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ARTICLE I.

PRAYER CONSISTENT WITH THE UNIFORM OPERATION OF NATURAL LAW.

Since the occurrence of the disasters, which, in recent years, have befallen us as a people, there are not a few who have been tempted to scepticism in regard to the salutary offices which the Scriptures ascribe to prayer. Many earnest and united petitions have apparently failed to meet a favorable response, and to produce any results for good. Confident expectations, which appeared to have divine guarantees of fulfilment, have been blasted. Cherished hopes, which were founded on what seemed to be the promises of God, have been bitterly disappointed. In place of blessing, we have woe; and instead of emerging into the anticipated light of morning, we are like men who walk in the valley of the shadow of death. The pleadings of prayer, so far from having been converted into shouts of praise, have deepened into funereal lamentations, and given way to the wailings of despair. In this state of affairs, the temptation with certain minds has been a strong one. to refer the whole course of events

ARTICLE IV.

SOUTHERN VIEWS AND PRINCIPLES NOT "EXTINGUISHED" BY THE WAR.

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"The enjoyment of liberty, and even its support and preservation, consists in every man's being allowed to speak his thoughts, and lay open his sentiments."—*Montesquieu.*

It has been asserted by Northern papers so often as to produce general belief, that the people of the South, in "accepting the situation," have also abandoned their former distinctive views and principles. We enter our decided protest against such inference. The people of the South do, in one sense, "accept the situation." The providence of God has sorely smitten them, and humbled them, and they desire to bow in submission to his holy will. But it does not follow that the providence of God has decided against the justice of their cause. The cause of the Jews, as against the neighboring nations, was *always* just, for it was the cause of God. But yet, how often were God's own people defeated in battle, and even subjugated, by the more wicked heathen around them! Their cause continued just under defeat and subjugation, and ultimately prevailed. In all contests between nations, God is the principal with whom either party has chiefly to do. Providence, for wise ends, may permit an ungodly nation to prosper for a time; but loyalty to Christ, the head of all power, is the indispensable condition of a nation's permanent prosperity and renown. A cause must not only be righteous, but must also be supported by a righteous people; else a righteous God may justly punish them, by suffering it to fail. With the multitude, success, or the want of it, is the sole test of the justice or injustice of a cause. The principle on which they proceed, is this: What God permits, is necessarily right; what he frustrates, is necessarily wrong. A most erroneous and destructive principle. God permits evil, but does not sanction it. And God frustrates a righteous cause on account of the sins of

those who espoused it. The word of God is the infallible standard of truth and duty. The providence of God appears sometimes to contradict the word, but does not, and never fails ultimately to vindicate the teachings of the word and the eternal principles of truth and justice. The people of the South, whilst submitting humbly to the terrible rebukes of a holy God for their sins, do not thereby surrender their well-established views and principles, political and moral: the first, supported by the Constitution of the country; the last, protected by the Scriptures of eternal truth. They have *not* been "converted by the sword to Northern ideas." The sword cannot "conquer" a creed. Force may confine the body, but cannot reach the immortal mind. Had the Southern people acknowledged and maintained aright their relations to Christ, the great Head of the State, "the Governor among the nations," Southern principles would have been crowned with speedy victory. But they refused to acknowledge him, in profession and in practice; and he refused to acknowledge them. As usual, in his dealings with nations, his judgments began with the less guilty people. And if they have been so fearful with us, what will they be with those whose cup of iniquity is greater than our own? The heavy blow that has prostrated us, will yet make the North stagger and fall. Before the tribunal of God, the South lays her hand upon her mouth, her mouth in the dust, acknowledges her guilt, and cries, "God be merciful to me a sinner!" Before the tribunal of nations, the South proclaims the justice of her cause; and to the jeers of a scoffing world, calmly responds:

"Truth crushed to earth, shall rise again!"

I. The South adheres to her former testimony in behalf of

STATE SOVEREIGNTY AND THE RIGHT OF SECESSION.

Truth cannot be put down by force of arms. It is our duty to give it our testimony, when we can give it nothing else. All the power of the United States Government cannot alter the following facts, taken principally from Judge Yates's Secret Proceedings and Debates of the Federal Convention, the Federalist, and Elliot's Debates. At the close of the Revolution of '76,

rebel colonies became free and independent states. As *States*, independent of herself, and of each other, they were recognised by Great Britain, each, name by name. As such, they formed a Confederacy: "The style of this *Confederacy* shall be 'The *United States* of America;'" the members of which were still recognised as "*sovereign and independent*" by the Articles of Confederation—those very articles which proposed to make the union "perpetual." "Each State retains its sovereignty, freedom, and independence." Thus they continued for thirteen years as equals, each State being entitled to one vote. When, in 1787, they formed the Constitution of the United States, they did it, State by State, as equal sovereignties. Such a political body as the people of the United States, as distinct from the States themselves, never existed. Had there been such a body, then a minority of the larger States, comprising, however, a majority of the people, could, and would have imposed the Constitution upon the people of the remaining States. But this was not the case. Each State ratified the Constitution for itself—no two at the same time—and thus, and thus only, did it become the Constitution of the States United. And so we find that the only "citizens" known to the Constitution, are "the citizens of each *State*," "citizens of different *States*," (Art. 3, Sec. 2; Art. 4, Sec. 2,) showing that *the State only has citizens.* If sovereignty is not in the States, then they are united Provinces or Counties, not united States; and so no better off than when subject to the British Crown. The Revolution was a failure; and the Declaration of Independence, which proclaimed them "free and independent States," was a farce. But the Constitution itself shows the supremacy of the States, when it shows that *it* was "established" "*between*"—*not over*—"*the States ratifying the same;*" and when it shows that amendments are effected, not by any one three-fourths, but by any three-fourths *of the States;* proving thus that sovereignty is in each of the States. The old Confederation was ratified by State *Governments* acting through delegates; the present Constitution by the people of the States in Convention assembled. The former, a union of State Governments; the latter, a union of States themselves. The

