

THE  
SOUTH VINDICATED

FROM THE

CHARGE OF TREASON AND REBELLION:

BEING THE SUBSTANCE OF AN ADDRESS BEFORE  
THE SURVIVORS' ASSOCIATION OF THE  
SIXTH REGIMENT, S. C. V., AT THEIR  
REUNION IN CHESTER, S. C.,  
AUGUST 4TH, 1881.

4  
3 1/2  
BY WILLIAM E. BOGGS,  
*Late Chaplain of the "Same."*

COLUMBIA, S. C.

PRINTED AT THE PRESBYTERIAN PUBLISHING HOUSE.

1881.

## ERRATA.

---

- Page 5, line 3. For "waits," read "awaits."  
Page 10, line 34. For "it may be said, as," read "one may say  
what."  
Page 11, line 11. Omit "not only."  
Page 14, line 1. For "usual," read "moral."  
Page 15, line 9. For "discus," read "discuss."  
Page 18, line 20. For "effect," read "relief."  
Page 22, line 38. For "formed," read "found."  
Page 24, line 5. For "debated," read "detected."  
Page 25, line 8. For "oldest," read "older."  
Page 48, line 25. For "glory," read "Glory."

# ADDRESS

BEFORE THE

SURVIVORS' ASSOCIATION OF THE SIXTH REGIMENT, S. C. V.

---

COMRADES AND BROTHERS : Time, that spares nothing that is human and mortal, has evidently been making his mark upon you since we parted on our return from the fatal field of Appomatox. Gray hairs are shining on many a head. Ever-deepening furrows are being scored on cheek and brow. And, as I look once again into your faces, after the long interval of sixteen years—years burdened with public griefs and humiliations—the pathetic words of Burns come unbidden into my mind :

“John Anderson, my jo, John, when we were first acquent,  
Your locks were like the raven, your bonnie brow was brent ;  
But now your brow is beld, John, your locks are like the snow :  
But blessings on your frosty pow, John Anderson, my jo.”

The old command would hardly be able, I imagine, to face, as of yore, the icy winds 'of Centreville and Manassas Junction, or to bear the fierce sun of summer in the trenches of Petersburg. Some of you, I am glad to see, give ample evidence of better fare than you had when our good friend, Capt. Love, dealt out three-fourths of a pound of musty corn-meal, and a gill of thin sorghum molasses, while you dreamed of “hard tack” and raw bacon as of luxuries fit for a king !

So far as the activities of this life are concerned, my brothers, it is clear that many of us have seen our best days. We shall soon be falling into the “sere and yellow leaf.” Death is thinning our ranks, even in these days of peace. Only to-day have I learned with pain that our beloved comrade, Capt. W. S. Brand, of Company K, is to be with us no more in these reunions. A brave and devoted soldier of his country, we can also say of him, what is far better now :

“Soldier of Christ, well done!  
 Rest from thy loved employ;  
 The battle fought, the vict’ry won,  
 Enter thy Master’s joy.”

Thus, my comrades, are we made to realise  
 “That our hearts, though stout and brave,  
 Still, like muffled drums, are beating  
 Funeral marches to the grave.”

It is to be hoped that we are getting ready for a sweet rest when the march of life is done, and for a joyful awakening at the *réveille* of the great day.

Right glad I am to meet you, comrades, after these long years of separation. The sight of your faces brings back many a stirring recollection of the days “that tried men’s souls.” Many a time have I watched you as you moved down to the conflict, until the white shroud of battle hid you from my anxious eyes. Some here present I may have lifted, mangled and bleeding, from the field to the surgeon’s table, where probe and knife had their terrible work to do. We have stood together by the hastily-dug grave, as we wrapped some brave boy in his blanket, that he might rest in the bosom of that mother for whose sake he was willing to die. And how can we ever forget those hours of holy worship—sometimes in the solemn twilight, sometimes by the flickering glare of bivouac fires; and again in rude sanctuaries built by your own hands, along the lines of entrenchment. Methinks I can almost hear at this moment the rich clear voice of Capt. Brand leading the volume of praise that swelled from your hearts to the God of our fathers. I trust that you will not seek his blessing less frequently or fervently in your peaceful homes, than you did then, in camp and field and hospital. And how many times, as I have pored with swelling heart over the deeds of heroes rehearsed in story and in song, have I recalled that memorable 9th of April, when you learned that, overwhelmed by sheer numbers, the grand Army of Northern Virginia had fought its last battle. How often, when far away from you, have I seen in imagination those faces covered with dust and blackened with the smoke of incessant battle, over which tears of agony had made their long furrows. And amid the horrible excesses of

“Reconstruction,” I have often found myself repeating the old saying :

“Woe waits a country, when  
She sees the tears of bearded men.”

Our commander has just been good enough to say that you have watched my career with pride and pleasure. It was kind in him to say it—kinder still in you to feel it. No man, I am sure, in the old organisation, has more cause to love it than I. Coming to you, as Gen. Bratton has truly observed, a youth, fresh from college, you received me as the ambassador of Christ. It is true, as you were told by our commander, that I have seen pretty hard service since I left you. But nothing gave me half the uneasiness, amid the pestilence-tainted air of Memphis, that I suffered for my brave comrades in Virginia, when I seemed to feel in my heart the thud and crash of every shot that drew blood from you. My labors, I may say truly, have everywhere been rewarded with kindness and affection. Grave thoughtful men and devout women have chosen me as their spiritual teacher. But no church can ever take the place that you, my first flock, “the church in the wilderness,” as I may call you, have ever held in my heart. And when, at my own fireside, I shall speak of your brave deeds to my own bright-eyed boys, a father’s ambition can ask no more for them than that, should they ever be put to the test, they shall deserve as well of our reunited country as you did of the South.

But, comrades, while we thus revive old associations of the camp and battle-field, there are certain questions which invariably come into view, along with these memories. They are questions of the right and the wrong, which underlie and interpenetrate the history of our old regiment, of the armies to which it belonged, and of the whole country and cause for which you battled. There are persons amongst us who are nervous about any allusions to these questions of right and wrong. “It is all past now,” they say, “and let the dead past bury its dead issues.” Fear gives emphasis to such reasonings with the timid. *But questions of principle can never be buried.* Like Banquo’s ghost, they come forth again, and will not down at any man’s bidding. And,

whoever else may decline to face these questions, it is certain that you and I cannot afford to decline. They are questions of *honor*, which deeply affect us. It is known to you that multitudes of good men, not only in the United States, but throughout Christendom, hold our conduct to be tainted with foulest wrong. The glory of our arms is sullied, they say, by treason and rebellion. The charge has been heralded forth to the world by the trumpet-tongued press for these twenty years and more. The historian, applauded wherever the English language is read, for his eloquent and accurate rendering of Liberty's struggles in other lands, has given the weight of his name to the accusation. The jurist, in learned disquisitions upon the structure of the Federal Government, has asserted it. The splendid eloquence of Webster has given it the widest currency in men's thoughts. While poets, in sweetest strains have canonized our conquerors, as the champions of law and of humanity. You cannot, if you choose, avoid this question of principle. Your children must meet it as a part of the history of our country. It is thrust upon their attention in the political discussions of the day. And if their assertions can be made good—if we were banded together in a vile conspiracy against law and order; if we fought to sustain a social system, the essence of which was unchristian and inhuman oppression to the helpless African—then is it true not only that we deserved our crushing defeat, but also the tenfold greater humiliations and oppressions which the so-called peace brought with it; and besides all this, we richly merit an immortality of shame. There is a fearful responsibility in the sight of God and before the bar of public opinion, which rests *somewhere*. Every drop of blood shed in that unhallowed strife cries, like Abel's, from the earth which drank it in. Every tear of broken-hearted womanhood, every pang inflicted upon orphaned children, asking in vain for fathers whom they should never again behold, charges sin at somebody's door. If it be at mine, I wish to know it. I believe in that supreme judgment-seat before which we must all stand to answer for the deeds done in the body. I would not wish to meet God before I had repented and been forgiven, if I have so sinned. You feel as I do in this matter. It is ne-

cessary for us, then, to review the grounds of our past action that we may settle, each for himself, what is our present duty. We are agreed, my comrades, in the opinion that neither courage nor success can establish the righteousness of a cause or atone for the wrong of it. Robbers and pirates have been as brave as Hector. Conquered Poland weeps over the grave of Kosciusko. Mere numbers cannot make that to be just which in the one man were a wrong.

More than this. I hold that every element of truth and right which entered into our conduct, is to be cherished as a sacred heritage for our whole country, and for civil liberty all the world over. There is a power in truth and right, which is not altogether of earth.

“Truth crushed to the earth shall rise again,  
The eternal years of God are hers;  
And on the eternal throne 'tis writ—  
*‘Magna est Veritas et prevalebit.’*”

Roman poets sang how captive Greece subdued, by the power of thought, her haughty conquerors. If we are true to the right for which you perilled life and limb, if we bear with dignity our painful reverses, if we cultivate genuine respect for the honest intentions of those who, through error of judgment, as we believe, opposed us, we may find yet that peace no less than war has its victories. The invaluable right of local self-government, of “community independence,” as Mr. Davis aptly expresses it, the sovereignty and independence of the States, as contrasted with and opposed to the centralisation of extra-constitutional powers at the Federal Capital—this was the great end at which we aimed in seeking to separate from the Union. And had it pleased God to give us success, the resulting blessings would have been freely shared with all our associates.

