authority in a Christian Government."

If the reader has come to the conclusion that our people are not Christian in fact, but only in name, he may say, the branch proposed to be examined does not refer to them at all, and therefore it is useless to examine it. But the reader must remember that the whole of their proposed Amendment is only another Ecclesiastical fiction,

having no foundation in truth, or application in fact, but designed to overturn and displace by vague and airy mysticism, what is practical, real and true in our Institutions. To show, therefore, that such is the object of the proposed Amendment, it is strictly pertinent to examine the nature of this branch of the same.

As they assume our Government to be "Christian," they propose to make the book called the Bible, the "*Supreme* authority"—(which WEBSTER defines to be "supreme legal power,") in that Government; and as there can be but one "Supreme law," the Constitution made by WASHINGTON and his co-patriots, State Constitutions, and all laws made in pursuance of these Constitutions, are to become subordinate; and thereafter section second, article 6, of our National Constitution, will have to be changed so as to read as follows:

"The book called the Bible, and the laws of the United States made in pursuance thereof, shall be the *supreme law of the land*; and the Judges in every State shall be bound thereby, anything in the National Constitution as it heretofore existed, or in the Constitution and laws of any State, to the contrary notwithstanding."

Such would be the inevitable consequence of an adoption of this branch of their proposed Amendment.

Now suppose this should be adopted, and Congress and our State Legislatures go on passing laws as they would of course, and the Constitutionality of these laws should be brought before the Federal or State Courts, as is now done so frequently—by what standard would the Court have to decide the question? Why of course the Bible, for that would then have become "the Supreme law of the land." The word Bible is derived from the Greek word *biblos*, which means simply a book; but custom has limited its meaning to such books only as the Ecclesiastics have at different times canonized, as having been written or inspired as they say, by God himself. Now, in this country we have at least three different versions: the Hebrew, containing the Jewish writings only; the Catholic, containing what the Romish Church has seen fit to canonize; and then King JAMES' version. The adherents to each version claim theirs to be the *only one genuine*. Upon the language of King JAMES' version, the Ecclesiastics put some hundred interpretations, and on these have established as many antagonizing sects. Now of all these, which would our Courts have to adopt as the standard, or supreme law, by

which to decide whether the law in question was Constitutional, or rather canonical, or not?

The first quarrel would be to determine which of the three versions should have supremacy. This being a religious fight would take from five to thirty years; when, in all probability King JAMES' version would receive the honor in this country. This settled, up springs from that version a hundred or more competing sects—all based on as many different interpretations of the same text in the original language, if not English translation—each sect claiming to have the correct interpretation or translation! And the matter having become spiritual or biblical, of course the Ecclesiastics would assume exclusive jurisdiction, and the Government would end in interminable anarchy, war and blood! I challenge any man to show these consequences would not necessarily follow the adoption of this branch of their proposed Amendment.

This is the thing the Evangelical ministers of the country have been for years concocting. They have already gotten it adopted in the form of resolutions by a large number of their sects throughout the country. They have reduced their proposed Amendment to the form substantially that I have stated, and placed it in the hands of a United States Senator to lay before Congress. They have thereby thrust it into the arena of politics, challenging criticism, and are at this moment, from Bishop down to Deacon and Warden, urging its support upon the American people by all the varied appliances known to Jesuitism. Their *shibboleth* is to arrest and put down Catholicism. With this, they hope to arouse their flocks. They speak weekly—nay tri-weekly from 60,000 pulpits, at a cost of at least ninety millions a year, derived from our people, and no one to answer them. They run a religious press at an annual cost to the same people of five millions more, in which not a word is admitted adverse to their treasonable scheme. They hold under the rod nearly all the secular press of the country, that, as a general thing might as well be employed in republishing old almanacs, as the way they are, so far as protecting the Government in this respect is concerned; and still, some, I understand, complain because I have raised my humble protest, and you, Mr. Editor, have dared to publish! I ask them to answer fairly, if they can, the objections I have stated to their proposed Amendment, and when that is done, I will proceed to state more. I do not feel justified to ask further privilege in your paper, or attention of the reader, until this is done. A critical examination of the history and

character of King JAMES' version will come next in the line of argument I have proposed. I fully appreciate the religious prejudice of purely artificial growth, that clusters around that Book, which they ask to fill so exalted a place in our National Polity, and nothing but imperative sense of political duty will induce me to disturb it. I hope the future course of the friends of the proposed Amendment will save me the unwelcome task.

Very Respectfully,

G. P.

May 5, 1871.

[No. 1.]

THE PROPOSED CONSTITUTIONAL CONVENTION—SHOULD IT BE CALLED—THE ADDRESS OF THE STATE EXECUTIVE COMMITTEE OF THE DEMOCRATIC PARTY TO THE PEOPLE.

Editors Pan-Handle News:

It was perhaps well enough for the last Legislature to arrange to take the sense of the People on calling a Convention, in accordance with one of the wise provisions of our present Constitution, that permits no body of men to take control of their Constitution without their express order and consent being first obtained. Though after the Flick Amendment was passed and the disfranchised restored, there was no very obvious necessity for the Legislature making such arrangement at present, as the fitness of the present Constitution has as yet been but partially tried and tested; and the admission of the disfranchised upon their own solicitation into the new Edifice, accepting it of course in the condition they found it—furnished no ground. As well might a boy or a dozen of them when arriving of age, or a company of immigrants, or men relieved of Political Disabilities through the Governor's pardon, claim as a right, to have the People order a Convention to be convened and the Constitution altered to suit their taste. That class of the enfranchised that went to the Front in the late War, and thereby established the sincerity of their

profession by staking their lives, so regard the matter, as the recent manly and ingenuous statements of the Editor of the Cabell County *Press*, fully attests. He was a brave Confederate soldier, and is a Representative man among that class, who oppose the Convention as unnecessary at this time, and laughs at the foolish hypocritical claims of the Politicians now on their account, when the same men either openly opposed the Flick Amendment, or absented themselves from the Polls; and among these the Editors of the two Democratic papers which are now most clamorous for a Convention, for the sake of these poor Confederate soldiers who were necessarily absent they say when the present Constitution was formed—but in fact for the sake of the fat paying business as public printers, they expect from the scheme if accomplished. This class of the late Confederate soldiers that were at the front, I honor and esteem, and if there really existed any defects requiring a Convention to remedy, and they should ask it—I would be among the first to aid them, on the ground that our future interests and hopes were to be the same.

The only pertinent question now is: is it wise and proper for the voters to order a Convention—and this depends, I submit, on this further question: "Has practical experiment so far, disclosed such defects, otherwise irremidable, in our State Constitution, as warrants the People to call a Convention to revise and remodel it; and incur thereby the great expenditure of time and money that will be required."

This is the question addressed to all the present voters irrespective of antecedents, and no man who duly appreciates its nature, magnitude and far reaching consequences that are to follow, will regard it as a partisan question, but one rising above all party considerations.

The Address above referred to, has the appearance of having been prepared with great study and care, inspired by persons in the way of whose aspirations, and fossil prejudices the present Constitution manifestly stands—and hence among other aspersions, it is styled the "odious and unjust Constitution;" so this address can be safely taken as stating all the defects and weaknesses that can possibly be conjured up against the Instrument. These I propose briefly to notice. I shall confine myself to those defects *specifically* charged, and pass unnoticed the general denunciations and slang which any blackguard can utter. I thought it a little singular that the Executive Committee

of one of the political parties, should address the *whole* voters irrespective of party, declaring it to be *their conviction* it should not be regarded as a party question—and then in a few sentences after, treat it purely as a party question, and urge its party to turn out and vote for the Convention—assigning as a reason, that the Republicans in the Legislature voted against submitting the question at all, and their press since had opposed the Convention. How these statements can be reconciled with honesty and straightforwardness, I can't see—others may. But to their specific charges.

1st. They charge that since the people have put their party "partially" in possession of the Government, it is indispensable they should be put in possession of the whole; and a prime object of their Convention, I presume, is to rotate the present incumbents out. Their motives and feelings are patent, but how the public is to be benefitted by the operation, is not so clear; though they say "we owe it to ourselves as well as the whole people to see to it that we are not found wanting in this our first administration of its affairs." "Found wanting" in what? The natural inference is from what precedes in their address, it is in the devilment they have just been charging on their opponents. It would seem unnecessary for them to have proclaimed with so much emphasis their fixed determination in this respect. The people already anticipate as much, judging from their conduct last winter.

2nd. They charge in their indictment that the present Constitution was framed "amid the conflict of arms and throes of Revolution." This might have been the case where they were at the time, but there was nothing of it at Wheeling to disturb the deliberations of the Convention that framed the present Constitution. And still it must be acknowledged, there were eminent dangers and uncertainties hanging over the Nation at the time, that impressed its members with feelings akin to those felt when the Declaration of Independence was first proclaimed, and when our National Constitution was formed. Circumstances that cause men of whatever experience and capacity to have a lively sense of responsibility, and to act honestly and earnest ly in whatever work engaged. Again, they say "those who framed it were few in number, representing but a small portion of our territory." This is untrue.

The number of Delegates exceeded fifty, and all the Counties except Greenbrier, Monroe and Jefferson were represented. The able

Editor of the Monroe County *Register*, a *Democratic* paper, who very likely was another Confederate soldier who went to the front—tells us in an article copied in the Wheeling *Intelligencer* of the 9th inst., how the people of his grand old County feel in relation to the necessity for calling a Convention. I wish I had room to quote it—'tis so much better than anything I can say. It may not be amiss to mention some of the present leading men of both political parties that were leading members of that Convention. The Hon. BENJ. H. SMITH, Hon. DANIEL LAMB, Hon. JOHN HALL. Would these men who now stand at the head of the Democratic party of the State, make a Constitution that was "odious and unjust?"