former, a union of agents exercising the powers of sovereignty; the latter, a union of sovereigns themselves. Both were unions of political bodies, as distinct from a union of the people individually. Both, *Confederacies*. But the present, in a higher and purer sense than the former; just as the act of a sovereign is higher and more perfect than that of his agent. Thus was "a more perfect union formed," as the preamble to the Constitution states; a consolidation of the Union, but not a consolidation of the States. This common Constitution is, for certain ends, the Constitution of each State, as much as its particular Constitution is for other ends. The General Government was now raised to the same level with State Governments, (instead of being their creature, as at first,)—through both of which, sovereign States exercised their sovereign powers, respectively; through the one, a conjoint, through the other, a separate exercise of sovereign powers. The States are united to the extent of the powers delegated, and separate beyond that limit. To speak of "distributed sovereignty," divided sovereignty," "delegated sovereignty," is absurd. Sovereignty is a unit, indivisible; but the exercise of sovereign powers is divisible. And sovereign States have divided the exercise of their powers between the State and the Federal Governments. Sovereignty is the very life and soul of a State. "Powers" do not constitute it; for all possible "powers" of government may be delegated, and yet sovereignty remain intact. The Constitution shows that the Federal Government has only "powers," and therefore it cannot have sovereignty. Sovereignty is an essential characteristic, and is neither the subject nor the result of any acknowledgment, agreement, or reservation. The Constitution may recognise it, but cannot confer it. What are termed by loose writers "exceptions to sovereignty," are in reality simply the powers owned by the States, and delegated to their common agent, the Federal Government. To "delegate" is not to "transfer, "relinquish," or "surrender." The ownership of delegated powers is as unimpaired as is that of reserved powers; and the Government that administers the former, no less than those that administer the latter, is the property of the State. For though it be a govern-

ment, with all the rights belonging to it within the orbit of its powers, it is yet a Government emanating from a compact between sovereigns, who, through it, exercise their sovereign powers, conjointly, upon certain objects of external concern, of equal interest to each—such as war, peace, commerce, etc. But other objects of civil government are without its orbit. Upon all such the States exercise their sovereignty separately. It belongs to each State to determine for itself the extent of the obligation it contracted. Not the State, but the Constitution itself, annuls an unconstitutional act. Such an act is, of itself, void and of no effect. But the State declares the extent of its obligation; and such declaration is binding on its citizens.

The Federal Government, through all its departments—judicial, as well as others—is administered by delegated agents. And therefore, the power which controls, ultimately, the judicial, as well as all other departments, is not in the agents, but in those who appoint them. They who quote so confidently the 3rd Article of the Constitution, in support of the doctrine that the Supreme Court is therein made the umpire between the States and the Federal Government, to determine the political relations between them, may find their confidence rebuked by pondering the following words of that eminent authority, Chief Justice Marshall: "By extending the judicial power to all cases in law and equity, the Constitution had never been understood to confer on that department any political power whatever. To come within this department, (*i. e.* of a case in law or equity), a question must assume a legal form for forensic litigation and judicial decision. There must be parties to come into court who can be reached by its process and bound by its power; whose rights admit of ultimate decision by a tribunal to which they are bound to submit. A case proper for judicial decision may arise, when the rights of individuals are to be asserted, or defended, in court. The judicial power cannot extend to political compacts." In confirmation of the correctness of the decision of this illustrious judge, is the fact, that in the Convention which framed the Constitution, the advocates of a National Government proposed to make the Federal Government supreme, by giving it, in certain

cases, a negative on the acts of the State Legislatures. They insisted on this, after the judiciary, or third, Article of the Constitution was agreed to; which proves that said Article was considered by them as not constituting the Supreme Court the arbiter to decide conflicting claims of sovereignty between the States and the Federal Government.

So great was the fear that the Federal Government, under the Constitution, might, instead of the agent, become the sovereign, that the Constitution narrowly escaped defeat: Massachusetts adopting it by a majority of 19, in a convention of 355 members; New Hampshire, by a majority of 11 in 103 members; New York, by a majority of 3 in 57; Virginia, by a majority of 10 in 168; while North Carolina and Rhode Island rejected it, at first, by overwhelming majorities. As the Constitution was ratified by the States in Conventions assembled, its true character, and that of the Government it created, can only be determined, when called in question, by the construction of the framers, the States themselves.

First, let Massachusetts speak. Samuel Adams, one of the noblest of her sons and leaders, had, with many others, gone into her Convention with the determination to defeat the Constitution. His views of it he had given previously in a letter to Richard Henry Lee: "I stumble at the threshold. I meet with a National Government, instead of a Federal union of sovereign States. If the several States are to become one entire nation, under one legislature; its powers to extend to all legislation, and its laws to be supreme, and control the whole; the idea of sovereignty in these States must be lost." When it was evident in the Convention, that the Constitution would be defeated by an overwhelming majority, Governor Hancock introduced certain amendments—among them the famous tenth—to be proposed by Massachusetts to her sister States for their adoption, in order to conciliate the opponents of the instrument. With these, the great opposition leader, Samuel Adams, expressed himself satisfied, saying to Governor Hancock: "Your Excellency's first proposition is, 'that it be explicitly declared that all powers not expressly delegated to Congress are reserved to the several

States, to be by them exercised.' This appears to my mind to be a summary of a bill of rights, which gentlemen are anxious to obtain. It is consonant with the 2d Article in the present Confederation, that each State retains its sovereignty and every power which is not expressly delegated to the United States in Congress assembled." The same distinguished patriot thus wrote again to Mr. Lee: "The good people may clearly see the distinction—for there is a distinction—between the Federal powers vested in Congress, and the sovereign authority belonging to the several States, which is the palladium of the private and personal rights of the citizens."