This claim of ours to be in the right, to be suffering for a good cause, will, of course, subject us to expressions of contempt, and perhaps also to grave suspicion, on the part of the dominant faction. This burden, also, we must bear manfully and in good temper. We can only disclaim all thought of enforcing our theory by an appeal to arms, and let our conduct continue to

vindicate us with all candid observers, in the future, as it has done, under terrible provocations for the past sixteen years. Let coercion have been ever so contrary to the letter and spirit of the Constitution in 1860, still we have been coerced. And now, as a minority, in the power of an irresistible majority, we can only protest against misjudgment, by making our appeal to the better instincts and the more fully informed judgment of the American people. We gave up all thought of further trying our differences by battle when we laid down our arms sixteen years ago. But, of course, we have had credit, with some people, neither for common honesty nor for common sense. The sturdy bear who has just been feeling, on flank and throat, the claws and teeth of the catamount, may be expected to keep a sharp eye upon the thicket where his maimed adversary lies panting. But one can see that the epithets "rebel" and "traitor," which were wont to be served up for us piping hot, morning, noon, and night, are fast growing to be the especial bone of certain toothless old hounds who try faithfully to make up in snarling and growling for the inability to bite.

You, my comrades, have rested all this while in the interpretation of duty which our beloved Lee announced when he sheathed his sword at Appomattox. There is a pretty story abroad concerning an interview between the General and some of the fiery young officers, in which they proposed that, instead of surrendering the army, he should allow it to disband, so that as many as possible might escape from the coils of the anaconda and maintain an active resistance. One can imagine the old hero smiling sadly upon his courageous children, while he said in substance: "Gentlemen, it becomes us to look at this matter as Christians. It would be a sin to promote the useless waste of life. The course which you propose would carry violence to many a peaceful neighborhood where the war has not yet gone. It would fill the land with bands of hungry and desperate men, who must live by plunder. Some of you might go to 'bush-whacking.' But it does not suit a man of my years. I shall surrender to Gen. Grant."

Can you not recall our great commander as he appeared that

day when he reviewed our corps at Gordonsville, just as you were returning from your campaign in East Tennessee to your old place in the "Army of Northern Virginia?" It seems that a picture of him is photographed in my memory, as he sat upon his old iron-grey steed, majestic as the Phidian Jupiter, in form and feature the model of manhood, his great, dark eyes flashing like disks of fire, as he surveyed your lines. You remember how you broke over the rules of military discipline. The thunders of cannon and the bugle's loud call had prepared you to expect him. But when he was once more before your eyes, the command, "Present arms!" was not very literally obeyed. The mighty tide of passionate love to your trusted leader was running too high to be expressed in set forms. You tossed your hats into the air, and the wild "Confederate yell," so often heard above the din of battle, burst from your heaving bosoms until the hills rang again. Fifteen thousand men thus signified their willingness to put their lives in his hands, with the same trust with which, when they were babes, they had reclined in the loving arms of their mothers. I remember turning to my friend, Col. Venable of the General's staff, to say: "Don't you know *that* makes the old hero feel good to the very bottom of his heart?" "No, B.," he replied, "the General is not thinking of that now. He knows what sort of a reception they are to meet, poor fellows, at the hands of other people." And when I turned to scan that noble countenance as he gravely uncovered, in response to your enthusiastic greeting, as well as I could see through eyes that were dimmed with mist, there was no flush of warrior's pride, on cheek or brow. The features were as calm as marble, and the firm lips seemed as though they had never smiled.

This was, as I remember, the 4th of May, 1864. The next day, you will recall, Ewell's guns at Germania Ford, awoke the echoes of the Wilderness. And on the 6th you were in the thickest of that bloody struggle, which shifted with scarcely the intermission of an hour, around our right flank, until foiled in every onset, the enemy broke in tumultuous surges against the entrenchments of Richmond, and you had hurled him back once

again, panting and bleeding, from the crest of Gaines's Mill, whence you had driven him with the bayonet just two years before.

Yes, comrades, our General set us an example of enduring in silent dignity, in manly patience, those evils which the passions that are excited by war usually accord to the vanquished. It seems unaccountable to us that the brave men of the North should have condescended to heap upon us such useless indignities and oppressions as the "Reconstruction" period developed. One would have imagined that they would not so readily have suffered political demagogues, who had never smelled burnt powder, to use them as tools of revenge and oppression against their countrymen, whose courage, constancy, and evident honesty of purpose, whatever they might think of your judgment, had won from them a generous recognition while you stood, foot to foot, on the hotly contested field. You doubtless have heard with sorrow the effect which these unhappy events seemed to exert upon the dutiful soul of Gen. Lee. That same sympathy which made him insensible to the throbs of a gratified ambition, when, at Gordonsville, the wild transports of your enthusiasm, showed how you were ready to die at his bidding, also laid upon him the great burden of his afflicted country. There seems to be abundant evidence that his great heart bled silently all the while. Scorning to utter his complaints to man, he doubtless pleaded for us before that Lord to whom he had looked, in Christian faith, for guidance in those days when he felt the responsibility of holding in his hands the lives of brave men and the destinies of his country. There seems to be no doubt that these oppressive griefs hurried him to his death. A few—very few—even among his enemies, have taken it upon them to attempt to detract from the just fame of the greatest name in the military annals of America. The press tells us that the *one* has made this blunder, whom least of all men it becomes so to speak. But of that individual, it may be said, as Talleyrand observed to the Parisian beauty who asked him how she should manage to get rid of her troublesome admirers. It was her misfortune to have bad teeth. And the bitter reply to her inquiry was: "*Madam, you have but to open*

*your mouth.*" Lee's fame is beyond the reach of detraction. It is part of the heritage of the Anglo-Saxon race. And the great world applauds our bard, when, in his exalted enthusiasm, he says :

"Never hand waved sword from stain so free ;  
 Nor a truer brand led a braver band ;  
 Nor a braver died for a fairer land ;  
 Nor fairer land had cause so grand,  
 Nor cause had a leader like LEE."

Comrades, I am thoroughly persuaded of your capacity so to master the details of this controversy as not only to be able, not only to satisfy the demands of your own consciences, (which doubtless you have done,) but also to be ready to give to your children, and others who claim it, a reason for your faith; and that in such a manner as to vindicate the living and the dead from the charge of rebellion and treason.

I well remember the keen zest, and shrewdness too, with which around the camp-fire, you entered into discussions upon the issues of the war, the policies of the rival governments, and the conduct of public men. I remember how you relished the biting wit of the *Richmond Examiner*, while you dissented from many of its conclusions. I do not forget that, when your General of Division (whom you greatly liked and admired) was suddenly placed at the head of the Western army, you gravely shook your heads, while you said, "The President has spoiled a good lieutenant to make a poor captain." You had taken the gauge of the man, and knew better than the ablest men at a distance just what our Major-General could do, and what he could *not* do. Mr. Davis himself is far too sagacious an observer of men, not to do homage to the unprejudiced instincts of the private soldier. A friend, who had good opportunities to learn what occurred in the higher governmental circles at Richmond, repeated to me this observation of our accomplished chief: "I receive," he said, "two conflicting opinions touching Gen. [Stonewall] Jackson. The one comes from many scientific soldiers, the other from the rank and file of his army. As for myself, I believe the rank and file to be nearer the truth." You come of a stock among whom the attribute of *individuality* is probably more highly developed than elsewhere

in the United States. The presence among you of a race held under subordination, tended to develop self-reliance and individuality in you. Hold fast to your inherited traits, and judge for yourselves in this great controversy. Do not allow the strong current of hostile opinion to drown you out. You have the best of helps in forming your judgment. Mr. Stephens first, and now, of late, Mr. Jefferson Davis, have laid us all under lasting obligations by their masterly defence of the honor of Southern men. I trust that you will not fail to study the "War between the States," and especially the "Rise and Fall of the Confederate Government." Its pure classic English, its exhaustive learning, logical argument, and devoted patriotism, will go forth among thinking men as a fitting protest against hasty and harsh judgment of us. Let your children become familiar with that able discussion, and they will be in no danger of growing ashamed of the cause for which you contended, or of the manner in which you acquitted yourselves.

I propose offering some suggestions in the way of stimulating and guiding your inquiries into a subject that so nearly not only concerns your honor, but one that involves—so the fathers of the Republic have testified—the very foundations of American liberty, the *corner-stone* of the whole system.

The Secession movement, then, may be viewed from either of these two standing-points: *first*, it may be regarded as an attempted revolution; or, *secondly*, it may be treated in special relation to the Federal system set forth in the Constitution, and the Union of States based thereupon. Let us take our view from each of these standing-points, in their order.

1. And *first*, regarded as an attempted revolution in the existing Government, we may claim that Secession was morally justifiable upon the same grounds as justified our fathers in separating from the British Empire. For this solemn step our fathers pleaded the wrongs inflicted upon them by the British Government, and the inalienable rights of freemen; and, relying upon the justice of their cause, they were willing to appeal to arms. After years of suffering, victory crowned their efforts, and they were acknowledged as independent. The "right of

revolution" in this case is admitted by all Americans. It depends entirely upon certain *moral* and *political* considerations, which our fathers set forth in the famous *Declaration of Independence*. But, in later times, a somewhat different statement has been made. For example, Mr. Lincoln, speaking in his place as a member of Congress in 1848, uses these words: "Any people anywhere, being inclined and *having the power*, have the right to rise up and shake off the existing government, and form a new one that suits them better. This is a most valuable, a sacred right—a right which we hope and believe is to liberate the world. Nor is the right confined to cases in which the whole people of an existing government may choose to exercise it. Any portion of such people *that can*, may revolutionise, and make their own of so much of the territory as they inhabit. More than this, a majority of any portion of such people may revolutionise, putting down a minority, intermingled with or near about them, who may oppose their movements. Such minority was precisely the Tories of our own Revolution. It is the quality of revolutions not to go by old lines, or old laws; but to break off both, and make new ones." Cited by Mr. Stephens.