There were also, Hon. W. T. WILLEY, Hon. PETER G. VAN WINKLE, Hon. JAMES H. BROWN, late President of the Court of Appeals, Ex-Governor STEVENSON, Hon. LEWIS RUFFNER; Circuit Court Judges, Hons. E. B. HALL, ROBERT ERVINE, CHAPMAN J. STEWART, JOHN A. DILLE, THOMAS W. HARRISON, the late E. H. CALDWELL; also Judge SOPER, Hon. JOHN J. BROWN, Hon. JAMES W. PAXTON, the late Rev. GORDON BATTELLE, Rev. JOSEPH S. POMEROY, Rev. T. H. TRAINER and others equally earnest and patriotic, though of less celebrity. Think these men, circumstanced as they were, would have made a Constitution deserving to be styled "odious and unjust!" And by whom? Let the accusers answer, and reveal their own individual history during that trying period. But I return to the indictment.

They further charge that after eight years experience, portions of the Constitution have been "demonstrated to be unsuited, very costly and unwieldy, and can be so altered as to greatly simplify and save much money." Where is the evidence of any such practical demonstration? I aver, and am prepared to maintain, that the Government when administered in accordance with the letter and spirit of the present Constitution, is the simplest and cheapest among the States of the Union. The expensiveness heretofore, is wholly attributable to vicious legislation, creating superfluous offices to quarter partisans on, and to fraudulent and careless management—none of which find countenance or warrant in any part of our present Constitution. All which abuses, the Legislature possesses the amplest power to remedy; and when I voted the Democratic ticket last fall, it was with the expectation a Democratic Legislature if elected, would at once remedy the monstrous evils they had so long and so justly complained of. Still they failed to do it to any considerable extent, but started the scheme for a Convention, and the politician portion purposely retain-

ed this vicious legislation, and sought to defeat the Flick Amendment and postpone enfranchisement, so that by the combined use of the two, they would get a Convention. The Flick Admendment, thank God, they did not defeat, and now they are most sedulously striving to foist this vicious legislation upon the Constitution, and make the people believe it grew there as its natural fruit. 'Tis a contemptible scheme and worthy of its authors. The manifold abuses hitherto, are no more the legitimate fruit of the present Constitution, than turkey buzzards are the legitimate fruit of the grand, sturdy oak on which they may happen to perch.

Very Respectfully,

G. P.

June 16th, 1871.

[No. 2.]

THE PROPOSED CONSTITUTIONAL CONVENTION—SHOULD IT BE CALLED—THE ADDRESS OF THE STATE EXECUTIVE COMMITTEE OF THE DEMOCRATIC PARTY TO THE PEOPLE.

Editors Pan-Handle News:

The question is: "Has practical experiment so far, disclosed such defects, otherwise irremidible, in our State Constitution as warrants the people to call a Convention to revise and remodel it; and incur thereby the great expenditure of time and money that will be required?" Commencing, then, where I left off in my last number:

3. Their next charge is: the great wrong for the people to refuse to call a Convention for the accommodation of the recently enfranchised. About this I have already said sufficient. The class that went to the Front have the good sense not to ask for it; while the other class, the skulking, cowardly politicians, who are the sole movers in this matter do not deserve to be gratified, unless they show good and sufficient cause exists outside of themselves.

4. Their next specific charge is, that Sec. 9, of Art. 4, of the present Constitution, confines the apportionments for choosing Delegates, that are to be made after each United States Census—to "white" population, omitting colored, who have since become citizens and voters. The editor of the Monroe *Register*, in the article before referred to, answers this so satisfactory, that I prefer to adopt his lan-

guage in his reply to the Greenbrier County Editor, viz: "In reply we beg his attention to Art. 1, Sec. 7, of the Constitution, viz: "Every citizen shall be entitled to equal representation in the Government; and in all apportionments of representation, equality in numbers of those entitled thereto, as far as practicable shall be preserved."

"Under the Fourteenth Amendment accepted by West Virginia, is not the negro a citizen, and under the Flick Amendment recently adopted, does not our Constitution make him a citizen? It is not necessary to be an opponent of the Constitution, to settle that question."

The 9th Sec. of Art. 4, on which our cotemporary rests his position, must be construed as conflicting with the now recognized "Supreme Law," and is therefore null and void, as far as race is concerned.

This disposes of that count in their indictment. The importance they attach to this count the reader may judge by the way they close it, viz: "the bare statement of this fact should be sufficient to convince the most skeptical of the necessity for a change in this regard." What change could possibly give in this respect, what is not already possessed through the Federal and our present State Constitution, as already amended.

5. Their next charge is, that the negro is not by the Constitution chargeable with a poll tax; while the "white" man is. Article 8, Section 2, of the Constitution which was formed before the negro was freed, provides that "white male inhabitants" of twenty-one years of age shall pay a capitation tax of $1.00; but no where forbids the Legislature imposing a like tax on the negro. After the latter became free, in 1864, our Legislature imposed a like tax on male negroes of twenty-one years of age, and have continued to do so ever since, and the negroes have paid without objection. See Code of West Virginia, page 211, and session acts, 1864, page 16. Having now become citizens and voters, to which under our Institution, the obligation to pay taxes attaches, it is just and right they should pay; and in their present status the Legislature has the unquestionable right by the Constitution to impose the tax—being no where prohibited in that Instrument from doing so; and if it were otherwise, how easily the Constitution might be amended in this respect by the mode the Flick Amendment was accomplished, without any additional expenditure of time or money—the Ratification taking place at the same time the general election is held. But it is clear there is no

necessity for doing this even. If this imposition of the tax on the negro, since 1864, has been unconstitutional, why did not the last Legislature repeal the law?

6. Their next claim is, that the judiciary system should be reformed "in toto," by which they mean, tore out, and one of their liking put in the place. Their animus for this is disclosed in the forepart of the address before referred to, where they say they have but "partial" possession of the Government, and the public good imperatively requires they should have the whole. All the present judicial officers from President of Court of Appeals to Justices of the Peace, are to be "reformed" or rotated out by their regenerated Constitution, and members of their Rings are to be rotated in. Hence they are lavish and fierce in their denunciations of this branch. They charge the present incumbents with "weakness and inefficiency." They charge that their decisions have been made from "partisan feelings and favortisms," and become "subjects of jibe and jest," that the Legislature has had to remove two of the judges. They arraign the system itself as having failed to secure either "honesty, faithfulness, or capability," and then complain because our Constitution gives to a bare majority elected to the Legislature power, to remove any judge for "misconduct, incompetence or neglect of duty, or conviction of any infamous offence." But they insist that the regenerated Constitution that is to rotate themselves in, shall have high bars to keep themselves when once rotated in, from the "mere brute force of the Legislature"—as they term it, requiring a majority of not less than *two thirds* of the Legislature to reach them, however unfit they might prove or become.

Now this is about their view of this branch. Their imputations upon the present incumbents are altogether unmerited and unjust. And their suggestions of Reform are irreconcilable and conflicting. They complain of unfaithful Judges in one breath, and in the next breath complain because our Constitution provides a speedy and effectual way to get rid of such unfit and unworthy Judges. Their suggestions are a senseless jumble, designed only to humbug the people, and rotate the present incumbents out, and themselves in; and then put up high bars to keep the people and their "brute Legislature" at a distance! Our Judges are elected for terms of six and twelve years, while our Legislators are elected annually, and are of course more immediately responsible to the people, their masters. This is why the people intrust the Legislature with this corrective

power over the Courts. No faithful and upright Judge has cause to fear, but one of the opposite character has cause to fear. And I submit, it is wise and right that the people should retain this power over their Courts. Absolve any men from responsibility for their actions, and they become Tyrants. I here quote again, from the editor of the Monroe *Register*: "Again regarding the reform of the Judiciary; the laws delay is the great complaint. We are persuaded that the Bar has the corrective entirely in its control. Moreover a speedy execution of justice may be secured, by the institution of County Judges of competent jurisdiction holding monthly sessions." A specific amendment passed in the way the Flick was, will insure this. But the Legislature possesses unlimited power to increase the number of Circuits and Circuit Judges, if found to be needed, without any change in the present Constitution—power to make each County a Circuit with a separate Circuit Judge, if required.

7. Their next claim for a Convention is to adopt the scheme of representation which secures to the minority a certain amount of representation. The scheme is new and untried; it has just been put on trial in some of the States. It would hardly pay for our people to incur the cost of a Convention for the sake of embarking in a mere experiment.

I again quote from our Monroe friend his remarks on the township system and the ballot: "The Constitution only provides six officers in each Township. A few of them only receive nominal compensation. We consider the Township system as the model of local self-government and eminently American and Democratic. Objection is made to the ballot. We reply, God help the poor citizen should its friendly shelter be torn from his homestead! Does any sane man believe that any proprietor in the Greenbrier valley would hesitate to annihilate an unfortunate dependant, who would dare to oppose his will by a manly (!) viva voce," No," at the Polls? Nobody in Monroe believes that with a christian faith, we know. It will not take twenty years as our cotemporary says to put fifty Amendments through the Legislature. Article 12, of the Constitution, places no restriction on the number that may be proposed simultaneously." He refers here of course to specific Amendments proposed by the Legislature, and carried through as the Flick Amendment was.