In a letter to Elbridge Gerry, (1789,) he says that the leading Federalists "wish to see drawn, as clearly as may be, a line between the Federal powers vested in Congress, and the distinct sovereignty of the several States, upon which the private and personal rights of the citizens depend. Without such distinction, there will be danger of the Constitution issuing imperceptibly and gradually into a consolidated government over all the States, which, though it may be wished for by some, was reprobated in the idea by the highest advocates of the Constitution. The people under one consolidated Government cannot long remain free." And writing the same year, on the same subject, to Richard Henry Lee, he says: "Such a Government, pervading and legislating through all the States, not for Federal purposes only, but in all cases whatsoever, would soon annihilate the sovereignty of the several States—so necessary to the support of the confederated commonwealths—and sink both in despotism."

Mr. Shurtleff, in the Massachusetts Convention, made objection to the following statement contained in a letter of General Washington to Congress, Sept. 17, 1787, reporting the proceedings of the Federal Convention: "In all our deliberations on this subject, we kept steadily in our view the consolidation of our Union." Chief Justice Parsons replied to the objection: "There is a distinction between a consolidation of the States, and a consolidation of the Union." Mr. Jones said: "The word consolidation had different ideas. Different metals melted into

one mass, illustrated one; and several twigs tied into one bundle, the other. Mr. Deuch thought "the words, 'we, the people,' in the first clause ordaining the Constitution would produce a consolidation of the States; and the moment it begins, a dissolution of the State Governments commences." Colonel Varnum said the purpose of the Constitution "was only a consolidation of strength. It is the interest of the whole to confederate against a foreign enemy." Governor Bowdoin described the system as "a Confederacy, which would give security and permanency to the several States." Judge Sumner argued that there was no danger, "as the General Government depended upon the State legislatures for its very existence." Mr. Sedgwick said that "if he thought this Constitution consolidated the union of the States, he should be the last man to vote for it." Fisher Ames, one of the most brilliant names of the Revolution, statesman and orator, said: "No argument against the new plan has made a deeper impression than this: that it will produce a consolidation of the States. This is an effect which all good men deprecate. The Senators represent the sovereignty of the States. A consolidation of the States would subvert the Constitution. Too much provision cannot be made against consolidation. State Governments afford shelter against the abuse of Federal power. The system would be in practice, as in theory, a Federal Republic." Judge Parsons said: "The Senate was designed to preserve the sovereignty of the States." Christopher Gore said: "The Senate represents the sovereignty of the States." Governor Bowdoin said: "The States are distinct sovereignties;" "whether such power (of imposing taxes) be given by the proposed Constitution, it is left with the Conventions of the several States, and with us, who compose one of them, to determine."

The preamble to the Constitution of Massachusetts states: "We, the people of Massachusetts . . do agree upon, ordain, and establish the following . . frame of Government as the Constitution of the Commonwealth of Massachusetts;" "the people of this Commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign, and independent State, and forever after shall exercise and enjoy every power, jurisdiction, and

right which is not . . by them expressly delegated to the United States in Congress assembled." Her Convention ratified the Federal Constitution, thus: "The Convention . . . do, in the name, and in behalf, of the people of the Commonwealth of Massachusetts, assent to and ratify the said Constitution for the United States of America." Not in the name and behalf "of the people of the United States in the aggregate," or of a portion of them; but "in the name and behalf of the people of the Commonwealth of Massachusetts," of "a free, sovereign, and independent State," did Massachusetts ratify the Constitution—showing thus what she understood by the phrase, in the preamble to the Federal Constitution, "we, the people of the United States!" Notwithstanding all these explanations, Massachusetts barely ratified the Constitution by a majority of 19 in 355 members! Who doubts then, that, if the Websterian construction of a "National Government, by which State sovereignty was effectually controlled," were the just one, the insulting proposition would have been scouted and spurned, and Massachusetts have indignantly kicked the Constitution out of doors?

Let us next hear the voice of Connecticut. Chief Justice Ellsworth, in the Federal Convention, moved to expunge the word "national" from the Constitution, and substitute the words, "Government of the United States," which was unanimously agreed to. In the ratifying Convention of Connecticut, he characterised the Union as a "Confederation," and said he looked "for the preservation of his rights to the State Governments. His happiness depended on their existence, as much as did a new-born infant on its mother for nourishment." He also said "the Constitution does not attempt to coerce sovereign bodies—States in their political capacity." Roger Sherman wrote thus to John Adams, July 20, 1789: "It is optional with the people of a State to establish any form of government they please, to vest the powers in one, a few, or many, and for a limited or unlimited time;" and "they may alter their frame of Government when they please, any former act of theirs, however explicit, to the contrary notwithstanding." In the Convention of Connecticut, he said: "The Government of the United States

being Federal, and instituted by a number of sovereign States for the better security of their rights and the advancement of their interests, they may be considered as so many pillars to support it." Senator Wolcott said in the Convention: "The Constitution effectually secures the States in their several rights. It must secure them for its own sake; for they are the pillars which uphold the general system." Chief Justice Law compared the Federal Government to "a vast and magnificent bridge, built upon thirteen strong and stately pillars. Now, the rulers who occupy the bridge, cannot be so beside themselves, as to knock away the pillars which support the whole fabric." The Convention adopted the Constitution by a majority of 88 in 168 members, in these words: "In the name of the people of the State of Connecticut, we, the delegates of the people of the said State . . do assent to and ratify and adopt the Constitution for the United States of America." This shows what Connecticut understood by the phrase in the preamble to the Constitution—"We, the people of the United States."