You will be able to see more readily, by means of the words which I have emphasised, that *physical force* is here introduced as if it were an essential element of this inalienable natural right. It is an element, of course, which can rarely, if ever, be ascertained without bloodshed. According to this, it would follow as a necessary inference, that our fathers were somewhat hasty and premature in basing an *undoubted* claim upon such moral and political considerations as are found in their great manifesto, inasmuch as, on the 4th of July, 1776, it was clearly impossible for mortal man to say whether or not they had "the power" to enforce it. Judge Black of Pennsylvania seems to take similar ground touching Secession. It was, he thinks, a revolutionary proceeding. We ought to have admitted it, and to have expected the consequences—which of course means an appeal to arms, that it might be decided which of the two parties had "the power." It would be quite difficult, I imagine, to show, according to this theory, that George III. did any wrong in opposing our fathers

with fire and sword, notwithstanding the usual considerations set forth in their manifesto to the world, since only in this way could it be known whether or not the "rebels," as he termed them, had "*the power.*" Mr. Greeley was far more consistent with moral reasoning when he thus expressed himself in the *New York Tribune*, under date of November 9, 1860: "The telegraph informs us that most of the Cotton States are meditating a withdrawal from the Union, because of Lincoln's election. Very well; they have a right to meditate. . . . And now, if the Cotton States consider the value of the Union debatable, we maintain their perfect right to discuss it. Nay, we hold, with Jefferson [in the Declaration of Independence], to the inalienable right of COMMUNITIES to alter or abolish forms of government that have become oppressive or injurious, and if the Cotton States shall decide that they can do better out of the Union than in it, we insist on letting them go in peace. The right to secede may be a revolutionary one, but it exists nevertheless; *and we do not see how one party can have a right to do what another party has a right to prevent.*" [Italics mine.]

Our fathers certainly acted on the theory of Mr. Greeley, not on that of Mr. Lincoln and Judge Black. Indeed, it seems impossible for them to have acted at all, if they had attempted to carry out this theory of revolution. How far this erroneous view may have, in the end, united the "War Democrats" and Mr. Lincoln in the wicked and cruel policy of King George, it might be curious to investigate. But my purpose requires that we rather turn our consideration to the reasons which prompted us to separate from the General Government at Washington. And as we do so, let it be remembered all the while, that the men of 1860 acted, according to Jefferson's theory, as "*communities,*" not as mobs. These State governments were as orderly in their movements as were the revolutionary governments in 1776. They were as able to conserve the great needs of government—the protection of the individual in the enjoyment of life, liberty, and property—as were those set up by their fathers in the preceding century. It was not as disorderly mobs of individuals that the seceding States moved, but as orderly

“communities.” What but ambition and lust of power tempted King George to coerce the colonies? He did not propose, by his war of subjugation, to confer blessings upon them which they were madly throwing away. He did not propose to advance the cause of humanity. What more did our brethren propose by coercion in 1860?

*First*, then, like our forefathers, we had the long-standing grievance of an unjust and burdensome system of taxation.

We need not stop now to discuss what was once such a prolific theme for popular declamation, the *Fishing Bounties*. The plainness of the issue and the sort of absurd injustice of subsidising, under pretext of creating a navy, what had become one of the great sources of wealth in the Northeast, used to excite your disgust. The Southern farmer could not be brought to see why he should work all day in the blazing sun, to be rewarded by the price which his produce could command in an open market, while another could not sit in his own boat and catch fish unless the Government consented to pay him for the virtuous work, over and above the ample proceeds of a gainful calling.

But, leaving these funny little peculiarities out of the account, I go on to observe that the Constitution authorises Congress to levy taxes in order to pay the public debts and “provide for the common defence and general welfare of the United States.” But common sense can see, unless the mind be utterly warped by local feeling or self-interest, that Congress had gone far beyond the just interpretation of that provision. They had, for a long series of years, persisted, through the votes of an interested majority, in laying taxes on foreign imports, not only for revenue, nor even to foster feeble domestic enterprises until they could become self-sustaining—a very doubtful expedient, at the best—but had continued, by high tariffs, to throw the heavier burdens upon the agricultural districts, until the great bulk of wealth had been accumulated around these manufacturing centres. You saw a privileged class of capitalists thus created at your expense, for you were paying immense sums to them over and above the cost of such goods in England or France, and the cost of carriage hither. For example, until a very recent date, there was a heavy tax on

quinine of foreign manufacture. What was the result of this "protective tariff?" Simply this, that in neutralising the malaria of your climate, the South, chiefly, has paid many millions of excessive profit to Powers & Weightman, the American manufacturers, of Philadelphia. It is hard to believe that any sane man, however blinded he might be by local feeling or self-interest, could really believe that the protective tariff was, for the most part, really laid "for the general welfare of the United States."

Against its grossly injurious and burdensome features you had for years protested in Congress through your Representatives. Your illustrious Calhoun had affixed to the system the brand of legalised robbery and spoliation. But money and sectional interest had found means to continue, under forms of law, to transfer the proceeds of your toil to other men's pockets. Promises of amendment were often made, to be as often broken. And evidence exists that agitations about slavery and the territories were successfully resorted to, in order that under cover of your love of peace and of the Union, the screw might be turned upon you the more tightly. Thus, under the mask of irrational constructions of the Federal compact, South Carolina and the agricultural States were as truly taxed without their own consent as ever the colonies had been.

*Secondly*, there was the great grievance of the exclusion by partisan and unconstitutional legislation of the South from a fair proportion of the common property in the territories. It has been claimed, of course, that slavery being the creature of local or municipal law, it was competent to Congress to exclude it from the public domain. But the Supreme Court, in the famous "Dred Scott case," after solemn deliberation declared, seven judges to four, that Congress had no such power delegated to it by the Constitution. The public domain being the joint possession of all the States, it was held by this venerable tribunal that any citizen of any State had the right to enter that domain with his property. It belonged in part to his own State. And it was declared to be the duty of Congress to protect such residents in the enjoyment of their property, until such time as the territory might be duly organised into a State, whereupon the people

might say whether or not they would have slavery. This is the Constitution. But by partisan legislation, the free States had managed to obtain for their people in various ways the lion's share of the common property. The Missouri Compromise, without authority of constitutional grant, having fixed the line of  $36^{\circ} 30'$  as the northern boundary to which we might go with our property, and a great slice having been in this way clipped off from the Louisiana purchase (contrary to our solemn treaty with France touching that territory), and afterwards a slice taken from Texas in the same manner, this agreement, into which the South had reluctantly entered for the sake of peace, was rudely broken when the admission of California was under discussion. Our associates then refused to extend the line of  $36^{\circ} 30'$  to the Pacific Ocean, because it did not suit them. And when Kansas was being prepared for an early admission, emigrant societies among our associates brought the greater wealth and population of the North to deprive us of that territory. Thus while, at the formation of the Union, the preponderance of territory lay with the South, partisan legislation and extra-legal societies had absorbed about three-fourths of all public territory. And from this two evils resulted. *First*, a stigma was put upon the owners of slaves. And, *secondly*, the preponderance of the other section was so greatly increased as to leave us wholly at their mercy. This result was generally acknowledged, I believe; and by many of our friends we were urged to trust to the generosity of that section who had showed so little consideration hitherto.

*Thirdly*, we had the great grievance of persistent attacks by our associates upon that species of property, for the protection of which special guarantees had been given in the Constitution—guarantees without which, it is well known, the Union would never have existed at all. These attacks were of two sorts. Citizens of the States associated with us, availing themselves of a freedom of access to our borders growing out of the Union, had repeatedly sought to incite servile insurrections, regardless of those attendant horrors, arson, murder, and lust, which history

warned them to expect. And when the infamous John Brown, of Kansas notoriety, his arms red to the shoulder with Southern blood shed there, attempted to invade Virginia, his just punishment, after fair trial under the law, was received with demonstrations of public grief in the North. Minute guns were fired, bells tolled, churches draped in mourning, and the South denounced by the ministers of religion, because forsooth Virginia declined to allow the assassination of her people.

But even this was as nothing. The raid of Brown being duly investigated, evidence was found showing—so said the Investigating Committee of the Senate—that eminent citizens of sister States had furnished to Brown's band the armament with which they had invaded Virginia. This, however, was not the worst. The Senate in that Report solemnly called upon these States, in strict accord with their oaths in making the constitutional compact, to provide against such infractions of the public peace, urging this plea with the consideration that if these States failed to do it, *there was no adequate means in the power of the General Government for remedying the evil.*

But what effect might be expected from such States when they themselves, in strange forgetfulness of their engagements, had already passed the "Personal Liberty Bills," which were notoriously and avowedly intended to render null and void the constitutional stipulations which guaranteed the rendition of fugitive slaves! Thirteen of the States, if I remember aright, had set themselves to obstruct the operation of the covenant which they had made with one another and with their Southern sisters. While at the same time, with an obliquity of purpose and of perception, rare in modern history, each of them continued the form of requiring her Governor, Legislators, Judges, and other officials, to bind themselves by oath to observe the Constitution, *which she would yet punish him for doing*, in this one particular!

It was this fearful instance of covenant-breaking which, as all know, brought Mr. Webster into disfavor in his own State, as elsewhere in the North. For with heroic fortitude he planted himself boldly in the breach and thundered his denunciations of the wrong. And when he came as an honored guest to Capon

Springs, Va., in 1851, he said, in allusion to these "Personal Liberty Bills," as he had said in Buffalo and elsewhere :

"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 intend, for one, to regard, and maintain, and carry out, to the fullest extent, the Constitution of the United States, which I have sworn to support in all its parts and all its provisions. It is written in the Constitution :

"NO PERSON HELD TO SERVICE OR LABOR IN ONE STATE, UNDER THE LAWS THEREOF, ESCAPING INTO ANOTHER, SHALL IN CONSEQUENCE OF ANY LAW OR REGULATION THEREIN, BE DISCHARGED FROM SUCH SERVICE OR LABOR, BUT SHALL BE DELIVERED UP ON CLAIM OF THE PARTY TO WHOM SUCH SERVICE OR LABOR IS DUE."