This gentleman is not a resident of Wheeling, or Charleston, but of an Eastern border County in the midst of those "sparsely settled districts" where the Address tells us the Township system is so

unsuited and hateful. Can we hesitate which party's testimony we ought to take? And then, his estimate of the importance of the ballot to every poor man in the State, compared with the Old Virginian "viva voce." What honest heart does not respond to the entire truth of what he says in this respect. The politicians sigh for the return of the old "viva voce," that enabled them to hold the poor and dependant, subject to their will, when exercising the elective franchise. I have seen this purse power practiced in more States than one.

I have now answered I think all their specific charges, upon which they declare our present Constitution to be "odious and unjust," and ask for a Convention to remedy it. There is no ground, I submit, for a Convention—absolutely none; but only a necessity for the people electing an honest Legislature and demanding that it repeal all vicious, unnecessary laws, abolish all superfluous offices, and bring the Administration of the Government to that simplicity and economy, which the present Constitution contemplates, in all its departments, including the School system.

In my next I will endeavor to show the disastrous consequences, and the vast expenditure of time and money, that must follow a sanction by the people of the wild and wholly uncalled for scheme, of these politicians.

Very Respectfully,

G. P.

June 23, 1871.

[No. 3.]

THE PROPOSED CONSTITUTIONAL CONVENTION—SHOULD IT BE CALLED—THE ADDRESS OF THE STATE EXECUTIVE COMMITTEE OF THE DEMOCRATIC PARTY TO THE PEOPLE.

Editors Pan-Handle News:

As the people may not all of them be conversant with Article 12, of our present Constitution, that provides the two modes for amending the same, I will briefly explain them:

Section 1, provides that no Convention shall be called for amending the same unless the people by a majority of the votes cast at an

election for the purpose, shall order it; and if ordered, the delegates thereto shall not be chosen earlier than a month at least after the vote ordering, is officially declared. The final work of the Convention is not to be valid until submitted to the people and by them ratified.

Section 2, provides that the Legislature may at any time by a majority thereof propose "any amendments to the Constitution," and such proposed amendments are to be published in the papers throughout the State, three months at least before the election of the succeeding Legislature, which can approve or disapprove; and if the former, it is its duty to submit the same at such time as it shall deem best, to the people for ratification, or rejection. If two or more such specific amendments be submitted at the same time, the vote on the ratification or rejection shall be taken on each separately. This last is the mode in which the Flick Amendment was accomplished.

Now if the first mode is adopted by the people ordering a Convention, they commit and surrender absolutely the whole Constitution into the hands and absolute control of such Convention, to do with it as it chooses, with this single proviso, that the Convention shall submit its "final work" to the people to be adopted as a whole, or rejected as a whole, without the power of adopting such parts as shall suit them, and rejecting the rest. And hence the Legislature in its law last winter submitting the question, defines the powers and duties of the Convention in this respect, if one be ordered, in these words: "to consider, discuss, and propose a new Constitution, or alterations and Amendments to the existing Constitution of the State." See Section 17, of that Act; also Section 20, same Act: "The Convention shall provide by ordinance or otherwise for submitting the said Constitution" (meaning its "final work") "to the people for ratification or rejection," as a whole of course. The people of West Virginia certainly will not put themselves in this disadvantageous condition in relation to their organic law, unless there is shown to exist some urgent, adequate necessity for doing it. Have the politicians shown that necessity to exist? But then, they tell us if we don't like the "final work" of the Convention sufficiently to adopt it as a whole, we can reject—which will leave the Constitution just as it is now; they will have had a glorious jollification and nobody will have been hurt. Ah! but who will have to pay the cost of their grand farce? of course we the tax-payers.

Whereas if the second mode be adopted, whenever particular

amendments shall be shown by experience to be wanted, any Legislature can propose any number of specific amendments, of these the subsequent Legislature, having been chosen with reference to the pending proposed amendments, can approve or disapprove all, any, or none, and in case any be appproved, it becomes its duty to submit such as are approved to the people at the next general election, or earlier if the exigency requires; when the people will have the right to adopt or reject such as they choose; and incur no additional expense whatever—and will all the while hold in their own hands and exclusive control, their Constitution, instead of yielding it up as is now proposed, to the tender mercies of the politicians, to revel over, in a gratification of their varied and in most cases, hostile feelings. In any ordinary business matter, would any prudent man hesitate which mode to adopt? The amending of our Constitution when shown to require it, is purely a practical business matter, of the highest importance. But let us see for a moment what consequences must follow their proposed scheme if carried out. The Address specially proposes to "reform" (which means change) "in toto," the whole Judiciary system, and root out the entire township which has now become so intimately interwoven with our whole system of State polity. These changes, if they should go no further, will necessitate another new Code of laws—of the time and money required for this, our people have had some experience of late. I know the politicians tell us the mother State revised her Constitution in 1829, and again in 1850, and in neither case had a new Code made. I answer, neither of these Conventions made Radical changes in the organic structure of her State polity. They only modified to some extent her basis of representation, and changed the mode of appointing some of her officers. Her case, therefore, is no guide to us, for our politicians propose to knock our present judiciary system and township system out of the Constitution altogether; and all portions of the present Code that rest upon the parts removed, must of necessity fall and perish with them. A new Code conforming to their regenerated Constitution would become absolutely necessary to get ourselves out of the legal chaos (so grateful to lawyers and politicians) which their scheme if allowed to progress, must necessarily produce.

But the politicians as appears from their press and talk, don't propose to stop where their address stops—but propose abolishing the Free School system and the ballot—restoring the old viva voce; also to remove the present Constitutional restriction that prevents the

Legislature going into the same "log-rolling system" that bankrupted the old State under the specious pretext of making "Internal Improvements." Behold the old State with her forty-five millions of debt, and then its product or result in her present internal improvements, which in fact never received but a small portion of the money—the bulk having gone into the pockets of her corrupt politicians. Look to the product of this her vast expenditure, that remains within our own Territory, and compare that product with what has been done, and is doing, by individual capital and enterprise under the present policy of the New State; the Chesapeake & Ohio Railroad for instance, which in a year and a half will be completed throughout our State, and connect the waters of the Chesapeake with the Ohio. To accomplish which the old State had labored through her politicians for forty years, and had accomplished—what? But one thing is certain if our people after so much labor and so much expenditure during the last ten years in bringing our system of polity and Jurisprudence to the point it is now in, and as now evidenced by our new Code, containing the Constitution on which it is based, now, or soon to be, in the hands of capitalists and business men throughout the country—securing their general approval and confidence as I have reason to believe—shall now idiotic like sanction the scheme proposed by the politicians, and go to work tearing everything up when there exists no cause whatever—we shall forfeit the good opinion and confidence of that class of men so essential to the future of the State. They would as soon invest money in anarchial Paris, as in West Virginia, while controlled by a people that should act so insanely.

The politicians also complain that the present Constitution imposes too many restrictions on their powers; that it is a "Code of laws," when it should be only "a declaration of principles"—by which they mean—"glittering generalities," that they may construe to mean yes, or no, black or white, as may suit their corrupt purposes. Now, if there exist defects in this respect, it is because the present Constitution imposes too few, instead of too many, of these safe-guards to our civil and religious rights.

Moreover, the "regenerated" Constitution they propose, is to unseat every present holder of office in the State. 'Tis impossible for them to confine their process of rotating out—(the prime object of their move) to political opponents, but political friends, even those elected last fall for two and four years, and as yet hardly warm in

their seats, must of necessity share the same fate. Will these appreciate the necessity of the politicians move? But the politicians are active giving assurance throughout the State that they will take care to save political friends. How save? Trust them not. They have not the power to save, if they would, when their ponderous rotating machine is once set agoing. The only safety of such as are in exposed positions, lies in preventing the starting of their machine, by turning out and voting down the Convention. They have no safety in any other course. See and ponder well the 17th and 20th sections of the law before quoted, defining the powers and duties of the Convention, if called.

One word now respecting the cost of their scheme should it be accomplished, in which as a tax-payer I feel a lively interest. Last winter as an auxiliary for getting the Legislature to submit the question, a partisan committee was appointed to report the probable cost of carrying through the scheme proposed not including the new Code, I presume; and this committee reported the total cost at $37,503—but omitted to give us the cents! The entire unreliability of estimates gotten up by politicians when they seek to get the Legislature and people committed to a favorite scheme, is felt and known to all. Those that have been made for building the Penitentiary, and completing the Insane Hospital, are fresh in the minds of all. The cost of advertising and printing and holding the required elections by the people, and the Convention, to cost only thirty-seven thousand five hundred and three dollars! Why the present Public Printers confidently expect to realize much more than that for their share of the spoils. And then add for the new Code a proportionate sum! Why only think, our present Code went into the mill in 1863, was constantly being elaborated in some form by well paid agents, and came out about two months since, requiring a period from seven to eight years, and costing over one hundred thousand dollars! And now the politicians modestly propose to knock both the Constitution and that in the head, and start *de novo*.

The official estimate made by Gov. STEVENSON last winter will not prove far out of the way. He certainly could not have had any personal motive to have overstated, and his large experience in such matters, his ample means for obtaining correct data, with his known care and accuracy of judgment—the personal and official responsibility on which he made the statement, entitle it in my judgment, to the fullest credit. He estimated the total cost, reckoning both money

and time (for business men reckon time as money) at about $350,000, 1-39 of which, or *nine thousand dollars will be Brooke County's share*, which the tax-payers will have to pay—and for what, let me in all earnestness ask my fellow voters and tax-payers? Suppose the township system was premature at the start in some of our sparsely settled districts (which I certainly am not prepared to admit,) the system has become so interwoven with our entire State polity, including the Code, that it cannot now be torn out without lacerating and disemboweling the entire body politic, the restoration of which will require many years of persistent labor, and expenditure of vast sums of money. The genius of JEFFERSON originated the system in 1782, under the name of "wards," as embodying his ideal of a pure and perfect Democracy. Out of respect to his memory no true Democrat should too hastily cease his labor to realize that great man's ideal—especially when it is being so fully realized in all the great States on our North and West. Let us then continue to advance in the direction we have started. Let the Legislature abolish superfluous offices, and repeal unnecessary, vicious laws, and bring at once the administration of the Government to harmonize with the simplicity and economy the present Constitution contemplates; amend and improve our organic law as experience shall show it is required, in the mode the Flick Amendment was carried through, imitating more closely the organic laws by which the old free States have attained to their present greatness—instead of turning back, as the politicians propose, and resuming for our young and vigorous State, an obsolete organism fashioned in the interest of slavery, that is now abolished.