In like manner did New Hampshire, in Convention assembled, ratify the Constitution: "The Convention . . do, in the name, and behalf of the people of the State of New Hampshire, assent to and ratify the said Constitution for the United States of America." But it was by a meagre majority of 11 in 103 votes. General Washington, writing to General Pinckney, speaks of "New Hampshire having acceded to the New Confederacy, by a majority of eleven voices." Her ratification, being the ninth, completed the number necessary for the establishment of the Constitution, agreeably to the recommendation of the Federal Convention, "that as soon as the Conventions of nine States shall have ratified this Constitution, the United States, in Congress assembled, should fix a day on which electors should be appointed by the States which shall have ratified the same." The ratification of eight States only, would have accomplished nothing. The ratification of nine established the compact. The *Massachusetts Sentinel* of June 25, 1788, exhibits the view entertained in that day: "We felicitate our readers on the accession to the Confederation, of the State of New Hampshire, not only because

it completes the number of States necessary for the establishment of the Constitution, etc." That New Hampshire did not surrender her sovereignty, by entering the Union, is evident from the following declaration of her present Constitution: "The people of this State have the sole and exclusive right of governing themselves as a free, sovereign, and independent State; and do and forever hereafter shall exercise and enjoy every power which is not, and may not hereafter be, by them, expressly delegated to the United States in Congress assembled." If the people of New Hampshire "have the sole and exclusive right of governing themselves," then they are not governed by "the people of the United States."

New York ratified the Constitution by a still more meagre majority of 3 in 57, after a contest long and severe. Chief Justice Yates and Chancellor Lansing, her delegates to the Federal Convention, had left it because they were persuaded that the system proposed for adoption was destructive of State sovereignty and State rights. Many members of the New York Convention entertained the same view. The advocates for the Constitution supported it, only on the ground that this view was erroneous. Alexander Hamilton, in the *Federalist*, said: "If the new plan be adopted, the Union will still be, in fact and in theory, an association of States, or a Confederacy." "Every Constitution for the United States must inevitably consist of a great variety of particulars, in which thirteen independent States are to be accommodated in their interests, or opinions of interest. . . . Hence the necessity of making such a system as will satisfy all the parties to the compact." In the Convention of New York, he characterised the new system as "a Confederacy of States, in which the Supreme Legislature has only general powers; and the civil and domestic concerns of the people are regulated by the laws of the several States." "While the Constitution continues to be read, and its principles known, the States must, by every rational man, be considered as essential component parts of the Union." "It may safely be received as an axiom in our political system, that the State Governments will, in all possible contingencies, afford complete security against invasions of the

public liberty by national authority. In a Confederacy, the people, without exaggeration, may be said to be entirely masters of their own fate." Chancellor Livingston said: "A republic may very properly be formed by a league of States; but the laws of the general legislature must act and be enforced upon individuals. I am contending for this species of government." Notwithstanding these and similar distinct and satisfactory explanations, such was the jealous watch of this State over her rights, that she set forth a number of articles, declaring her understanding of the Constitution, in her act of ratification, which was in the usual style; "We, the delegates of the people of the State of New York, . . . in the name, and behalf the people of the State of New York, do, by these presents, assent to and ratify the said Constitution." In her new Constitution, adopted November 3rd, 1846, she declares, that "the people of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State." "The United States are to retain such use and jurisdiction (of the soil of navy yard, arsenal, etc.,) so long as said tract shall be applied to the defence and safety of the said State, and no longer." "No authority can, on any pretence whatsoever, be exercised over the citizens of this State, but such as is, or shall be, derived from, and granted by, the people of this State." "It shall be the duty of the Governor, and of all the subordinate officers of the State, to maintain and defend its sovereignty and jurisdiction." Surely, New York does not believe that her "State sovereignty is effectually controlled by the General Government!"

New Jersey ratified the Constitution by a unanimous vote, as follows: "We, the delegates of the State of New Jersey, . . . do hereby, for and on behalf the people of the said State of New Jersey, agree to ratify and confirm the same and every part thereof." William Patterson, one of her statesmen, well said in the Federal Convention: "The idea of a National Government, as contradistinguished from a Federal one, never entered into the mind of any of the States; and to the public mind we must accommodate ourselves." "We are met here as deputies of thir-

teen independent sovereign States, for Federal purposes. Can we consolidate their sovereignty, and form one nation, and annihilate the sovereignty of our States, who have sent us here for other purposes? . . But it is said, that this National Government is to act on individuals, not on States; and cannot a Federal Government be so formed, as to operate in the same way? It surely may. I therefore declare that I never will consent to the present system, and I shall make all the interest against it, in the State that I represent, that I can." Here we find a bold affirmation made in the Federal Convention by this statesman—an affirmation, which was not, and could not be disputed—that not a single State dreamed of constituting a National, as distinct from a Federal Government! He avows his determination to oppose, with all his might, the adoption by his State of such a system. But the Federal Convention saw the impossibility of the adoption by the States of such a system; and therefore proposed to the States the establishment of a Federal, and not a National Government. And thus it was that New Jersey ratified the Constitution by a unanimous vote.

The views of Pennsylvania were represented in the following utterances of two of her distinguished representatives. Gouverneur Morris said: "The Constitution was a compact, not between individuals, but between political societies, each enjoying sovereign power, and, of course, equal rights." Tench Coxe said: "Had the Federal Convention meant to exclude the idea of the union of several and separate sovereignties joining in a Confederacy, they would have said, 'We, the people of America;' for union necessarily involves the idea of competent States, which complete consolidation excludes. But the severalty of the States is frequently recognised in the most distinct manner in the course of the Constitution."

The sentiments of Delaware were expressed in those of her worthy son and representative, John Dickinson, who characterised the new political system, as "a Confederacy of Republics;" and spoke of the independent sovereignty of the respective States, as "that justly darling object of American affections:" a sentiment that received the approval of Washington.