"That is as much a part of the Constitution as any other, and as equally binding and obligatory as any other upon all men public or private. And who denies this ? None but the Abolitionists of the North. [This was spoken before thirteen States had passed the "Personal Liberty Bills."] . . . . I have not hesitated to say, and I repeat, that if the Northern States refuse, wilfully and deliberately, to carry into effect that part of the Constitution which respects fugitive slaves, and Congress provide no remedy, the South is no longer bound to observe the compact. A bargain cannot be broken on one side and still bind the other side."<sup>10</sup>

Now, it is true that many of the good people of the North were, at the time of the passage of the "Personal Liberty Bills," in perplexing circumstances. At the formation of the General Government, slavery existed in all of the thirteen States which had been colonies of Great Britain, with the doubtful exception of Massachusetts, where it is possible that it had ceased within a short period previous. And when domestic slavery ceased in the North, it had been because of climate and soil, not from sentiment. But a great change had taken place in men's minds then, and many had come to look upon bond service as an unlawful relation.

True enough, as it happens, this opinion is totally inconsistent, as anybody with half an eye can see, with the moral standard of the Old Testament, or of the New. Bond service is unquestionably recognised as a lawful institution not only in the political regulations of the Jewish State, but in the Decalogue itself—the "manservant" (Heb. *ebed*) and "maidservant" (Heb. *amah*) of the Fourth and Tenth Commandments being clearly slaves.

The Apostles not only admitted slaveholders into the Christian Church, as all who read the New Testament know, but they freely treat of the reciprocal duties of masters and slaves (Gr. *douloi*), without so much as a suspicion in their minds that the relation was an evil in itself.

Paul, indeed, went so far as to send Onesimus, a runaway slave whom he found in Rome, back to his master, Philemon, who, it seems, was Paul's friend, living in Western Asia. The Apostle, while interceding with the master for the offender, freely admits the wrong, and binds himself, as his surety, to see that Philemon shall be compensated, if he shall see fit to claim it, for the time lost by the bondman while absent from his work, mentioning certain moneys of Paul then in Philemon's hands.

All this, of course, is familiarly known. But then our countrymen were not amenable to man for any misconstruction of God's law or of his revelation. And I see not how they could be excused from following the dictates of conscience, even when it is a misinformed conscience. All, indeed, are bound to seek light, and to correct mistakes. But so long as conscience condemns a thing, the man is bound to forbear. Mr. Webster, therefore, as it seems to me, was not altogether justified in putting the law of the land above the private conscience, as I understand him to do in some of his supremely brave utterances against the excesses of abolitionism. The law of the land cannot warrant a man in doing what he, at the time, holds to be a sin. In that case he can only submit to the penalty; he cannot obey the mandate.

But the abolitionist's great wrong was that he absolved himself from the covenant, in so far as he saw fit, and yet held us bound, on peril of our lives, by whatever part of it he had left. "The restoration of fugitive slaves is a wrong," he said, "and therefore I will not do it. But you shall keep the part that I approve, or I'll kill you, if I can." John Quincy Adams was correct, in 1839, when he proposed to abrogate the whole compact in order that two new governments might be formed—the Northern one free from the sin of slaveholding, as he was pleased to think it. And if a man's conscience could not wait for such a result, the remedy was at hand. He could do as our fathers

did when they left behind them laws that they could not conscientiously obey, and came to the New World. They could go to Canada. But to abrogate at option a part of the compact which has become distasteful to me, and then require my confederate to keep the rest, is as false in principle, as it is tyrannical in practice.

*Lastly*, all these evils, crying aloud for relief, assumed a hopeless and remediless aspect on the election to the Presidency of Abraham Lincoln, a sectional candidate, on a sectional issue, and by a strictly sectional vote. In 1858, upon a public and solemn occasion, he had said, that the Union could not be perpetuated "half free and half slave," that is, slaveholding. No relief surely could be expected where he could control. And the dark outlook was rendered more hopeless when men discerned as his destined chief minister and adviser that Wm. H. Seward who had proclaimed an "irrepressible conflict" between abolitionists and Southerners; while to us he had declared: "We have beaten you in the territories, and we will follow you into the States."

Now, when we calmly review all these wrongs and provocations, adding to them the fierce denunciations that for years had poured upon us from the partisan press and from the orators of abolitionism, does it not seem to you that, upon the ground of the inalienable "right of revolution," we had the same justification as the Boston patriots had when they threw the tea into the sea? I see not how one party of revolutionists can be justified, and the other condemned. Comrades, if your ancestors and mine, who mingled their blood at King's Mountain, deserved the tribute which was accorded to them in the Centennial of last May, if George Washington and his associates merited the praise which America is ready to bestow at Yorktown in October, then you cannot be justly stigmatised for following their example. They are not patriots because they happened to succeed. You are not rebels because you were overpowered, after your heroic exploits had illustrated the name of the Confederate army.

2. But we have vantage-ground in seeking to justify our course as Secessionists, of which it is next proposed to avail ourselves. *We have a right to claim that in rescinding their own acts, by*

*which the Constitution was adopted and the Union formed, the States exercised that inherent sovereignty which belonged to them, according to the treaty with Great Britain, wherein the thirteen colonies were acknowledged as free and independent States. This inherent sovereignty they did not surrender when they delegated certain powers to the General Government as their common agent. And, being the sovereign authorities, united by a Federal Compact, it necessarily devolved upon each of them to judge for itself, in the last resort, of all alleged violations of such a Compact, and to determine the best remedies for the same. The power that delegates is competent to recall. And the act of your State, in revoking her grants of power to the General Government, was as orderly and valid as the one by which she ratified the Compact and entered the Union.*

As bearing directly upon this proposition you will find the following historical facts :

1st. Before the war of the Revolution there were, speaking in general terms, between the St. Lawrence and the Mississippi, thirteen colonies acknowledging obedience to the British Crown, but having no special bond of civil union among themselves. Special agreements had been entered into by some of the New England colonies for mutual defence against the Indians, but they had been voluntary, local, and limited to this purpose. Each colony had its own government, organised under its own royal charter. Each had its own customs, religious establishments, and internal administration. Thus they were diverse in origin, in customs, and in their interests. The claim of Judge Story and others to have formed a bond of political union between these colonies, existing prior to the War of the Revolution, has not commended itself to persons acquainted with the facts of their history.

2nd. The colonies, conceiving themselves to be wronged by the British Government, sent delegates to a convention or Congress at Philadelphia in 1774 for conference and mutual advice. In this conference each colony acted as a separate political body. This the manner of voting showed most conclusively. For, regardless of the number of representatives sent,

and of the population represented, each of the colonies cast *one vote*. A formal declaration of the Rights of the colonies having been made, this body recommended that another, of like nature, be called to meet May 10th, 1775, and then dissolved.

*3rd.* The colonies acting upon this suggestion, the second Congress of their delegates met at the time suggested. And finding that all measures of redress for the people, as British subjects, failed, they declared that the only remedy was for all the colonies to throw off their allegiance to the British King, and declare themselves independent. A manifesto to this effect, stating their grievances, and declaring themselves to be free, was prepared, and on the fourth of July, 1776, it was signed and published to the world. It is known as the American Declaration of Independence. But to base the political unity of the colonies on this manifesto is to overlook several fundamental facts, such as these: *First*, that for some time after the declaration had been prepared, it could not be signed and published by the delegates, until each delegation had received specific instructions to do so from its own State government; and upon being separately instructed to that effect, each delegation did sign, by authority and in the behalf of its own *State*, as they now termed themselves. Some of the governments delayed to take action, day after day, and yet this great step had to wait upon their pleasure. *Second*, in fact, several of the colonies had *already set up revolutionary governments*, before the Declaration of Independence was authorised by them; some taking care, however, to say that the revolutionary governments were only to last until accommodation could be had with the King. *Thirdly*, this "Declaration" was not of the nature of an *organic law* at all, but only had the force of a *manifesto*, addressed to the civilised world. *Fourthly*, the delegates of the colonies, or States, showed their appreciation of this, by proceeding at once to draw up "Articles of Confederation," having the force of organic law, which would really unite the States into a Confederacy. These points are all patent upon the face of our history, and have been, as Mr. Stephens shows, embodied in the decisions of our Supreme Court—"War between the States," Vol. I., pp. 76-81. The verbal analysis, offered by Mr. Everett

in his New York speech, showing, as he imagined, from the Declaration of Independence, that the "good people of these colonies" are "one people," is seen to be a mere quibble, not only violating the laws of language (Mr. Davis), but also so conflicting with the testimony of history as to be debated by any one acquainted with the facts.

4th. Pending the signing of this manifesto, a committee had been appointed (June 11th) to draw up such articles of confederation as would unite the Colonies, or States, in a league for their common defence. This was to be *law*, indeed, the fundamental law of the Confederation, and not a mere "declaration," or appeal to the civilised world. On the 12th of July, eight days after the signatures had been affixed to the manifesto, this sketch of the first constitution was reported to the Congress. It bore as its title this significant legend: "*Articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia.*" And, after giving the name and style of the league to be the "United States of America," the instrument went on to say in the second article: "*Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederacy expressly delegated to the United States, in Congress assembled.*" These articles were approved by the Congress, Nov. 15th, 1777, and by some of the States in the following year. But the process of ratification was only completed March 1st, 1781, Maryland having for years refused to adopt or be bound by them. One more decisive fact completes this hasty examination. The delegates of a State in the Congress varied at option, but each State had *one vote*, as well Delaware with her population of 60,000 and Rhode Island with 70,000, as Pennsylvania with 400,000 and Virginia with 750,000. Surely these facts show how much more correct was Mr. Webster's judgment as to the nature of the government set up by these "Articles of Confederation," than was that of Judge Story or Mr. Everett, when, replying in the Senate to Mr.