"Let the dead past bury its dead,
Act—act with the living present,
Heart within, and God o'er head."

Mark one thing: if either political party commits itself to the unnecessary, but purely selfish scheme of these politicians, it will be sunk beyond hope of recovery by its weight before it gets through with it; and meantime, from its length of tail and many stings, it will be painful to any party to handle.

Very Respectfully,

G. P.

June 30, 1871.

I AFTERWARDS published through the West Virginia *Journal* of July 12, and the Wheeling *Intelligencer* of August 5, 1871, what I hoped would satisfactorily answer the specious claims for a Conven-

tion, made by Judge FERGUSON, Col. B. H. SMITH and others, at a large meeting held at the Capital, and by the Hon. C. J. FAULKNER at a like meeting at Martinsburg; but I was mistaken. The Governor proclaimed the result of the election the Fourth Thursday of August, 1871, to be 30,220 for the call, and 27,638 against—2,582 majority in an aggregate vote of 57,858, and this after the colored people and ex-rebels had been enfranchised, and were free to vote.

Delegates subsequently chosen, assembled in Convention at the Capital the third Tuesday of January following, formed and submitted for Ratification the fourth Thursday of August following, the present modified Constitution. During the canvass I submitted through the Press the following remarks:

[No. 1.]

THE PROPOSED CONSTITUTION, TO BE VOTED ON THE FOURTH THURSDAY IN AUGUST.

Editors Wheeling Intelligencer:

Myself with other unprejudiced and unaspiring tax-payers opposed the calling of the Convention, for the reason we were unable to see any necessity for the expenditure of the time and money that would be required. A Convention, however, was called, as appeared by official proclamation, by a very small majority of those voting.

I have always regarded the making, or altering of a Constitution, in no sense a party question; and though political, as one of such transcendent importance, and the instrument of such permanent character—to shape in a greater or less degree the future organism of the State after we are in our graves and present political parties are extinct—as to imperatively demand of every honest citizen to lay aside all the little party prejudices, schemes and aspirations of the present hour, and approach the subject simply as a *citizen* and a *man*, who has the future welfare of his State, and posterity, as well as himself, to care for.

Entertaining these views I need not say with what regret, nay, disgust, I regarded the personal appeals to the most selfish passions of the voters that the Convention make in order to induce an adoption of their work. From their resort to such unworthy means we may

safely infer their own estimate of the intrinsic merit of the work they offer. It is always the venders of spurious articles—known to be spurious—that resort to unworthy means.

The great and solemn duty of adopting, or rejecting a proposed new or greatly modified Constitution, would seem to merit an election for that purpose alone, without coupling with it so many sordid and purely selfish attractions.

I propose briefly to notice some of the objectionable features of the proposed instrument. In the first place, it is nearly twice as long as our present Constitution. Truth and true principles are always consistent and harmonious, and require only a few right words to express them, as our Federal Constitution so strikingly illustrates. 'Tis the enunciation of false principles, and untruths, always contradictory—that require an endless string of words in order to conceal the defects and give a show of plausibility and decency.

The second clause of section 2, article 1, enunciates CALHOUN'S dogma of nullification and secession, which has proved the source of so much national and individual sacrifice and woe. Do they suppose that we the people of the State, who alone hold the sovereign power, are going to intrust to the Legislative, Executive or Judicial servants that may be chosen from time to time—to decide for us whether in any case the Federal Government has encroached on the rights reserved to States or the people respectively; and if our State servants decide affirmatively, then making it "their high and solemn duty to guard and protect us against such encroachments." How are the State servants going to do this, unless in the way the officers of South Carolina attempted in 1832? This *way* Mr. WEBSTER pointed out to Mr. HAYNES in his celebrated reply to that gentleman in 1830. No, I should think our people had got enough of the bitter fruits of that fatal heresy already. In any act of the Federal Government that shall encroach on our reserved rights the people of all the other States will be equally interested; and with them as co-sovereigns, the sovereigns of our State must unite and put the Federal agent right—and not make it, as proposed, the "high and solemn duty" of upstart politicians that may for the time compose our Legislature—to involve the people of our State in a war with the Federal Government. I have been informed that a distinguished friend of the proposed Constitution in the lower end of the State, advises not to vote for excluding colored people from holding office, because if done, Congress may undertake to reconstruct West Virginia. Would not the adop-

tion of the old nullification and secession dogma be more likely to induce that process? Do they really think that any of us who were loyal to the Government during the late rebellion, will now consent to place in our Constitution the same old heresy that has led to nullification, secession and rebellion?

Sec. 5, Art. 2 places resident *aliens* on the same footing with citizens as respects the purchase, holding, descent and disposal of the lands within our State. I shall only suggest the door that the adoption of this would open. It would make it possible for every foot of land in our State to become owned by persons owing allegiance to some foreign power, and of course none to our Government; and to transmit the same by descent, the same as citizens, to such kin as by our law would be his legal heirs—regardless of the Government they owed allegiance to, or where they reside. Suppose every other State in the Union should adopt a similar provision, and the subjects of the European powers should undertake to largely buy up our lands—how would our National Government stand affected in case of a war with these European powers? It would find the lands within its jurisdiction, through State action, transferred to and owned by persons owing allegiance, not to itself, but to the powers it was warring against. Not owing allegiance they would be incapable of committing treason—for which alone forfeitures are allowed under the Federal Constitution. Is it likely the Federal Government would allow State provisions like the one proposed, to be very extensively carried out? I think not. Moreover, it does away with one of the strongest inducements foreigners have to become *naturalized citizens*, as it allows them the fullest control of our lands, while they remain aliens and foreigners.

As the getters up of the wholly uncalled for Convention—as the result has shown, which unprejudiced and unaspiring voters opposed from the first—have become divided between CAMDEN and JACOB, and bitterly hostile as would seem—the latter should consent to vote for neither of the rival candidates without first having assurance that those they shall aid will aid them in voting down the Constitutional humbug. The Conventionists last winter formed the CAMDEN ring, the same time they did the proposed Constitution. Let honest men unite and crush both.

Very Respectfully,

G. P.

July 16, 1872.

[No. 2.]

THE PROPOSED CONSTITUTION, TO BE VOTED ON THE FOURTH THURSDAY IN AUGUST.

Editors Wheeling Intelligencer:

Section 4, Article 3, provides that the writ of *habeas corpus* shall not, in any case, be suspended. The Federal Constitution and the present Constitution of every State in the Union in terms expressed or implied provides that it may be "when in case of Rebellion or insurrection the public safety may require it."

Why the omission in the proposed Constitution of the exception which the combined wisdom of our countrymen since the achievement of our Independence has seen proper to make in all their Constitutions or organic laws? Have they all been mistaken and left it for the Convention assembled at Charleston last winter to first discover the mistake? The Constitution they propose for our adoption makes our State a qualified sovereign power, at least, against which treason may be committed, and rebellion and insurrection against its authority, may occur—as it did in the DORR Rebellion in Rhode Island in 1842; and provides for a State militia and makes the Governor Commander-in-Chief, and makes it his sworn duty to suppress rebellion and insurrection against its authority. How is he going to do it, unless himself as Commander-in-Chief of the war power of the State, or the Legislature, has the power to suspend the writ of *habeas corpus*, as the Legislature of Rhode Island did in the DORR Rebellion in 1842? Until this is done all the Civil Courts—a majority, even, of which may favor the insurgents—have the power through this writ of *habeas corpus* to take and bring before them and set free any insurgent whose liberty is restrained, and discharge and send home any soldier of the Governor's militia force, leaving the Governor with the oath of God upon his conscience to put down the rebellion or insurrection, and "take care that the laws be faithfully executed," without even a corporal's guard to assist! How can he do it when his soldiers have been taken on writs of *habeas corpus*, and when wanted to fight the enemy are either attending Court, or discharged and gone home? For these and other obvious reasons, the American people uniformly adopt the exception in their Constitutions. A member

calls this "the great writ of personal liberty that can't be suspended." It is so great, that if adopted it will take from the State the power of maintaining her peace or existence, especially when aliens and foreigners avail themselves of their invitation to become the owners of her soil.

Section 10th of same Article is equally novel and absurd. It is this: "No person shall be deprived of life, liberty or property without due process of law, *and the judgment of his peers.*" The part not italicised is contained in the Fifth Amendment to the National Constitution, proposed I think by Virginia in 1789, and is also contained I think, in every State Constitution that has been made since. The terms "due process of law" has been uniformly construed to mean, for causes, and in the mode existing laws prescribe. Hence Justices of the Peace have uniformly imprisoned and deprived persons of property which they honestly believed they owned, without the intervention of juries; so our Courts of Chancery throughout the country, are daily deciding on the rights, and transferring from one person to another through their Commissioners, immense properties without the intervention of juries, that is, "the judgment of their peers;" so in our army in pursuance of the articles of war established by Congress, members of the U. S. Army are tried and deprived of their liberty, and often of their lives, by Courts Martial, composed always of superiors, and not of their equals in rank, in other words their "peers," which literally means equals in rank, and in common law parlance ordinarily a jury of twelve men. What use or application the Conventionists expected the phrase to have in our system of government, I am unable to conceive; unless it be to give rise to endless law-suits. For while they give Justices of the Peace jurisdiction in civil matters to decide, and deprive parties of property to the amount of $100, with unlimited power to arrest and commit in criminal cases—they expressly forbid their having juries in any case. Neither have they any provision requiring our Chancery Courts to invoke the aid of juries.