Virginia ratified the Constitution, after an exciting contest in her Convention, by a slender majority of 10 in 168 votes. Strenuous opposition was made to it by Patrick Henry, George Mason, and others, on the ground of its consolidation tendencies. Patrick Henry indignantly demanded: "What right had the framers of the Constitution to say, 'We, the people,' instead of 'We, the States'? States are the characteristic and soul of a Confederacy. If the States be not the agents of the compact, it must be one great, consolidated, National Government of the people of all the States." Mr. Madison replied: "Who are the parties to the Government? The people; but not the people as composing one great body; but the people as composing thirteen sovereignties." Again he said: "The Constitution will not be a national, but a federal act. That it will be the act of the people, as forming so many independent States, not as forming one aggregate nation, is obvious from this single consideration: that it is the result neither of the decision of a majority of the people of the Union, nor that of a majority of the States. It must result from the unanimous assent of the several States that are parties to it. Were the people regarded in the transaction as forming one nation, the will of the majority of the whole people of the United States would bind the minority. Each State, in ratifying the Constitution, is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act." In like manner spoke Henry Lee: "If this were a consolidated Government, ought it not to be ratified by a majority of the people, as individuals, and not as States? Suppose Virginia, Connecticut, Massachuetts, and Pennsylvania, had ratified it; these four States being a majority of the people of America, would, by their adoption, have made it binding on all the States, had this been a consolidated Government. But this is only the Government of those seven States who have adopted it. If the honorable gentleman (Mr. Henry) will attend to this, we shall hear no more of consolidation." Chief Justice Marshall, referring to the objection made by Henry, that "a State might be called at the bar of the Federal Court," said: "It is not rational to suppose that the sovereign power should be

dragged before a court." Referring to the right of the State to resume the powers she delegated, he said: "It is a maxim that those who give, may take away." So said Jefferson: "States can wholly withdraw their delegated powers." "To the compact each State acceded as a State, and is an integral party; the Government created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all cases of compact among powers having no common judge, each State has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress." So said Madison: "The States, being the parties to the constitutional compact, and in their sovereign capacity, it follows, of necessity, that there can be no tribunal above their authority to decide, in the last resort, whether the compact made by them be violated; and consequently, that as the parties to it, they must themselves decide, in the last resort, such questions as may be of sufficient magnitude to require their interposition." "A compact between independent sovereigns, founded on acts of legislative authority, can pretend to no higher validity than a league or treaty between the parties. It is an established doctrine on the subject of treaties, that all the articles are mutually conditions of each other; that a breach of any one article is a breach of the whole treaty; and that a breach committed by either of the parties absolves the others, and authorises them, if they please, to pronounce the compact violated and void. Where resort can be had to no tribunal superior to the authority of the parties, the parties themselves must be the judges, in the last resort, whether the bargain made has been pursued or violated."

The remaining States, after much discussion, agreed to ratify the Constitution, which they did in the usual style. North Carolina and Rhode Island at first rejected it, but subsequently adopted it; the former, after an interval of over a year, the latter, of over two years, and by a majority of only two votes. Not a single State adopted it with the remotest idea that in so doing, State sovereignty was "surrendered," or "effectually con-

trolled." Were there just ground for such suspicion even, the Constitution would have been unanimously and indignantly rejected. The sentiment of one of the noblest patriots who voted for it, the illustrious John Rutledge of South Carolina, in reference to a proposed article, which was an invasion of State rights,—was the sentiment of every State: "If nothing else, this alone would damn, and ought to damn, the Constitution. Will any State ever agree to be bound hand and foot in this manner?"

Even Mr. Webster was led, in his latter years, to abandon his former consolidation-theory, and to recognise the sovereignty of the States. He said: "The States are united, confederated, not 'chaos-like, together crushed and bruised.'" "I am not prepared to say that the States have not national sovereignty. The Constitution declares all the powers that are granted to the United States, and all the rest are reserved to the States. The States of this Union, as States, are subject to all the voluntary and customary laws of nations." (13 Peters' Reports.) In his letter to the Barings, he says: "Every State is an independent, sovereign, political community, except in so far as certain powers, which it might otherwise have exercised, have been conferred on a general government." In his speech at Capon Springs, Va., 1851, he said: "How absurd it is to suppose, that when different parties enter into a compact for certain purposes, either can disregard any one provision, and expect, nevertheless, the other to observe the rest." "I repeat, that if the Northern States refuse, wilfully and deliberately, to carry into effect that part of the Constitution which respects the restoration of fugitive slaves, and Congress provide no remedy, the South would no longer be bound by the compact. A bargain cannot be broken on one side, and still bind on the other side."

We have now seen that all the States ratified the Constitution with the understanding that the sovereignty of each was unimpaired thereby. It follows therefore, that the oath which binds each President to "preserve, protect, and defend the Constitution," binds him to "preserve, protect, and defend" the sovereignty of each State, which that Constitution recognises.

The President, then, who uses an army to attack a State, is a perjured rebel and traitor.

When the Constitution was on its passage through the Convention, the proposition was made to delegate to the Federal Government the power to coerce a State. The proposition was immediately and unanimously rejected. The proposition was subsequently made a second time, and a second time unanimously rejected. And it was never brought before the Convention again. Even Alexander Hamilton said: "How can force be exerted on the States collectively? It is impossible. It amounts to a war between the parties." "To coerce the States, is one of the maddest projects that was ever devised." Mr. Madison said: "The more he reflected on the use of force, the more he doubted the practicability, justice, and the efficacy of it, when applied to people collectively and not individually. A Union of States containing such an ingredient, seemed to provide for its own destruction. It would probably be considered by the party attacked, as a dissolution of all previous compacts by which it might be bound." Here, we have the unanimous refusal, both of the Convention, and of the States, to delegate to the Federal Government the power to coerce a State. "They who give, may take away." The States, as States, gave, separately, powers to the Federal Government, and the States, as States, may, separately, take them away. The people of Massachusetts did not give, in behalf of the people of South Carolina, powers to the Federal Government, nor did the people of South Carolina give any, in behalf of the people of Massachusetts. And neither can take from the other, the right to take away. The Declaration of Independence, which declared them "free and independent States," had distinctly proclaimed "that whenever any form of government becomes destructive of these ends," (the security of their rights,)—the people, of course, being the judges—"it is the right of the people to alter or abolish it, and to institute a new government, laying its foundation on such principles, and organising its powers in such form, as to them shall seem most likely to effect their safety and happiness." To affirm then, that the Federal Government, the creature of the States, has power to