Hayne, in 1830, he admitted that the Confederation was just what the name implies, a *league* or *compact*, between separate, independent political bodies, uniting only in certain respects, and for specified ends. But the great Senator himself fell into a most egregious error in 1833, when, in his famous speech on "The Calhoun Resolutions," he based his argument for the fundamental difference between that form of government proposed by the Convention of 1787 and the oldest one, on the word "*Constitution*;" for, as Calhoun was able to show, the records of that day, the resolution of the Congress advising the holding of a Convention in 1787, and the enactments of the States agreeing to do it, are thickly sown with the word "Constitution," "Federal Constitution," "Constitution of the Confederation." And his accusation that the terms, "compact," and "accede," as employed by the great Carolinian, were new inventions, introduced "for a purpose," fell to the ground when history was called to testify as to the terms used by Washington and his contemporaries.

In full keeping with these facts, it remains to be mentioned, that, when at length the war ended with a treaty of peace, the British Government acknowledged each of the Colonies by name as "*independent States*." And in the fifth article of the treaty, Congress agreed to *recommend* earnestly to the Legislatures of the respective States to exercise the privileges of sovereignty, by ordering the restitution of estates "to real British subjects," etc.

5th. But, as might have been anticipated, experience began by and by to discover some very serious defects in the details of the Articles of Confederation. The chief of these had respect to the mode of raising revenue for the General Government. No power to levy taxes having been conferred on it by the articles, the General Government was left to apportion out the estimated expenses, and then make a requisition upon each State for its share. The carelessness, or the jealousy, of State officers, was in this way working serious detriment to the Confederation, by leaving it helplessly in debt, while chafing and hard feelings began to appear. This was the course of matters in similar Confederacies, as in that of the United Netherlands. The ob-

vious cure was to consolidate the thirteen States into one. And there were good and great men, like Hamilton of New York, Morris of Pennsylvania, Randolph of Virginia, and Pinckney of South Carolina, who were for it. And Madison leaned in that direction, but without going so far. But the plan adopted, as we shall see, was to adhere to the old plan of confederation between independent States, while giving to the General Government, as their common agent, certain enlarged powers, among which the most important was that of dealing directly with citizens instead of making requisition on the States.

At various times during the war, Congress, moved by its difficulties, had petitioned the States for power to regulate trade, but without success, inasmuch as no plan could be devised upon which *all* were willing to unite, as required by Article XIII. of their compact. It was this source of trouble chiefly that finally led to the General Convention of 1787, wherein the present plan was drafted, and by whom it was recommended to the several States for their ratification.

We have now reached the most important epoch in the constitutional history of our country ; for here, if anywhere, the States agreed to merge their sovereignties into one great State. A sort of skirmishing has been undertaken by Judge Story and Mr. Everett, to establish a basis for the consolidation theory farther back than this. But Mr. Webster having expressly repudiated such a line of defence, in his reply to Hayne, this Convention has become the battle-ground where the question is to be decided as to the nature of our Government.

First, then, as to the *origin* of this General Convention. In 1785, Mr. Monroe having again raised in the Congress the question of asking the States to delegate to the General Government power to regulate trade, it was deemed more prudent that the movement should begin with the States. And accordingly, the General Assembly of Virginia, under the lead of Madison, issued a call for a Convention of the States at Annapolis, Md., Sept. 16th, 1786. But only four other States having accepted the invitation, the body, after recommending the call of another, to meet in Philadelphia on the second Monday in May, was dis-

solved. In the resolution, the following objects were proposed for the Convention of the States at Philadelphia: "To take into consideration the situation of the United States; to devise such further provisions as shall appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union; and to *report* such an Act for that purpose to the United States in Congress assembled, as when agreed to by them, and afterwards confirmed by the Legislatures of every State, will effectually provide for the same."

The scope of this action having been made so wide, they gave as a reason for it, that upon reflection, the power to regulate trade (which was needed to give the General Government assured stability) was found to be so connected with the system as to require other changes to be made.

Their recommendation being duly reported to their own States, and a copy sent to the Executives of the other States and to Congress, that body passed a resolution endorsing the movement, "for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and the several Legislatures such alterations and provisions therein," etc.

Thus we see that the object proposed was the amendment of an existing Constitution, and that the power of the General Convention was *advisory*. It was to "report" to Congress and the Legislatures, according to the provisions of Article XIII., and only after *every* State had approved, would any changes become effective.

Meanwhile, before Congress had acted (on January 21, 1787), several of the States had appointed delegates. Others followed, and on the second Monday in May, twelve States being present by their delegates, the Convention was organised by the election of Gen. Washington as its President. Rhode Island declined to take any part. Before the Convention had assembled, however, Jefferson seems to have sketched, in a letter to Madison, written from Paris, the outlines of the division of the General Government into three departments—Legislative, Executive, and Judicial. And by degrees, too, the thoughtful statesmen of that day began to catch glimpses of the plan of remedying the fric-

tion between the General and State Governments, by giving to the former power to act *immediately on the citizen*. In this way revenue could be assured and collision escaped. The idea can be traced to the speculations of Montesquieu, who had proposed it as an expedient for a Federal Republic, or composite government, made up of several units that were independent states in all except certain delegated powers.

The enactments of the various Legislatures show that the delegates derived all authority from their respective *States*. And this was made clear also by the manner of voting, each State, the smaller as well as the larger, being allowed a *single vote*, no matter how many delegates it might have.

It soon became evident that there was great diversity of opinion as to the best plan for removing the existing evils. Luther Martin, an able delegate from Maryland, has left his account of the parties. One, he says, was for merging the several States into one great State. Another was bent upon obtaining increased weight in the General Government for the larger States. The third, about equal in numbers to the other two combined, *was for the Federal system already in force*, but with enlarged powers. This highly intelligent testimony from an active member of the Philadelphia Convention, is totally opposed to the interpretation of Webster. And the controlling majority of the Federalists is made more apparent when we remember that the second party of which he speaks were only seeking some such recognition of the population of a State as was provided for by representation in the lower House.

Very early in the sessions opportunity was given for a test vote. Rauldolph of Virginia introduced a series of resolutions, the first of which insisted upon the necessity of a "National Government." And in the series this expression was repeated twenty-six times. But upon motion of Mr. Ellsworth of Connecticut, these words were stricken out in every instance, and the old title, "Government of the United States," substituted in its place. In advocating the change, Ellsworth said that he wished it to go forth that the Convention proposed the amending of an existing government, not the creation of a new one.

One of the most important steps taken by the Convention was the determination to go beyond their instructions in one important particular. It is certain that at first it was proposed to go by the plan of passing amendments prescribed in Article XIII. of the old Constitution; that is, after being approved by the Congress, they were to be submitted to each State Legislature, and only when approved by *every one* of these, could a change be made. This unanimity was now clearly out of the question, for one of the States had refused to be present in Convention. It was therefore recommended, as now found in Article VII. of the amended Constitution, that "*the ratification of the Conventions of nine States shall be sufficient for the establishment of the Constitution between the States so ratifying the same.*"

It was in this Article that Calhoun found his unanswerable argument showing that the Constitution is a compact "between the States" ratifying it. It shows, besides, these important facts: (1) that the act of each State alone could bind its people; and (2) that provision was herein made with all deliberation for the *secession* of nine of the States (each acting as above shown, for itself only) from the existing Union, in order that they might form another, and, as was believed, a better, under the new Constitution. And in order the more readily to give effect to this departure from the plan first contemplated, it was proposed that the ratifications of the States should be made by the people in Convention, rather than by the Legislatures, who, acting by delegated authority, were one degree lower than the people.

This innovation upon the appointed method set forth in Article XIII., awakened, as might have been anticipated, suspicion and criticism. It was charged with being a proposal to commit a breach of good faith. "How can you expect us to accept the pledges exacted by the new Constitution," they said, "when, in making it, you will disregard former pledges which are equally sacred?" To this objection Madison replied in the *Federalist*, to this effect: "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. Should it unhappily be necessary to appeal to such delicate truths for a justification for dispensing with the consent of particular States to a dissolution of the Federal pact, will not the complaining parties find it a difficult task to answer the multiplied and important infractions with which they may be confronted? The time was, when it was incumbent on us to veil the ideas which this paragraph exhibits. The scene is now changed, and with it the part which the same motives dictated."

To this statement of the case, the keen objectors of that day found no satisfactory answer. And the argument once admitted, as an explanation of the first union of the States, shows the wisdom of Mr. Webster in parting company with Judge Story, as he did in his reply to Hayne in 1830, when he so explicitly admitted that union to have been a league. We shall see how his mighty intellect erred, when, contrary to the recorded testimony of its framers, he tried to make the new government appear to be of an entirely different *species*, instead of being of the *same* species with new grants of power.