Section 13th of same article provides that when a man sues directly in the County Court for any sum over $20—say $20,01, he shall have a jury of twelve men to try the same; but if he sues before a Magistrate for $100.00, and afterwards appeals to the County Court, the Legislature may authorize a less number than twelve jurymen to try such appealed case. The wisdom and purpose of this distinction are too subtle for my comprehension, although they concede that our

present juries of six men, that may be required before Justices, satisfies the 7th amendment of the Federal Constitution.

Article 4th, Section 12th declares in effect that our people shall not be required to prove their right to vote and have their names entered on a register at any time—and Section 43, Article 5 expressly forbids it. This of course throws upon the officers superintending the election, the duty to hear evidence and decide, while the election is going on—all the various and often intricate questions that arise touching the qualification to vote of the numerous persons offering. Nearly every State in the Union has a law requiring these questions to be heard and decided, and the names of all such as are found qualified to vote entered on a register, previous to the day of election; so that the superintendents on the day of election have only to attend to receiving the votes of those whose names have been previously registered, and also such as are able to show reasonable cause for not having previously attended, proved their right to vote, and had their names registered. Our present Constitution authorizes the Legislature to make a similar law. What could have been the motive for the Conventionists thus throwing upon the superintendants the hearing and deciding the various questions that arise, and attending to receiving the ballots, keeping order &c., at one and the same time? It certainly confines the hearing and decision of these important questions to a few moments of time by officers who have enough else to attend to.

The test oaths they have so much complained of, would apply equally to the time they propose for determining who are entitled to vote; and besides, all these are now abolished; and can, by no possibility be revived, unless a portion of our people *de-citizenize* themselves again by becoming public enemies to the United States Government; which I hope is not contemplated—though I confess there are several features in the proposed Constitution that would squint that way, could they not be attributed to the peculiarity of their education, and fossilized prejudice inflamed by chagrin.

Very Respectfully,

G. P.

July 18, 1872.

P. S. When you speak of me as a Democrat, which I hope I am, please add—but not of the GREELEY stamp.

[No. 3.]

THE PROPOSED CONSTITUTION, TO BE VOTED ON THE FOURTH THURSDAY IN AUGUST.

Editors Wheeling Intelligencer :

Article 6, Section 16, requiring the members of the Legislature before entering on the duties of their office to take in addition to the usual oath of office, an oath not to accept bribes—that is not to commit an infamous crime while acting in their official capacity—is novel and must disparage our people in the estimation of civilized communities everywhere. Why not swear them not to break any of the commands of the decalogue during the same period? Why not administer a like oath to the Executive and Judicial officers? In what a humiliating aspect it would present our people to the moral sense of the world, who will, and rightly too, regard our officers as reflecting the character of their constituences? Officers requiring such oaths are not the persons to be entrusted with the high and solemn duty of deciding for us when the Federal Government shall encroach upon our reserved rights, and of guarding and protecting us at all hazards—even to war with the Federal Government. In enlightening the intellect and elevating the moral tone of the constituency, lies the only remedy—and not in precautionary oaths, or the infliction of infamous penalties.

Section 35, of same article declares thus: "The State of West Virginia shall never be made defendant in any Court of Law or Equity." Suppose old Virginia should sue her again in the United States Supreme Court as she did recently to recover Jefferson and Berkley Counties, and the United States Supreme Court should entertain the action, as it certainly would—what would our Legislature do, being clothed with the "high and solemn duty" of guarding and protecting us and the State Constitution of course against all encroachment? Certainly nothing short of a declaration of war against the Federal Government, whose Constitution says any State in the Union may sue and be made defendant, in the United States Supreme Court—would suffice. And then the State militia must march as South Carolina's did under Col. HAYNES and Mr. CALHOUN in 1832, until Gen. JACKSON confronted them. I don't see how their "high

and solemn duty" could be discharged short of that. Coupled with this section was, doubtless, the omission to recognize in any form the 9th section of the Ordinance of Separation passed by the Convention of the people of Virginia, assembled at Wheeling August 20, 1861. This provision was in substance a contract which the Federal Constitution does not permit our people to violate in any form, whether our State Constitution recognizes it or not. Their omission to recognize in the proposed Constitution the purpose they avow with so much credit and satisfaction—while it stamps our people with perfidy, can, in no degree, release us from our just liability in regard to the Virginia debt.

Section 39 of the same article would seem to so far restrict legislation in regard to special and local subjects, as to require all laws in their application to be coextensive with the limits of the State, and far above the practical local needs of the people, which are constantly changing.

Article 7, section 1, the union of the duties of Attorney-General and Reporter of Court of Appeals decisions, in the same person, would seem to me to be often embarrassing, if not wholly incompatible. Why require the Executive officers, as Auditor, Treasurer, &c., except the Attorney-General, to "reside," that is, have their families located at the seat of Government during their term of office? It would often enhance their expenses—and wherein benefit the public?

The Court of Appeals proposed, is to consist of four Judges instead of three as now. The almost universal practice throughout the civilized world is to have an odd number, three, five, seven, nine, &c., so as to render it impossible for them to stand equally divided on any question; and produce in every case a decision that shall be regarded as a precedent. When from accident or otherwise, an even number has been present and they equally divided, the judgment below stood confirmed and the decision considered a binding precedent. The proposed Constitution adopts this rule with its four Judges, except in the last instance, their decision is not to be regarded as a precedent or authority beyond the case itself. In all cases like the last therefore the question is undecided and open for future litigation; whereas with the present number the question would have been judicially settled for all time, and all cases. The present number are amply able to do all the work of our little State, for the present at least. What motive the Conventionists had, except to displace the

present faithful incumbents and make a nice place for four of their party, and still keep open for further litigation disputed questions, I am unable to see.

They propose to have nine Circuit Judges, each to hold two terms a year in each County.

As constituting the next judicial grade below, they propose to have fifty-four County Courts, one for each County, composed of a County Judge to be chosen by vote of each County, who is to preside, is to hold six terms in his County each year—at four of which terms two Justices of the Peace are to sit with him, and at the other two terms, a majority of all the Justices of the County are to sit with him. The Judge is to have $4 a day for the time he sits, and his associates $3 each. Of course the compensation paid will not secure a County Judge of any considerable legal attainment; and still they propose to clothe his Court with large law and equity jurisdiction, and give him a grand and two petty juries with all the attendant officers that attend the Circuit Court, where a Judge presides who is learned in the law, knows what it is, is competent to instruct all in attendance, including lawyers and juries, in that regard; is master of his position, able, competent and disposed to dispatch the business by administering the law. While the County Judge, though a good man otherwise, has never studied the law, and don't know what it is that he has undertaken to administer; the lawyers will lead him by the nose, tangle him up and confound him with their legal quibbles and sophistries, while grand and petty juries and suitors with their witnesses from all parts of the County, are in attendance, enjoying the sport, or sharing the mortification—at a cost to the County and parties of hundreds of dollars per day! I have not overdrawn the picture, as any one who has witnessed the workings of the old Virginia County Courts, will say—Courts that belong as emphatically to the past, as the pyramids and mummies of Egypt. And still the Convention seriously asks us to adopt this system in place of our present simple, practical, common sense mode of conducting our County and Judicial affairs, where a Circuit Judge, learned in the law and master of his position, comes among us three times a year, dispatches the business promptly and intelligently, and releases the County and parties of a heavy expense, both of money and time; while our Boards of Supervisors, composed of practical business men, manage and dispatch with alacrity and practical sense the fiscal and internal concerns of the County—thus verifying the old adage, "Every man to his own trade," or work he

understands and is master of. Talk about the economy of the two systems! What they propose to pay the County Judge and his associates, sinks into nothing when we consider the immense retinue and attendants, grand and petty juries, suitors, witnesses and officers that must necessarily accompany their sessions—all comparatively useless and inefficient for the want of a competent legal mind on the bench to instruct, direct and control. With equal propriety A. T. STEWART might employ a common farmer or mechanic and place him at the head of one of his immense Dry Goods stores, to superintend and direct the numerous employees, and call it economy, because he got him at two dollars per day! It is amusing after surveying the different subjects and duties they propose to devolve on the County Courts to refer to Section 1, Article 5, which undertakes carefully to define and separate the duties of legislative, executive and judicial officers, and expressly forbids those of one department exercising the duties properly appertaining to either of the others—they devolve on their County Court the duties of three departments in one confused medley. They give Justices of the Peace jurisdiction throughout their respective Counties—and the party suing may compel his opponent to travel the whole extent of his County to attend a justice court. They have jurisdiction in civil matters to $100, but when over $20 the defendant may at once remove the suit to the County Court. Their main purpose appears to be, to make it necessary in all cases to employ lawyers and oblige all parties and witnesses to come to them at the County seats, where are to be established again the County Courts with their rings, once so famous in Virginia, and to which and the CALHOUN dogma of which they were the chief expounders, the late rebellion in a great measure owes its origin.

Very Respectfully,

G. P.

July 20, 1872.

[No. 4.]