compel the States to adhere to it, is to affirm that it has a power which the Declaration of Independence declares cannot be possessed by any government whatever! If the Declaration is right, the recent war was unjust; if the war was right, the Declaration is a lie. If, according to the Declaration, the war by Great Britain on her subject colonies was unjust, then the war by the Federal Government on sovereign States was doubly unjust. The right of secession is an inseparable right of sovereignty. And so have the Northern States declared again and again. Judge Rawle, of Pennsylvania, a devoted Unionist, asserts, in his work on the Constitution, that the right of secession is inherent in the Federal system. "This right," says he, "must be considered an ingredient in the original composition of the General Government, which, though not expressed, was mutually understood." There was no need of expressing in the Constitution an essential right of the States, lacking which, they were not States. Again, he says: "It depends on the State itself to retain or abolish the principle of representation, because it depends on itself whether it will continue a member of the Union. To deny this right would be inconsistent with the principle on which all our political systems are founded; which is, that the people have, in all cases, a right to determine how they will be governed. The secession of a State from the Union depends upon the will of the people of such State." That this right was formerly acknowledged, universally, is proved by the fact, that in the early debates of Congress, under the existing Constitution, the threat of seceding was made, more than once, and the right was never questioned. Massachusetts at a very early day advocated secession. Her representatives in Congress in 1789 threatened to break up the Union that had just been formed, if the Federal Capital were located on the Potomac. Again, in 1803, her Legislature actually passed a resolution to "dissolve" her connexion with the other States, in the event of the Senate's confirming the treaty with France relative to the Louisiana territory. In 1808, there was a secret plot in Massachusetts, in connexion with the other New England States, to withdraw from the Union, in consequence of the embargo on all foreign com-

merce, an offset by Congress to the Berlin and Milan decrees of Napoleon and orders in Council of England. In order to preserve the Union, the Embargo Act was repealed, and a non-intercourse act substituted, which permitted trade with all countries other than those of the belligerents. Massachusetts, through her legislature, avowed in 1814 the same principles, in the following language: "The sovereignty of the States was reserved to protect the citizens from acts of violence by the United States, as well as for purposes of domestic regulation. We spurn the idea, that the free, sovereign, and independent State of Massachusetts is reduced to a mere municipal corporation, without power to protect its people, or to defend them from oppression from whatever quarter it comes. Whenever the national compact is violated, and the citizens of this State oppressed by cruel and unauthorised enactments, this Legislature is bound to interpose its power, and to wrest from the oppressor his victim. This is the spirit of our Union."

In December, 1814, Massachusetts, Connecticut, and Rhode Island, assembled in Convention at Hartford, and after reciting various grievances against Congress, declared: "In cases of deliberate, dangerous, and palpable infractions of the Constitution, affecting the sovereignty of a State and the liberties of the people, it was not only the right, but the duty also, of the State to interpose its authority for their protection. When emergencies occur, either beyond the reach of the judicial tribunals, or too pressing to admit of the delay incident to their forms, States which have no common umpire must be their own judges, and execute their own decisions."

In 1839, John Quincy Adams, one of her "representative men," in his address before the Historical Society of New York, uttered the following sentiments: "To the people alone is reserved, as well the dissolving, as the constituent power; and that power can be exercised by them only under the tie of conscience, binding them to the retributive justice of heaven. With these qualifications, we may admit the same right to be vested in the people of every State in the Union, with reference to the General Government, which was exercised by the people of the United

Colonies with reference to the supreme head of the British empire, of which they formed a part; and under these limitations have the people in each State of the Union a right to secede from the Confederated Union itself. Thus stands the right. But the indissoluble link of union between the people of the several States of this confederated nation, is, after all, not in the right, but in the heart. If the day should ever come (may Heaven avert it!) when the affections of the people of these States shall be alienated from each other—when the fraternal spirit shall give way to cold indifference, or collisions of interest shall fester into hatred—the bands of political association will not long hold together parties no longer attracted by the magnetism of conciliated interests and kindly sympathies; and far better will it be for the people of the disunited States to part in friendship from each other, than to be held together by constraint. Then will be the time for reverting to the precedent which occurred at the formation and adoption of the Constitution, to form a more perfect Union, by dissolving that which could no longer bind, and to leave the separated parts to be reunited by the law of political gravitation to the centre."

On the 25th of May, 1859, a convention was held at Cleveland, Ohio, presided over by Joshua R. Giddings, styled the "Convention of the Sons of Liberty." Resolutions were adopted, asserting the right of secession. They were warmly endorsed by Chief Justice Chase, then Governor of Ohio, who said: "We have rights which the Federal Government must not invade; rights superior to its power, on which our sovereignty depends; and we mean to assert these rights against all tyrannical assumptions of authority." Does any one wonder why this man dared not to try President Davis?

The right of secession being inseparable from sovereignty is therefore not a derived right, and so could not be conferred by the Constitution. Still, it is recognised by the Constitution. The 10th amendment, proposed by Massachusetts, says: "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." Two inferences are just and

obvious: 1. The power of coercing a State, not being delegated to the Federal Government by the Constitution, is therefore denied it. Treason is against—not the Federal Government, which, as the agent of the States, only inflicts the punishment, but—the States themselves. It is plainly impossible, then, for a State to be guilty of rebellion or treason. Such an assertion is ridiculous, for a State cannot commit treason against itself. 2. If "the powers not prohibited by the Constitution to the States are reserved to the States respectively," then the right of secession, not being prohibited by the Constitution to the States, is reserved to the States respectively—not collectively, but respectively! So that to oppose the right of secession, is doubly to violate the Constitution.

In the exercise of this right, then, the South was vindicated by the Constitution. War, on her part, was defensive, not offensive. She withdrew from the Union, because the Constitution had been violated, and her rights and liberties were endangered. For this, war was waged against her, in renewed violation and defiance of the Constitution. It is simply ridiculous to affirm, that it was not a war upon States, but only putting down bands of insurgents by force! Does it belong to the Federal Government, or to the States themselves, to determine what are States, and what are mobs? If they that *acceded* to the Union were States, were not they that *seceded* from the Union also States? What greater evidence was there for the former, than for the latter? Did not the people, in both instances, send their representatives to the Conventions? Were they not Conventions of States? If the ordinance of ratification was the act of States, was not also the ordinance of nullification, of secession, the act of States? If not, then, not the people, but the Federal Government may determine what is, and what is not, a State! Convened for purposes sanctioned by its master, the Federal Government, it is a State and convened for purposes not sanctioned by its master, it is not a State! Statehood is extinct, and despotism reigns unquestioned!