But this departure from the plan of amending the existing Constitution laid down in Art. XIII., necessitated a change in the mere phraseology of the preamble to the amended Constitution which, though deemed by the Convention to be of a trivial import, has, principally through the misinterpretations of Mr. Webster, proved to be a fruitful source of evil in later times. The preamble as first written was in these words :

*"We the people of the States of New Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, do ordain, declare, and establish the following Constitution for the government of ourselves and our posterity."*

This preamble had been *unanimously* adopted by the Convention. No change of opinion regarding the "people" who were to "ordain" the Constitution is even hinted at as taking place. But inasmuch as provision had afterwards been made for any *nine*

States to leave the old, and form the new, government, it being plainly impossible to say certainly which of the thirteen would avail themselves of the provision, there was a manifest impropriety in retaining all the names of the States. Therefore, in the revision, the preamble was so altered as to be conformed to Art. VII., by writing, *We the people of the United States.*"

The change, indeed, as Mr. Stephens observes, ("Constitutional View of the War," etc., Vol. I., p. 138,) was made by a "*sub committee on style*," whose business it was to see that all parts of the document corresponded as to phraseology. They reported, of course, to the Convention, and, in adopting their report, it ordered the verbal change to be made. But that it involved a change of principle—such a fundamental change of their opinions as to the *parties about to make the compact*—history sternly denies. "We the people of the United States," as interpreted by the history can only signify, "*We the people of each State so united.*" The most valued argument of Webster and his school is based upon a misconception of the facts furnished by this history.

But the discussions in print, and before the several State Conventions, shed further light upon these controverted words, "We the people of the United States." In the Virginia Convention the keen intellect of Patrick Henry had scented danger in the phrase, and he demanded the reason for saying, "We the people of the United States," instead of "We the States." Madison, "the father of the Constitution," thus answered him :

"Who are the parties to it [the Constitution]? The people—but not the people as composing one great body; but the people as composing *thirteen sovereignties*: were it, as the gentleman [Mr. Henry] asserts, a consolidated government, the assent of a majority of the people would be sufficient for its establishment, and as a majority have adopted it already, the remaining States would be bound by the act of the majority, even if they unanimously reprobated it; were it such a government as is suggested, it would be now binding on the people of this State without having had the privilege of deliberating upon it; but, sir, as it is, *no State is bound by it, without its own consent.*"

Mr. Henry still continued to urge objections; but as he did not again recur to this one, it is fair to judge that his difficulty was

relieved by the unanswerable logic of Madison, which sweeps from the field Mr. Webster and his party, as well as Mr. Henry's difficulty.

In the "Federalist," No. XXXIX, he meets objections in exactly the same way: "That it will be a Federal, and not a National act, as these terms are understood by objectors, 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 to result neither from the *majority* of the people of the Union, nor from that of a *majority* of the States. It must result from the *unanimous* assent of the several *States that are parties to it*, differing in no otherwise from their ordinary assent than in its being expressed, not by the legislative authority, but by that of the people themselves. Were the people regarded in this transaction," [*i. e.* the "ordaining and establishing" of the revised Constitution,] "as forming one nation, the will of the majority of the whole people of the United States would bind the minority in the same manner as the majority in each State must bind the minority: and the will of the majority must be determined either by a comparison of the individual votes, or by considering the will of the majority of the States as evidence of the will of a majority of the people of the United States. Neither of these has been adopted. 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.*"

Thus Madison, "the father of the Constitution," though personally favoring a strong central government, is totally opposed to Webster's view of "the people in the aggregate" being the parties who "ordain and establish their constitution." He not only denies that construction, but completely refutes it by citing the facts in the case. Mr Davis is fully sustained in saying that it was Webster's fate to revive the current objections which had been urged at first against the Constitution by its enemies, and to impose them upon himself and others as the true exposition of the document. For this great error he has obtained from ill-informed partisans, dazzled by the splendors of his genius, the title of "the great Expounder of the Constitution."

The Convention having completed its revision, "reported," as it had been instructed to do, to the Congress, and in due time their recommendations were laid before the States in their separate conventions. It was here, as Madison observed, that the real work was to be done which was to give legal authority to the new compact: "It is time now," he wrote in the "Federalist," No. XL., "to recollect that the powers [of the General Convention] were merely advisory and recommendatory; that they were so meant by the States, and so understood by the Convention; and that the latter have accordingly planned and proposed a Constitution which is to be of no more consequence than the paper on which it is written, unless it be stamped with the approbation of those to whom it is addressed."

The ratifying acts of the several State Conventions, as they are spread *in extenso* upon the pages of Mr. Stephens, are of prime importance to the correct understanding of this question. An examination of them will show that in every instance, these Conventions understood that the Constitutional draft was now "proposed" to them, and that the act of each, in ratifying or rejecting, would bind the people of its own State exclusively. "We the deputies of the people of the Delaware State . . . . for and in behalf our constituents, fully, freely, and entirely, approve of, assent to, ratify, and confirm the said Constitution." "In the name of the people of Pennsylvania . . . the delegates of the people of the Commonwealth of Pennsylvania . . . do, in the name, *and by the authority of the same people*, and for ourselves, assert to and ratify the foregoing Constitution for the United States of America."

The debates in the various State Conventions are invaluable helps in determining the interpretation put upon their own handiwork by the great men who acted as the agents of the States. And especially in the Conventions of Massachusetts, Virginia, and New York, were the debates instructive, not only because of the ability of members, but because their sentiments were nearly equally divided on the question of adopting. Massachusetts cast 187 votes for it, and 168 against it. Having, perhaps, sufficiently anticipated what was said in the Virginia Convention, it may be

well to sample the resolutions and debates in that of New York. The Convention of the Empire State, in the very act of ratification, like several of the other States, embodied in formal declarations, its sense of the compact, and of the limitations under which it was willing to adopt it. Among these declarations, explanatory of the sense in which New York ratified the Constitution, are these: "That all power is originally vested in, and consequently derived from the people, and that Government is instituted by them for their common interest, protection, and security."

"That the powers of government may be re-assumed by the people whensoever it shall become necessary to their happiness; that every power, jurisdiction, and right which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the Government thereof, *remains to the people of the several States*, or to the respective State Governments to whom they may have granted the same; and that those clauses in the Constitution which declare that Congress shall not have or exercise certain powers, do not imply that Congress is entitled to any powers not given by the said Constitution: but such clauses are to be construed either as exceptions to certain specified powers, or as inserted merely for greater caution."

Other declarations follow, relating to *religion, the militia, standing armies* in peace and war, *trial by jury, the right of search, public assemblies, freedom of the press, elections, ex post facto laws, writs of error, process against a State, jurisdiction of the Supreme Court, &c.* The enactment then goes on to say:

"Under these impressions, and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the aforesaid Constitution, and in confidence that the amendments which shall have been proposed to the said Constitution will receive mature consideration, We, the said delegates, in the name and in the behalf of the people of the State of New York, do, by these presents, assent to, and ratify the said Constitution."

In the discussions Chancellor Livingston said:

"The gentleman from Dutchess appears to have misapprehended some of the ideas which dropped from me. My argument was that a Republic might very properly be formed *by a league of States*, but that the laws of the general Legislature must act, and be enforced, upon individuals.

I am contending for *this species of government*. The gentlemen who have spoken in opposition to me have either misunderstood or perverted my meaning; but, sir, I flatter myself, it has not been misunderstood by the Convention at large."

"If we examine the history of the Federal Republics, whose legislative powers were exercised only in" (on?) "States, in their collective capacity, we shall find in their fundamental principles the seeds of domestic violence and consequent annihilation. This was the principal reason why I thought the old Confederation would be forever impracticable."—Ell. Deb. Vol. II., p. 215, 274; cited by Stephens.

Again. "But, says the gentleman, our present Congress have not the same powers. I answer they have the very same. . . . Here the gentleman comes forward, and says that the States are to carry these powers into execution; and that they have the power of non-compliance. But is not every State bound to comply? It is true that they have broken, in numerous instances, the compact by which they were obligated; and they may do it again; but will the gentleman draw an argument from the facility of violating their faith? Suppose there should be a majority of creditor States, under the present government; might they not combine, and compel us to observe the covenants by which we had bound ourselves?"

Mr. Williams having objected to the indefinite terms, "*common defence*" and "*general welfare*," holding that they might be so construed as to cover the abolition of State governments, Hamilton replied that the State Legislatures were effective barriers against such dangers. From such a body as the Legislature, he said, the spirit of opposition would be communicated to the people, and thus the very structure of "the Confederacy" provides against such evils. "*The States*," he said "*can never lose their powers till the whole people of America are robbed of their liberties. These must go together; they must support each other, or meet one common fate.*"

Such language in the enactments themselves, and in the explanatory debates, can leave no doubt as to "the people" who entered into the compact being the people of the States respectively.

The principal conditions to their acceptance of the Constitution were afterwards, upon the concurrent demands of several of the States, embodied in the 10th and 11th Amendments to the Constitution. But it deserves especial consideration just now,

that New York and two other States, Virginia and (when at length she consented to enter the Union) Rhode Island, expressly stipulated the right of the people to resume the powers delegated in this Constitution to the General Government. Virginia declared: "The powers granted under this Constitution, being derived from the people of the United States, may be *resumed* by them, whenever the same shall be perverted to their injury." New York: "The powers of the government may be re-assumed by the people, whensoever it shall become necessary to their happiness." Rhode Island: "The powers of government may be resumed by the people whensoever it may become necessary to their happiness."

The circumstances make it clear who "the people" are that can "resume" their grants of power. The only people that ever granted are the people of each State, acting separately, in their State Conventions. The preceding question: Shall Virginia adopt or reject? of itself explains all. Had the State Convention of either of these States refused to ratify, that State would have remained out of the Union, as indeed Rhode Island *did* remain out for fifteen months, after the eleven had set up the new government. The argument of Madison, altogether composed of undeniable facts, completely silenced Henry's difficulty on that point. But, in the very paragraph in which New York provides for the resumption of her delegated powers, as above mentioned, she aptly defines her own conception of "the people," who can recall the grants by saying: "Every power, jurisdiction, and right which is not by said Constitution clearly delegated to the Congress of the United States, or the departments of the government thereof, REMAINS TO THE PEOPLE OF THE SEVERAL STATES, or to their respective State Governments, to whom they may have granted the same." These words define "the people" who can resume the grants. They are the only people who ever have delegated power; for, as before shown, the Philadelphia Convention could delegate nothing whatever. It could only recommend that such action be taken by the States respectively.