THE PROPOSED CONSTITUTION, TO BE VOTED ON THE FOURTH THURSDAY IN AUGUST.

Editors Wheeling Intelligencer:

The framers fearing their County Court humbug would not be relished, proposed to secure the adoption of its pernicious features

by allowing the people of any County, or of two or more adjoining Counties combined, with the assistance of the Legislature, to affix names other than County Courts. See Section 34, Article 8. Thus allowing, if not inviting, the third grade of Courts throughout the State to be known by as many different names as there are Counties; yet they take care to secure the same pernicious features under all the different names that may be selected. What a checkered face, and medley of names, our State would exhibit in this grade of her Courts; and each performing the duties that the citizens of other States will be most interested in, and be obliged to consult, as recorders of deeds, taxes, &c. How can these find out the names of the officers to be addressed? This feature is indeed original. It is unknown to every other State in the Union, and I think the civilized world. A uniformity of names as well as powers of Courts of the same grade, are always preserved throughout all the Counties of the States, excepting only in incorporated cities and towns.

By Section 4 Article 9 they propose another novelty equally unknown in our American system. It is, I think, a universal practice to remove from office judicial officers for malfeasance, misfeasance, or neglect of duty therein, by impeachment by the popular branch of the Legislature, and conviction by the Senate; or by the address or resolution of the Legislature.

The framers propose to remove the County Court Judges by having them indicted for either of said causes, and convicted before the Circuit Court in the same manner as is done with horse thieves and other felons. This is novel indeed, and illy comports with the imposing dignity with which they propose to clothe their County Courts, or the independent judiciary they promised. Why, it would make any of these grave dignitaries, while presiding with his magisterial supports on either hand, over an immense and imposing retinue, composed of grand and petit juries, lawyers, sheriffs, suitors, witnesses, &c., liable to be seized and carried away at any moment on capias issued—on indictment found in the Circuit Court for alleged neglect of duty merely, at the instance of a disappointed suitor. What a spectacle such an occurrence would present. I would ask my fellow citizens to pause here a moment and compare this proposed system with the present township system, which Mr. JEFFERSON originated. Each township with its justice, whose jurisdiction is limited to his township, before whom his townsmen can come, and with or without the aid of six neighbors as a jury, promptly, cheaply and sat-

isfactorily settle home disputes, and without the aid of lawyers. Shall we then give up the township system with its neighborhood courts, its free schools for our children, and as our Fathers told us, the fittest schools for educating and training American freemen, and intrust all again to the old County Courts and their rings. The township system has been new to us, and as yet but partially, and in many sections quite unfairly tried. Other States we may feel proud to imitate, have long tried and now cherish the system.

Article 11th seems to me objectionable on many grounds. Its most obvious purpose seems to be to secure votes by appealing to present existing popular prejudice against the Baltimore & Ohio and other similar large railroad corporations, and in their eagerness to bring this prejudice to the support of their proposed Constitution, they have gone in many instances to ridiculous lengths, to lengths that must beget infinite litigations, and finally be decided in favor of the companies already in possession of their charters, which are contracts that the Federal Constitution and the uniform decisions of the Federal Courts abundantly protect and uphold. What right has our people, either by its Constitution or Legislature, to restrict or modify the rights conferred by any charter granted prior to 1850, wherein such right to alter or modify is not expressly reserved in the charter itself? Certainly none. Moreover the first Section, prohibiting the Legislature granting any special charter in any case seems to me unstatesmanlike and unwise. The charters for the various internal improvements through different and dissimilar localities will necessitate different and peculiar provisions, which can only be reached by special charters.

Section 11, Article 12, on education, seems to me particularly objectionable; for it prohibits for all time the establishment of additional Normal schools, whose legitimate object is to qualify and train male and female teachers for our free schools. There is now a great scarcity of competent teachers. Few of these are natives of the State, but come from neighboring States—generally of the lower grades—frequently mere adventurers, and exact high wages. Now there is no better material for making good teachers than our own native boys and girls afford. Is it not right as well as true State policy to train and qualify our own boys and girls to become the teachers of our free schools?

It will improve their character, qualify them for honorable, useful

and remunerative employment, and at the same time keep the monies we pay out for teachers at home among ourselves. Such a course I know would gratify our own people, our farmers, mechanics, &c., the fathers of our boys and girls, no less than the boys and girls themselves. Normal schools erected in convenient sections of the State, are the proper institutions to do this work most speedily and cheaply; and hence the impolicy and injustice in absolutely prohibiting for all time their creation. I am for encouraging home production to this extent at least. What should we think of our people if, after raising plenty of good wheat, for which there was not remunerative markets, they should neglect to manufacture it, but purchase their flour of inferior stamp abroad at extravagant prices?

Article 13 on "Land Titles," the framers count on as sure to bring to the support of their instrument all that unfortunate class in our State known as squatters or junior patentees, on whose imperfect and confused titles our politicians have "lived, moved and had their being" for the last forty years. They therefore have counted much on this article, and are parading it everywhere, and assuring those they have so long managed to dupe, that if adopted, it will take the lands of citizens of other States, honestly purchased and taxes paid, which persons they call dishonest speculators, and give all to the occupants!

I have examined the article and am unable to see how it can in any way, materially benefit or harm this unfortunate class; though I can see that the parade they make of it, and disposition and feeling shown, will greatly injure our State and people with the citizens of other States, whose confidence, capital and co-operation we stand in eminent need of at this time.

The 14th Article, their mode of amending the Constitution. The only material difference between this and Article 12th of the present Constitution is this: They require a specific amendment to be approved by a two-thirds majority of our Legislature before submitting it to the people; while the present Constitution requires the approval of a bare majority of our Legislature, and then three months publication of the proposed amendment before the election of the succeeding Legislature, so the people may vote with regard to it—and then if approved by a majority of the Legislature so elected, it is to be submitted to the people. It strikes me the latter mode is the safest and best; for the reason the proposed mode requires the people to get a two-thirds majority of the Legislature to concur before any specific amendment can be inaugurated, however much

needed the amendment may be; and if the Legislature should of its own motion propose one that was not needed, it can only be stopped or disposed of by an election of the people with its accompanying loss of time and money; whereas by the present mode a bare majority of any Legislature is competent to propose one or more specific amendments. These have to be published three months throughout the State before the succeeding Legislature is elected, so the voters can read and consider them, and if not approved, can choose a Legislature that will disprove, and this ends the matter, without any additional expense but the previous publication.

The permission to the Legislature to lessen the credit with the community of persons whose real and personal property is worth only $1200 or less, by exempting that amount from being taken for debt, would not be likely to be acted on by any Legislature, with the consent of that class, as it is the poor and dependent that need credit, not the rich and independent.

The schedule by which they propose to put their plan in operation is equally novel and peculiar. If after a month or two for ascertaining, it shall appear that a majority voting has approved of their instrument, it is to take effect and be in operation from one minute past midnight preceding the day of the election. That is some eight hours before the polls are opened, and seventeen or eighteen hours before they are closed. With equal propriety they could have fixed the commencement of its operation the midnight preceding the 20th of June, 1863, when the present Constitution went into operation, and so have wiped out entirely the present Constitution that has annoyed them so much. Another novel feature is, all the offices it creates are to be filled by choosing at the same election; and the election of the members of the Legislature is to vacate the offices of the present members, and as the terms of the members elect do not commence before the first Tuesday of November next, between the two dates there will be no Legislature and no power anywhere to create one, no matter what should happen. Whose "high and solemn duty will it be to guard and protect us from encroachments on our reserved rights" during that period? It provides that our present Courts shall continue till the first of January next, and requires them to hold their terms of Court as now established; but provides that all "processes outstanding" the 22d day of August, the day of election, shall be returned to the newly elected Court to be organized at such time after the first of January as the newly elected Legislature, to convene

the third Tuesday of November, may direct. What will the officers do who hold such outstanding processes, which imperatively command such officers to make due return to a particular Court on a specified day? What becomes of the attachments, bonds, securities, &c., connected with these outstanding processes? I leave these questions for wiser heads to solve.

I have thus called the attention of my fellow citizens to what seems to me grave objections. Those touching the election of members of Congress, the imperfect description of our territory, the greatly enhanced cost, &c., &c., have already been discussed by more competent minds.

My confidence in the intelligence and patriotism of my fellow citizens forbids a doubt, but that the proposed Constitution, its schedule and the ring, will be overwhelmingly defeated; but if through the chastisements of an inscrutable Providence it should happen otherwise, I would say in behalf of myself and fellow citizens: Remember us, oh God, in this, the severest of Thy Inflictions!

Very Respectfully,

G. P.

July 22, 1872.

THE Governor subsequently proclaimed the Ratification carried by a vote of 42,154 in favor, and 37,748 against—by a majority of 4,406 in an aggregate vote of 79,902; and new officers duly elected in pursuance thereof. No returns had been received from the Counties of Ritchie and McDowell, whose vote would not have changed the result—if no fraud. The Convention submitted by a separate poll the question, whether colored men should be eligible to office, though the Fourteenth and Fifteenth Amendments of the Federal Constitution had made them both citizens and voters. The vote for excluding from office "on account of race, color, or previous condition of servitude," was only 27,568. A fear of Congressional Reconstruction, (that might uncover fraud) I was told, deterred many from voting on the Proposition, who otherwise would.