It is also an idle plea, that the Northern States were justified in their war upon the Southern States, by the *Jus Gentium.*

This implies that the Southern States were out of the Union, and became foreign nations, which is a position the Northern States did not admit,—although as we have seen, they affirmed, time and again, the same right of secession for themselves, whenever it suited them. But the plea by any of the *jus gentium* cannot avail. For the *jus gentium* was, in this case, "effectually controlled" by the Constitution, which did not allow, but forbade coercion. The Federal Government pretended to derive from the Constitution the right of coercion,—a "right" which was unanimously denied, formerly, by the States United—Northern, as well as Southern. War was allowed by the Constitution, but not coercion. War respected foreign nations; coercion, the States. The former was of course allowed, the latter was prohibited. If it was war that was waged by the North, then secession was admitted, and the Southern States became foreign nations. But this the North denied. If it was coercion, which they contended it was, then that recognised them as States within the Union. We have seen how ridiculous it is, to consider them as individuals, not States. Now, the coercion of States is a violation of the Constitution. But the sovereignty of States, and the right of secession are recognised by the Constitution. The *jus gentium*, therefore, could not justify the Northern States in opposing the exercise by the Southern States of an original, underived right, and one also recognised by the Constitution. It cannot confer the right to make war on account of the exercise of rights which are claimed by the North as well as by the South. Had the Southern States no just cause for seceding, they would have been responsible to God only, not to the North. Moral obligation alone, self-imposed, not the want of sovereignty, may restrain a State from withdrawing the powers it delegated to its agent, the Federal Government. Sovereigns are not responsible for revoking delegated power; united sovereigns are not responsible for resuming their original position of separate sovereigns. The *jus gentium* would have warranted the North in making war upon the South as separate nations, were the rights of the former sacrificed by the separation; but the opposite of this was the case. Not only the rights of the Southern States,

but their existence even, was in jeopardy, by remaining in the Union. The compact had already been violated by the North, and therefore broken; and hence it would be absurd for any to uphold the North in this war, by falling back upon the *jus gentium.* "A compact broken on one side, is broken on all sides," said Daniel Webster. The Hon. Edmund Burke, of New Hampshire, truly said, in 1858: "They are conditions in the compact"—referring to the constitutional provisions respecting slavery—"without the adoption of which, the Constitution would never have been formed, and the Union would never have existed. Now, if they shall be broken and repudiated by the people of the North, does it not absolve the slaveholding States from all obligation, legal or moral, to abide by the Constitution and remain in the Union? Can compacts be broken by one of the contracting parties, and be held binding upon the other? The proposition needs but to be stated, to demonstrate its absurdity. And if, after the conditions on which the Union was formed, shall have been broken by the Free States, or by the general governmental agency, which all the States have jointly established, the slaveholding States shall remain in the Union, will it not be from their own free choice, rather than from any legal or moral obligation binding on them to remain? The answer is palpable to every just and right-minded man."

And yet for the exercise of an incontestable right, the South was attacked. The elements of republicanism had long ago died out at the North. This was evident from her exalting the Federal Government over the States,—over all, but her own—and also from her making war on sovereign States, simply for the exercise of their sovereignty. The South took up arms to defend her rights, doubly invaded, and to put down this double Northern rebellion against right and justice. The North, by the aid of foreign mercenaries; triumphed,—and triumphed, not only over the South, but over herself, over the Constitution, over liberty, honor, interest, truth, justice, right! The spirit of republicanism is extinct, and the spirit of despotism reigns in its stead.

Andrew Johnson but uttered the truth, when he said in his

"Address to the People of the United States": "By unconstitutional and oppressive enactments, the people of ten States of the Union have been reduced to a condition more intolerable than that from which the patriots of the revolution rebelled. Millions of American citizens can now say of their oppressors, with more truth than our fathers did of British tyrants, that "they have forbidden the governors to pass laws of immediate and pressing importance, unless suspended until their assent should be obtained;" that they have "refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature,—a right inestimable to them, and formidable to tyrants only;—that they have made judges dependent upon their will alone for the tenure of their offices, and the amount and payment of their salaries;" that they have "erected a multitude of new offices, and sent hither a swarm of officers to harass our people, and eat out their substance;" that they have "affected to render the military independent of, and superior to, the civil power;" "combined with others to subject us to a jurisdiction foreign to our Constitution, and unacknowledged by our laws;" "quartered large bodies of armed troops among us, protected them by a mock trial from punishment for any murders which they should commit on the inhabitants of these States;" "imposed taxes upon us without our consent;" "deprived us in many cases of the benefit of trial by jury, taken away our charters, excited domestic insurrection among us, abolished our most valuable laws, altered fundamentally the forms of our government, suspended our own legislatures, and declared themselves invested with power to legislate for us in all cases whatsoever." The Philadelphia Convention of 1866, declared that the "General Government has absolute supremacy, to which the allegiance of the States is due!" If this was the effect of the war, to destroy sovereignty in the States, and invest it in the General Government, then it must be so expressed in the Constitution; otherwise it is not law.

The effect of the overthrow of the Constitution by the Federal Government, through the 14th amendment, was long ago—

1826—foreshadowed by Mr. Calhoun, thus: "The blacks and the profligate whites that might unite with them, would become the principal recipients of the Federal offices and patronage, and would, in consequence, be raised above the whites of the South in the political and social scale. We would, in a word, change conditions with them—a degradation greater than has yet fallen to the lot of a free and enlightened people, and one from which we could not escape, should emancipation take place, (which it certainly will, if not prevented,) but by fleeing the homes of our ancestors, and by abandoning our country to our former slaves, to become the permanent abode of disorder, anarchy, poverty, misery, and wretchedness."