Now, it was in full view of such explanations as had silenced the objections advanced by Patrick Henry and others about

“We the people,” that John Marshall, afterwards the *great* Chief Justice of the United States, observed in the Virginia Convention, of which he was a member, replying to further objections against the liability of the abuse of its powers by the General Government :

“We are threatened with the loss of our liberties by the possible abuse of power, notwithstanding the maxim, that those who give may take away. It is the people that give the power, and can take it back. What shall restrain them? They are the masters who give it, and of whom their servants hold it.”—Ell. Deb., Vol. III., p. 233, cited by Stephens.

It was the people of Virginia that were then discussing whether or not they would “give.” Art. VII. of the proposed Constitution provided for setting up the new government whenever so many as *nine* of the thirteen States should ratify, and it was to be composed “between the States so ratifying,” not between the recusants and the ratifying States alike.

According to these clauses, then, the resumption provided for was to be exercised by States assembled in Conventions. *The reserve of power lies with them*—so says New York. Of course, the law of reciprocity extends the same discretion to their co-equal associates, the other States.

Another fact bearing upon this question, Who are the parties to the contract? Eleven States, having ratified the Constitution, the amended form of government was set up between them, March 4th, 1789, Washington being unanimously chosen President. This was about one and a half years after the rising of the Philadelphia Convention, Sept. 17th., 1787. But two of the States had refused to ratify. They accordingly formed no part of the new Union, but remained by themselves, as separate, independent political bodies—North Carolina for nine months, Rhode Island for fifteen. They were friendly, but foreign powers. And as such Rhode Island formally entered into correspondence with “the eleven United States,” as she correctly styles them, in the curious paper copied by Mr. Davis, “Rise and Fall,” Vol. I., pp. 112, 113.

In all this there is no place found for the ratification of “the people in the aggregate.”

Thus, when the calcium lights of history are turned fully upon them, the speculative notions and verbal criticisms embodied in Webster's wonderful speech "On the Constitution," are shown to be mere optical illusions and unsubstantial shadows—the "*idola specus*" of Lord Bacon. Mr. Calhoun had no difficulty in vindicating, by the history, the strict propriety of all the terms against which his mighty antagonist had trained his heaviest guns. The word "*compact*," as applicable to the Constitution, and "*accede*," (whether or not it be the correlate of *secede*, as Webster thought it,) are found in the writings of Washington, and others who helped to frame the instrument. And the term "*Constitution*," upon which Webster laid so much stress, as affording the crucial test for clearly discriminating between the old "Articles of Confederation" and the plan proposed by the Convention of 1787, is shown to have been as freely applied by the fathers to the former as to the latter. The resolution of Congress, advising the revision, expressly terms the "Articles" a "*Federal Constitution*." The enactments of the twelve States that consented to take part in the General Convention, are thickly sown with the very word "Constitution," as applied the old system. The massive links of the elaborately wrought chain crumble into dust at the touch of Calhoun's hand. And, he was fully warranted in holding Webster to the damaging admissions which he had made, when he acknowledged that the older system was a "league" of independent States.

It is no impeachment of Webster's splendid abilities, when we thus seek to correct his conceptions of the Constitution by appealing to the testimony of the men who made it. The era of the Revolution might boast of a constellation of statesmen worthy to inaugurate a new epoch in human government. Jefferson, Madison, and Hamilton have, as statesmen, had no superiors in American history. And surely they would be better able to interpret their own words and to declare their own intentions than even a Webster could be.

The errors of such a mind might furnish a striking moral to that philosophy which enjoins caution and humility upon all men. "I remember"—so Mr. Webster is reported as saying—"to have

heard Chief Justice Marshall ask counsel, who was insisting upon the authority of an act of legislation, ‘*if he* thought an act of legislation could create or destroy a fact, or change the truth of history?’ ‘Would it alter the fact.’ he said, ‘if a legislature should solemnly enact that Mr. Hume never wrote the History of England?’” The argument as to the limits set to human power finds illustration in the Senator’s attempts to expound the Constitution so as to make it accord with his own doctrine of a consolidated government into which the sovereignties of the States had been merged. Mr. Webster once said, perhaps with something of rhetorical exaggeration, that the war of the Revolution was fought upon a “*preamble*”—thereby meaning the preamble to the Boston Port Bill, in which George III. claimed the right to tax the Colonies at his own pleasure. Alas! it is probably nearer to the truth that Mr. Webster, beyond all others, helped to inaugurate a far more bloody war, in which hundreds of thousands of his countrymen were to perish. And his misconstruction of the words, “We the people of the United States,” in a “*preamble*,” was a potent element in the direful result. Like the dragon’s teeth sown by Cadmus, his words—great man and true patriot though he was—have borne a harvest of violence and blood.

Webster lived to grow wiser. Mr. Stephens sustains this position by ample testimony, as it seems to me. No formal rejoinder to Calhoun’s reply was attempted by Webster. And, though a vote was not reached upon the question in debate between them in 1833, yet, in 1838, Calhoun was able to carry all his positions by a two-thirds vote in the Senate. In 1839, Webster is found arguing before the Supreme Court upon Calhoun’s principles rather than those held by him in 1830–3. And in 1851, at Capon Springs, Va., speaking to the toast, “*The union of the States*,” he freely applies the term “*compact*,” as explanatory of the nature of the Constitution, and even the word “*bargain*.” “A bargain,” he said, “cannot be broken on one side and still bind the other side.” “If the Northern States,” he proceeded, alluding to their passage of the “Personal Liberty Bills,” “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 be no longer bound to observe the *compact*."

Five years later—1856—the Senate confessed in its solemn appeal to the recusant States, that Congress, without their aid, could provide no effective remedy. But ere that announcement was made, Daniel Webster had passed away, like his great associates Clay and Calhoun. We cannot say, therefore, what course he would have advised, if he had been alive in 1860. The fact of a great change of opinion, however, is made clear by Mr. Stephens. Unfortunately for the country, Webster's influence was chiefly exerted while he held the opinions announced in 1830-3. And so it is, to borrow the words of the greatest of poets :

"The evil that men do lives a'fter them ;  
The good is oft interred with their bones."

It only remains that we examine in this cursory manner what provision, if any, appears in the new Constitution for the surrender by the States of their "sovereignty, freedom, and independence," as asserted for them in the first Constitution, and admitted by Mr. Webster ; and, having done this, to see wherein, if at all, authority is given to the General Government to coerce a State.

So far as Webster himself is concerned, it would seem that he is on our side, on the principle of "a good and necessary inference." For, acknowledging candidly that the States came out of the old Union under the "Articles of Confederation," as independent political bodies that had been united by a *league*, he also dwelt at another time upon the fact that nothing whatever is said in the Constitution about sovereignty. Now, when these two facts—and such they are, beyond a doubt—are brought together under the Tenth Amendment, what follows of necessity? That portion of the Constitution, be it remembered, 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."*

*Major*—All powers not delegated to the United States, etc., are reserved to the States respectively, or to the people.

*Minor*—But nothing whatever being said about sovereignty, which they certainly possessed before forming this Constitution, it is not delegated to the United States.

*Therefore*—Sovereignty is reserved to the States respectively, or to the people.

But, as Mr. Davis observes, Webster seems to have had a sort of double obscuration of vision with regard to the *governments* (General and State) and the *people of a State* in Convention assembled. All of our American *governments*, as he earnestly states the case, are *limited* to the exercise of certain powers delegated to them. None of them, therefore, is *sovereign*. But from this it does not follow, as he seems strangely to have imagined, that the term “sovereign,” or “sovereignty,” borrowed from the feudal times, as he says, is totally inapplicable to our *system*. In this he is followed by Motley. Both of them overlook the fundamental difference between the delegated powers of a *government* and the original undelegated powers of the SOVEREIGN PEOPLE. This *people*, speaking in their Conventions, is the fountain of all delegated powers of the *governments*, under our system. And in denying, or seeming to deny, the applicability of this title to such a *people*, Mr. Webster shot wide of the mark. For not only does Article II. of the old Confederation meet him with a square denial, by applying the very word “sovereignty” to the States, but, as Mr. Davis observes, the language of the fathers is thickly sown with the term, showing that they had deliberately appropriated the term, feudal though it was in its origin. Mr. Davis gives the language of the people of Massachusetts, assembled in Convention to frame her Constitution :

“The people inhabiting the territory formerly called the Province of Massachusetts Bay, do hereby solemnly and mutually agree with each other to form themselves into a free, *sovereign*, and independent body politic, or State, by the name of the Commonwealth of Massachusetts.”

So speaks the State which was so ably represented by Webster ; the birth-place, too, of the historian of the Dutch Republic. Probably neither had read the testimony.

Alexander Hamilton ("Federalist," No. LXXI.), speaking of the exemption of a sovereign from liability to be sued at law, save at its own consent, says: "The exemption, as one of the attributes of *sovereignty*, is now enjoyed by every State in the Union.

Madison (in the "Federalist," No. XL.) says of the principles of the old Confederation: "Do they require that, in the establishment of the Constitution, the States shall be regarded as independent *sovereigns*? They *are* so regarded by the Constitution proposed."