The somewhat puzzling question, and suspicious feature of this transaction, is, how the aggregate vote cast in the State a year before—when both the ex-rebels and colored people were enfranchised, and when the most vital step in their scheme was at stake, was only 57,858—should become increased to 79,902—an increase of 22,044

without any apparent, legitimate cause! I here insert the remarks of my critical, ingenuous friend, Mr. HALL, then Editor of the Wheeling *Intelligencer*, appearing in that paper of October 30, 1872, as one hypothesis that will solve the problem—with this additional suggestion: there were at the time of the election, thousands of men, citizens of Virginia and other States, at work on the Western end of the Chesapeake & Ohio Railroad, and there was no law requiring a previous registration of voters—that having been repealed in February, 1871, by the Legislature that inaugurated the Convention scheme.

"THE VOTE ON THE CONSTITUTION.

"In our columns yesterday appeared the full vote of the State on the Constitution in August, as derived from official sources, excepting the Counties of McDowell and Ritchie from which no returns had been received. It shows that the vote then cast (at least returned) was far the largest ever cast in the State. The aggregate reported is 79,902, with Ritchie and McDowell to hear from. These Counties cast about fifteen hundred votes a year ago. Their vote makes the total over eighty-one thousand. The vote for Governor in 1868 was 49,293, in 1870 56,030. That on the call for the Convention in August last year, was 58,227. The vote last month is therefore more than 23,000, or over 40 per cent. greater than any ever cast before. All restrictions on suffrage were removed by the ratification of the FLICK Amendment in April last year. The vote in the following August was as free as it was last month, yet we have the surprising addition in one year of 23,000 votes to a vote of 58,000.

* * * * * * * *

"Cabell is the only County whose vote exceeded one to each four inhabitants.

"The Counties whose vote exceeded one to each five, but fell below one to each four, are: Calhoun, Gilmer, Lincoln, Marion, Pleasants, Raleigh, Wayne, Webster and Wirt. All of these Counties (except only Pleasants) gave majorities for the Constitution. The vote of Calhoun last year was 472, this year 652; Gilmer last year 603, this year 875; Lincoln last year 721, this year 1,054; Marion last year 2,408, this year 2,911; Raleigh last year 482, this year 846; Webster last year 226, this year 362; Wirt last year 802, this year 964; Wayne last year 1,024, this year 1,796; Cabell last year 927,

this year 1,670. Other instances quite as striking could be noted, such as Wood, which added 1,011 to her 2,690; Wetzel, which added 716 to its 746; Barbour, which added 502 to its 1,402; Pleasants, which added 282 to its 440, and so on.

"This extraordinary vote may have been honestly cast and returned. We have no evidence that justifies us in asserting that it was not, but these figures inevitably provoke a doubt. We present the figures and leave the reader to judge for himself."

I PUBLISHED the following at the time the Legislature was remodelling the Free School system, under their new Constitution; and when different plans were being proposed.

[No. 1.]

PLAN FOR A FREE SCHOOL SYSTEM.

Editors Wheeling Intelligencer:

Will not something like the followihg Free School System best suit our people at the present time?

First—Let the Legislature fix and levy the *entire* amount to be raised annually for school purposes.

Second—Let this be collected by the Sheriffs and paid into the State Treasury—the Auditor to keep an account of the school money received from each County.

Third—Let the voters of each County elect a Treasurer of its School Fund—hedge him round so the money can't be lost.

Fourth—Authorize the Auditor to pay to each Treasurer the amount his respective County has paid in, with the quotas arising from the permanent fund as at present.

Fifth—Let the voters of each school district choose annually one of their number to act as Commissioner—to keep in repair the school house, hire, draw the money coming to his district, and pay the teachers. The Commissioner to draw no pay for ordinary services. This

office to rotate annually, and to be performed *gratuitously* by the voters for the sake of the cause.

Sixth—Let the Presiding Justice of the County Court, with the Commonwealth's Attorney and the Clerks of the Circuit and County Courts, constitute the Board of Examiners—the applicants paying the prescribed fees.

Seventh—Let the Treasurer act as County Superintendent—each teacher be required to report to him, and he to the State Superintendent.

Eighth—Complete as soon as practicable, the Normal Schools now authorized by law, give to them the greatest efficiency possible, and make the terms so reasonable as to enable and induce the young men and women of our mountain districts to come and qualify themselves to become teachers in their respective districts or neighborhoods. This will quicken and inspire the young men and women, and they will be the best qualified to teach, quicken and inspire their neighbors' children. Their literary attainments need not be high, as it is only the *rudiments* they will be required to teach, but should be accurate and thorough as far as they have gone. This system not to apply to incorporated cities and towns—give such the privilege of having as high a grade of schools as they desire—they paying the additional expense.

It should be constantly borne in mind, it seems to me, that a large majority of the children of the State, especially the mountain districts, are comparatively illiterate, and to do the work right we ought to begin at the bottom and work in a way that the tax-payers and parents shall see and realize the advantage derived to their children. The support the people have already given the system with all the errors of administration, ought to admonish all that it is a subject near to their hearts. The children crave to learn the art that shall enable them to read and think for themselves, and so emancipate themselves from the control of demagogues, both secular and spiritual. My earnest desire is that every child in the State shall enjoy this inestimable privilege; and when this is done, it will be time enough to consider whether it is true State policy to tax the people to carry them further than a practical common school education. I don't believe it is. Such as really merit can always of themselves find the means to go higher, and all such as have not the native capacity had better remain where they are, lest a good farmer or mechanic, most valuable to the State, should become a public nuisance

in the shape of a pettifogging lawyer, quack doctor, or renegade preacher, genteel loafer, or thieving practitioner generally. No Constitutional objection can be raised to the plan indicated. If a local Board of Education can levy money by "authority of the people," there is no reason why the Legislature may not—its members being also their immediate agents—and to their combined wisdom, is it not safest and best to confide this delicate task for the present at least?

If it be objected, that the Counties of low valuation should receive more than they pay in—I reply that neither equity nor true State policy would sanction. While the number of children may be proportionably larger, much less expensive teachers are required as a general thing to meet their wants. Besides, the more rich and advanced Counties have had to pay their way up from a similar state of illiteracy, and why should not those now behind do likewise? I see no reason.

Myself and friends have paid and are now paying large amounts of taxes for school purposes; and we do it most cheerfully when it goes to help open the eyes and enfranchise the minds of the youth of our State, but it stirs us deeply to see these "children's bread" snatched and devoured by dogs—nay worse than dogs—be they secular or of some of the religious orders.

These are suggestions merely for the consideration of my fellow citizens and tax-payers. The plan is simple, and the people whose concern it is, can understand it. "Thieves cannot break through and steal." It is purely secular, and ambitious rival sectaries cannot enter. And though it possesses none of the complicated machinery of the present system, which our mountain districts have never understood and of course have mismanaged, nor the stilted, high-sounding additions the recent Educational Convention propose to engraft in the form of many grades of Examining Boards, with as many grades of certificates, and worse than all a "Teachers' Institute," to be supported in each Senatorial District, presided over and instructed by "learned Professors" solely, to include doubtless the D. D's. and Professors of the Colleges, with power to grant certificates to such only as shall attend on their instruction, and get of course their sectarian cue. Think, a non-acceptance of that cue would not lose the applicant his certificate, however well otherwise qualified? A close corporation indeed! and suggestive of another "Credit Mobilier," which, in league with the Colleges, their D. D's. and Professors, are to rival

and swallow up what—unless it be our secular and unsectarian Free School System, including the Normal Schools? They would necessarily be rivals and antagonistic to our Normal Schools—for they aspire to occupy the same ground, to duplicate so far as they go; and while the spirit of religious sectarianism would animate the one, the yearnings of our people for intellectual enlightenment and freedom would, or should, animate the other.

Nearly all the school learning I ever got, I acquired in a rural Free District School in Massachusetts, where the system was far simpler than the one indicated, and far less expensive than we may hope ours to be. The master's school in the winter was usually from ten to twelve weeks—as much time as the boys could be spared from the farm. Six hours each week day, except Saturday, which was three, was the time allowed; the rest of the time I had to work chopping wood, attending to stock, &c. It was the same with the other boys. Our master was usually one of our farmer's sons who had qualified in the same school, except a finishing touch received in a quarter's or so, attendance at some Academy. The average wages paid was $14 per month and boarded. The balance of the year he labored on a farm.

The woman school was usually for a like period in the summer. The "School Marm," as she was styled, was usually the daughter of some farmer of the district, and her pay was $1 a week and board. Only the children that were not large enough to work attended her school. I mention these facts to show how simple and cheap the "Free Schools" were in the State that first established them.

Having no party feeling myself, I should be very sorry to see this most vital question assume a partisan character.

Very Respectfully,

G. P.

February 6, 1873.

P. S. I would further suggest that as the tax-payers furnish the money to build the school houses and pay the teachers, it is their right to have a law *enforcing* indifferent parents and guardians to send their children or wards—if physically able—a sufficient time to acquire the art that enables them to educate themselves, and become industrious, useful citizens, instead of (too often the case) subjects to be supported as paupers or convicts.

each other's sins and mutually forgive each other, signed by BEECHER, BOWEN and TILTON, dated April 2, 1872, fourteen months ago, and first made public on Tuesday last by the custodian to whose honor the three had entrusted it. This custodian assigns as his reason for publishing it that BOWEN had failed to keep the silence he therein covenanted to keep, but still *insisted* and declared that the heinous and atrocious crimes that BEECHER had been charged with committing *were true*, and for the further reason that the public may understand the "*brave silence*" the "great preacher" has kept, and that the document is given to the world to convict the principal offender against truth, public decency and reputation, meaning, I presume, BOWEN, one of its members and main pillars since its foundation.