And now, compare with this prediction, the grave asseverations of a Northern man, held in universal honor by Northern men, George Ticknor Curtis, Esq.: "Without scruple, straight to its object, and directly athwart the sovereign rights of those peoples, the Radical Congress moved in a solid phalanx to the accomplishment of its purpose, and crushed out beneath the heel of military power the very political sovereignty which it should have respected as constituting the State, and forcibly substituted in its place another people on whom it could confer no lawful title whatever. The partition of Poland is the older crime, but, judged in the light of truth and reason and law, it is not a greater one." "The temptation to use the emancipated blacks as an element of political power, overcame all past professions, all expediency, and all constitutional limitations, until it has carried the Congress of the United States into the most absurd and outrageous project ever attempted by lawless and despotic power—that of making an inferior race predominant over a superior one, and undertaking to make this condition permanent and irreversible." "The whole reconstruction scheme has been so devised and carried out, as to empower the colored population to hold a majority of the whites in a condition of disfranchisement just so long as they please; for the constitutions have been so framed, that a full political equality can never be enjoyed by the whites, until they can affirm the absurd and impossible dogma of political equality for all races and all colors. When they have qualified

themselves for political privileges by the profession of this belief, the whites will find themselves, in many of the States, in a numerical minority, if the past relative proportions of the two races are not greatly changed by a rapid diminution of the blacks. Surely, no such condition of society was ever before deliberately created by men affecting to be statesmen. It proclaims its purpose on its face. It shows itself to be a scheme for the exercise and perpetuation of party domination." "The 14th amendment breaks down *all* the characteristic principles of the constitutional system. It tears up by the roots the proportionate equality of the States; for although in terms it applies to all of them, in practical operation it bears very unequally." "The alternative, if they do not succeed in throwing off universal negro suffrage, will be that in most of them, the domination of the blacks will be supreme." "If the power that has been exercised by Congress over the States and people of the South is affirmed by the result of this Presidential election," (this was written by Mr. Curtis in August, 1868,) "it will be a rightful inference hereafter, that in the judgment of the majority of this nation, Congress does possess a power, from some source or other, to make and unmake the sovereign people of a State, whenever, in the opinion of Congress, any political expediency requires such action." Said we not truly, that the North "had triumphed over herself?" Corresponding with the sentiments of Mr. Curtis, are those of another distinguished Northern man, George Lunt, Esq., of Boston, member of the Massachusetts Legislature, as follows; "Whether negro slavery actually exist or not, the country can be neither free nor safe, until this matter becomes again the individual concern of the several States alone, without subjection to any interference whatever by the general government." "We may say, that the South deserved to lose its slaves by its revolt; but the important point is, whether in their particular loss, suffered otherwise than as a passing incident of war, the whole body of States, and hence the country at large, does not thereby lose its own constitutional immunities. For, national legislation to such an end, or executive dictation producing such a result, is revolution, not restoration; without

which, the States cannot be equal, and consequently, neither they nor the country, of which they are constituent parts, can be free. For such a revolution changes the principle and practice of our republican system, abrogates the constitution on which we should rest, and gives us, practically, a consolidated, instead of a popular frame of government."

The venerable Madison, in the Legislature of Virginia, in 1798, predicted the present state of affairs with painful and fearful exactness, drawing a picture of the catastrophe in these words: "If measures can mould governments; and if an uncontrolled power of construction is surrendered to those who administer them, their progress may be easily foreseen, and their end easily foretold. A lover of monarchy, who opens the treasures of corruption, by distributing emoluments among devoted partisans, may at the same time be approaching his object, and deluding the people with professions of republicanism. He may confound monarchy and republicanism by the art of definition. He may varnish over the dexterity which ambition never fails to display with the pliancy of language, the seduction of expediency, or the prejudices of the times. And he may come at length to avow, that so extensive a territory as that of the United States can only be governed by the energies of monarchy; that it cannot be defended except by standing armies; and that it cannot be united except by consolidation. Measures have already been adopted which may lead to these consequences. They consist in fiscal systems and arrangements, which keep a host of commercial and wealthy individuals embodied and obedient to the mandates of the treasury; in armies and navies, which will, on the one hand, enlist the tendency of man to pay homage to his fellow-creatures who can feed or honor him, and on the other, employ the principle of fear, by punishing imaginary insurrections under the pretext of preventive justice; in swarms of officers, civil and military, who can inculcate political tenets tending to consolidation and monarchy, both by indulgencies and severities, and can act as spies over the free exercise of human reason; in restraining the freedom of the press, and investing the executive with legislative, executive, and judicial

powers over a numerous body of men—and that we may shorten the catalogue, in establishing by successive precedents such a mode of construing the Constitution as will rapidly remove every restraint upon Federal power. Let history be consulted; let the man of experience reflect; nay, let the artificers of monarchy be asked, what further materials they can need for building up their favorite system?" To this question asked in 1798, let the answer be given in the words of Mr. Curtis, in 1868: "What strides have been made toward a National Imperialism!"

Well did Mr. Calhoun remark to Mr. Webster: "I would further tell the Senator, that if the right of judging finally and conclusively of their respective powers be withheld from the States; if this restraining influence by which the General Government is coerced to its proper sphere be withdrawn; then that department of the Government from which he has withheld the right of judging of its own powers (the executive) will, so far from being excluded, become the sole interpreter of the powers of the Government. It is the armed interpreter with powers to execute its own construction, and without the aid of which the construction of the other departments will be impotent."

We have lived to see the beginning of the fulfilment of this prophecy—and the end is not distant. Augustus, observes Gibbon, established "an absolute monarchy, disguised by the forms of a commonwealth. His successors for a while observed his constitutional fictions; but the republic insensibly vanished." Imperialism may be at first "disguised by the forms of a commonwealth," but the disguise will sooner or later be laid aside.

The Revolution is not ended—it has just begun.