The "great preacher," in his note to the *Eagle*, says he "should not speak now but for the sake of rescuing *another* from unjust imputation," which means TILTON, of course, who together with his wife had been pillars. "That the document was published by the *custodian* without the consent or authorization of either himself or TILTON; and if the document should lead the public to regard Mr. TILTON as the author of the calumnies to which it alludes, it will do him great injustice." "I am unwilling," he says, "that he (TILTON) should even *seem* to be responsible for the injurious statements, whose *force* was derived wholly from another," which must mean BOWEN, or the "great preacher"—his conscience having clothed himself with all the imputed guilt in spite of his exuberant "cheek!" The evidence already before the public, in my opinion, (and I have carefully read it) applies it to the *latter*.

The *Eagle's* prefatory remarks to the "great Preacher's" note, dictated doubtless by him—says Mr. CLAFLIN was the inaugurator of this unique "covenant," for the purpose of reconciling the "great Preacher" and BOWEN; and that this CLAFLIN became the entrusted custodian; but "that SAMUEL WILKESON, *business partner of Beecher* drew it up, kept a copy of it, and that this same WILKESON, the *business partner* of BEECHER gave it to the press last week *without his*, BEECHER'S, *consent* or authorization." Rather a treacherous partner we world's people would think. A little "too *thin*," we should say.

I will at this time give but one of TILTON'S letters, that to *his Pastor*, written in the fall of 1871, shortly after, as is alleged, his wife, having returned fresh from a watering-place sojourn, was most

persistently solicited by the "great Preacher" to become (if she did not) his wife for the time being.

This is the letter, and its genuineness has never been disputed. TILTON entrusted BOWEN, who appearing similarly aggrieved, to deliver it—and in the act BEECHER won him to his side!

"HENRY WARD BEECHER: SIR.—*For reasons which you will understand, and which I need not therefore recite*, I advise and *demand* that you quit Plymouth Pulpit forever, and leave Brooklyn as a residence. THEODORE TILTON."

The reliable evidence already made public proves, it seems to me, a degree of moral corruption, and disregard of law, in that church, its aiders and abettors, that has no parallel; and that the "great Preacher" himself has been the prime cause, and directing spirit, of the whole.

It appears that Friday evening, May 30th, after the "covenant" had been made public, the Deacons at the suggestion of the "great Preacher" resolved to have an investigation! What whitewashing may we not expect?

Both BEECHER with all his fascinating AARON BURR magnetic power, and the sticklers for an effete and worn-out theology, who employ him, should have better appreciated the great truth divinely announced near nineteen hundred years ago, than to have attempted to put the new wine of to-day into their old bottles! It will burst the old bottles, and themselves too, if they continue the attempt to repress it. "'Tis hard to kick against the pricks;" "Truth is mighty, and will prevail," though the whole secular press become subsidized, and oppose.

Very respectfully,

G. P.

June 10, 1873.

P. S. I should not have written the foregoing, if it had not been for the palpable and alarming invasions these confederate actors have made upon the civil and religious rights of American citizens; but have felt content to let the Church folks fight it out in accordance with their Church rules. But this palpable violation of fundamental rights recently witnessed in New York, should forbid any citizen letting it pass without notice, and especially, those of the press whom we pay and expect to look out for danger, and give the alarm.

[No. 2.]

PLAN FOR A FREE SCHOOL SYSTEM.

Editors Wheeling Intelligencer:

It has been objected that if the Legislature should fix and levy all the school money above that arising from the permanent fund, it would take from the people the privilege they now enjoy of raising a portion *voluntarily* through their local school boards, for only in that way are they now allowed to raise.

I think such objectors do not understand the present law. The Legislature now levies 10 cents on every $100 valuation, which, with the poll tax it collects into the State Treasury, and then complacently says to the local school boards and through them to the people, now go to work and raise for yourselves sufficient money, when added to your quota, as shall run your schools four months in a year without exceeding 50 cents on a $100 valuation—if you don't, we will have the Circuit Court's mandamus after you, and will withhold from you all the moneys we have already levied and collected from you and your quota arising from the permanent fund also. [See sections 44, 45 and 60, chapter 45, Code.] A privilege like that a steamboat crew gives to horses, cattle, sheep, swine, &c., they wish to ship aboard. How much more manly and respectful to its constituents it would be for the Legislature, as the immediate and highest agency of the people, to fix the amount to be levied, collected, and pay it to the County School Treasurer, as needed, together with the quotas arising from the permanent fund, over which none but the people themselves have control.

Others object that it would be shocking—after the property owners have been compelled to furnish the money to build the school houses, hire and pay the teachers—to *oblige indifferent* and *sordid* parents and guardians to give to the future men and women in their charge, the future sovereigns of the Republic, this inestimable boon—the privilege of acquiring the art to educate themselves, and become intelligent, free and useful citizens, instead of future burdens to the tax-payers in the form of public paupers or convicts. The genius of West Virginia youth, if I understand it, and I think I do, is destined to strike out in some direction and make itself felt, either as a blessing and honor, or curse, disgrace and burden to the State. The in-

different or sordid feeling among parents and guardians in my native State, has induced its Legislature to impose upon all its manufacturing establishments and individuals a penalty of $500, if they employ a minor of the school-going age without a certificate from some competent authority that the youth has attended some school the prescribed time within the year. I am informed that there are a large number of totally illiterate youth in Wellsburg that have never attended our large and commodious free school, with its competent and worthy corps of teachers, which our taxpayers' money has built and supports.

Is the right of these indifferent or sordid parents so high and sacred that honest tax-paying citizens must still be compelled to keep on paying, and keep mum, lest they diminish the numbers of such parents, demagogues political and spiritual, may have to prey upon? I regret—however we might expect—that the objectors should be regular graduates of our colleges.

I learn from the Auditor's last report, which a friend loaned me, that delinquent Sheriffs prior to 1872 still hold on to $77,674.72 of the school money—the children's bread—and this is but a small item of the stealings in that direction. In fact, under the present system, the children in the mountain districts have scarcely got the crumbs of the funds raised for the purpose, that fell from the thieves' table. And one of the collegiate editors remarks with a true clerical supercilliousness, "G. P. is out again." I answer—and intends to stay out until the children get their bread, in spite of thieves or sordid and unnatural parents.

Very Respectfully,

February 21, 1873. G. P.

THE PLYMOUTH CHURCH SCANDAL—ITS "GREAT PREACHER" SPEAKS AT LAST.

Editors Wheeling Intelligencer:

I read in your paper of the 3d inst., his note to the Brooklyn *Eagle*, also in your preceding number the mutual "covenant" to remit

A CORRESPONDENT, over the signature of "R," a Clergyman, I think, replied through the same paper, in which he asserted the entire innocence and purity of Mr. BEECHER, (whom he styled "the world's great preacher,") and also his Church; and charged me with making "most uncharitable," if not malicious reflections upon him, and his religion, which he said was the Christian—to this I rejoined; but the editors of that paper declined to publish my rejoinder.

The recent *uncovering* of Plymouth Church, its "great Preacher' *et id genus omne* in the TILTON and BEECHER scandal trial has now rendered unnecessary further remarks by me, save this: The evidence and revealments that have shocked the moral sense, and offended, if not nauseated, the entire æsthetic nature of the civilized world (or at least the unecclesiastical portion) entitled the Plaintiff, with all his short comings, in my judgment, to a verdict without the jury leaving their seats; and ought to teach the male heads of American families—on the sanctity and purity of whose households our Republican Institutions rest—to remember the allegory of EVE and the snake, and like "the Angels, with flaming swords," guard and protect, at all hazards, against all insidious invaders; and especially such as claim to be "called of God," through whatever instrumentality, to be "spiritual guides," and conservators of our own, or families' souls.

Is not the only effective cure for the present rank and unblushing concupiscence in the Churches, this: To let the women, of themselves, run the present Churches (as something of the kind, it would seem, they must have) or, if they must have those of the other sex to help them—let such first become, or be made, Eunuchs. No one, I think, can say, such a requirement would not be altogether *Christian*—and Pauline, also. Does not the safety and purity of American households, at the present time, demand such a course? Let such male heads of American households, as think otherwise, read for themselves the almost daily revealments of the secular press throughout the country on the subject; and remember what is generally reported to be true, that Plymouth Church, at the present time, consists of from twenty-three to twenty-five hundred female members, mostly, it is to be hoped, the wives, daughters, or sisters of honest and industrious male citizens—whose duty it is, I submit, to rightly understand, wisely and justly, but imperatively, govern, guard and protect their

more pregnable, and at the same time, diviner natures, against seeming adepts in lechery, both male and female—still, all these are under the (so called) *spiritual* guidance, domination and control of about fifty-three affluent, high-fed, influential males—of the character that trial has disclosed—at the head of whom stands BEECHER! And also note that the entire Clerical fraternity in the United States, Catholics included, numbered in 1860, when the war begun, only 37,559, according to the U. S. Census of that year—numbered, the Protestant portion alone, in 1868, when an Ecclesiastical census was taken, 62,239, and our population 34,560,000, an increase of nearly two to one during the eight years, of ministers, whilst the increase of our entire population during the same period, was as one to ten; serving to show that different kinds of entozoons multiply during disturbed, or diseased periods of the political body, no less than is common in the animal, under similar conditions.

The inferences, my fellow-citizens will draw for themselves; yet, I submit, as a co-sovereign it is my right, as well as imperative duty, as it is theirs also, to take care that "the REPUBLIC RECEIVES NO DETRIMENT," from this, or other source.

P. S. August 2, 1875. The 31st ult., at 2½ A. M., the Honest, Brave and Patriotic Spirit of ANDREW JOHNSON took its flight to a more deserving world—with this as its last expressed wish, that his Country's Flag might wrap his mortal remains!