So also speak Benjamin Franklin, James Wilson, Gouverneur Morris, Roger Sherman, and Oliver Ellsworth; their words being cited by Mr. Davis ("*Rise and Fall*," Vol. I., p. 144). They certainly have the start of Mr. Webster, and possession, which is said to be "nine-tenths" in law, is by Horace, with universal assent, put a degree higher:

*"Usus penes quem et jus et norma loquendi est."*

If now, in the light of all these testimonies, you will apply the canon of the Constitution, as found in the Tenth Amendment, where is *sovereignty* lodged but with the people of an organised State, who can make and unmake governments; who can delegate powers and recall them?

This Amendment, be it remembered, was introduced on the demand of many of the States, jealously regarding the possible encroachments of the General Government. And if any of us can entertain a doubt whether "the people" of that amendment be those of "the States respectively," or those of the whole territory *en masse*, let him examine the phraseology of New York, as she makes the adoption of this very provision the condition of her ratification. There he will see the people of a State discriminated from the State Government, to which the people may have delegated a portion of their powers, to be exercised for their good.

Applying the same test to the question of coercing a State, in its political capacity, we have but to ask, *Where does the Constitution delegate any such power to the General Government?*

Early in the Convention of 1787 it was proposed that such power be given to the General Government by the States, each in its own Convention, the General Convention at Philadelphia having, as we have seen, power to *recommend* only. The motion was made that the General Government have power “to call out the forces of the Union against any member of the Union failing to fulfil its duties under the Articles thereof.” This was coercion, pure and simple.

Now, what reception was accorded to this proposition? Mr. Madison observed that “a union of the States containing such an ingredient seemed to provide for its own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment, and would probably be considered by the party attacked as the dissolution of all previous compacts by which it might be bound. He hoped that such a system might be framed as might render this recourse unnecessary, and moved that the clause be postponed.” This was adopted *nem. con.*, that is, none opposing. Every such proposition subsequently introduced, or hinted, met the same fate.

Oliver Ellsworth, an influential member of the General Convention, speaking afterwards as a member of the Connecticut State Convention, said :

“This Constitution does not attempt to coerce *sovereign bodies, States*, in their political capacity. No coercion is applicable to such bodies but that of an armed force. If we should attempt to execute the laws of the Union by sending an armed force against a delinquent State, it would involve the good and bad, the innocent and guilty, in the same calamity.”—Elliott’s Debates, Vol. II., p. 199, cited by Mr. Davis.

Mr. Hamilton, in the Convention of New York, declared :

“To coerce the States is one of the maddest projects that was ever devised . . . . . What a picture does this idea present to our view? A complying State at war with a non-complying State : Congress marching the troops of one State into the bosom of another . . . . . Here is a nation at war with itself. Can any reasonable man be well disposed toward a government which makes war and carnage the only means of supporting itself—a government which can exist only by the sword? . . . . . But can we believe that one State will ever suffer itself to be used as an instrument of coercion? The thing is a dream—it is impossible.”—Elliott’s Debates, Vol. II., pp. 232-3, cited by Mr. Davis, “Rise and Fall,” Vol. I., p. 178.

But alas for us! that we should have seen this ugly dream a dreadful reality. The "Empire State" suffered herself to be made "an instrument of coercion," when she forsook the counsels of her greatest statesman, centralist though he was, for the devious ways of Wm. H. Seward.

In the Convention of Virginia, that same Edmund Randolph who at Philadelphia had moved the adoption of a "National government," thus expressed himself:

"What species of military coercion could the General Government adopt for the enforcement of obedience to its demands? Either an army sent into the heart of a delinquent State, or blocking up its ports. Have we lived to this, then, that in order to suppress and exclude tyranny, it is necessary to render the most affectionate friends the most bitter enemies, set the father against the son, and make the brother slay the brother? Is this the happy expedient that is to preserve liberty? Will it not destroy it? If an army be once introduced to force us, if once marched into Virginia, figure to yourselves what the dreadful consequences will be; the most lamentable civil war must ensue."—Ell. Deb., Vol. III., p. 117, as cited in "Rise and Fall," pp. 178-9.

Now, in the light of such an array of testimony by the great and good men who framed this Constitution, men of various shades of political opinion, let us again ask where is the power delegated by the States to this limited General Government, for employing force against a State, "in its political capacity?" The bond reads:

*"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."*

And as moving in this very line of construction, though not expressly naming military coercion, let us read the 11th Amendment:

*"The Judicial powers of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any Foreign State."*

If they may not be judicially coerced, how much more not by war!

The procedure of the States in the very act of "ordaining and

establishing" the new Constitution, finds a place in this exposition. Art. VII. made express provision, as we have seen, for the *secession* of any nine of the thirteen States in order that they might establish the new government. And accordingly, when after some delay, eleven of them had one by one, withdrawn and reunited, the new government was set up by the election of Washington to be the President. Two of the thirteen States declined to take part in this action, and remained, one for nine months, the other for fifteen, entirely separate from the new government—Rhode Island taking occasion meanwhile to address a note to "the eleven United States," the note being received with the formalities usual to such foreign correspondence. Now, mark the argument suggested by Mr. Davis: *Either the eleven, acting one by one, seceded from the two, or else the two, declining to follow them, seceded from the eleven. In either case there was an act of secession, which was deliberately provided for in the Constitution itself.*

We have heard Madison's justification of this secession on the double ground of necessary exercise of inherent power, (which is sovereign,) and of violations of the "*federal pact*," which left all parties to it free to do as they choose. Madison was perfectly consistent in applying his doctrine of the rights of the States to the case of Virginia's protest against the Alien and Sedition Acts of Congress. His elaborate "Report" to the General Assembly of his State in 1799-1800, shows him to have held the very principles upon which we acted in 1860. Jefferson had taken the same ground in the "Kentucky Resolution," drafted by him in 1798. [See App. D. and E. to Vol. I. of Stephens' "Constitutional View of the War," etc.] The "Report" made a sensation in that day, and drew forth angry remonstrances. But Mr. Stephens notes the significant fact that each of these great Virginians was seated for two terms in the Executive Chair which Washington had filled before them.

Time fails us to consider now the concurrent opinions of many great and good men in New England. You will find ample evidence of this in Mr. Davis and Mr. Stephens. Of these, the action of the Hartford Convention deserves special notice. They,

indeed, incurred unnecessary odium by making a move toward dismemberment in the very midst of a great war with England. But, barring this feature of their action, they were representative men of high character.

The State of Massachusetts, too, has a special record bearing on the doctrine of States' Rights and the lawfulness of Secession. She was first to move for the Hartford Convention in 1814. When the Louisiana purchase had been effected in 1803, she threatened to withdraw. And in 1844 by solemn act of the Legislature she again declared that "The project of the annexation of Texas, unless arrested on the threshold, may drive the States into a dissolution of the Union." And on the 22d of February, 1845, she passed the following resolution: "And as the powers of legislation granted in the Constitution of the United States to Congress, do not embrace the case of the admission of a foreign State, or foreign territory, by legislation, into the Union, such an act of admission would have no binding force whatever on the people of Massachusetts"—cited by Mr. Stephens, "Const. View of the War," etc., Vol. I., pp. 510,511. The difference, as Mr. Davis aptly says, between ourselves and them is that while they were content with asserting their right, we acted on ours.

Mr. Stephens, however, calls our attention to the curious fact that the General Government had, for many years prior to 1861, *itself inculcated the doctrine of Secession*, by having its agents, the instructors of the Military Academy at West Point, use, as a text-book in the classes, Rawle's Exposition of the Constitution, which goes to the whole length of showing just how the solemn step should, in case of necessity, be taken. (*Ibid.*, p. 505.) Hence if Davis, Lee, Johnston, and their associates, sinned in holding that the secession of their States, being a lawful act, carried them out of the Union, they can point to their instructions at West Point and say: We were so taught by authority of the General Government.

Webster, indeed, seems to have imagined that in his famous speech on the Constitution, he had effectually barred the door against the alleged right of secession, by showing that it could

never be put into exercise without perjury. Each member of a State Legislature, he said, all Judges and other officers, being required to take oath to observe the Constitution of the United States, are thereby bound to perform all duties enjoined upon them by the Constitution. The elections for President, Senators, etc., *must* therefore occur as ordered by the Constitution. State officials, being constrained by their oath, have no choice but to see it done. And so the government must go on *in perpetuo*. Mr. Davis (as also Mr. Stephens) very correctly exposes the double confusion of thought betrayed by this argument of the great orator—the confounding of the limited powers of a State government with the unlimited sovereignty of the people thereof, acting in their conventions; also the delegated powers of the General Government with the same sovereignty. Now it may be very safely, so far as we are concerned, conceded that Webster's argument is conclusive as to the discretion of a State *government*, though in this Hamilton is against him. But it does not, by any means, follow that the *sovereign people* are thereby estopped. The power which delegates is competent to recall, as in all unlimited partnerships. The citizen became connected with the General Government solely through the act of his State. So long as his State continues to ratify the compact, so long he is bound thereby. But his sovereign having formally annulled the compact, the subject is free from it. The act by which your sovereign, *the State, speaking in her convention, repealed her former ratification of that compact was the exercise of an undelegated right—a right, therefore, which, by the express language of the Tenth Amendment, is reserved "to the States respectively, or to the people."* The Constitution distinguishes clearly between the two forms of power, each of which is in popular language termed a "State"—the delegated powers of the *government*, and the original fountain, the *people*. The distinction had been clearly made in the Philadelphia Convention, and on that distinction, Art VII. had been based.

When, therefore, my comrades, you obeyed the voice of your sovereign State in leaving the Union, you acted in strict conformity to law: you kept your faith with every man. And when,

further, you took up arms to defend your sovereign, you did no more than your bounden duty. The bloody war was, on your part, one of self-defence. You asked only to be let alone in the discharge of that duty. Brothers of the Sixth Regiment! look upon that faded, tattered banner, that floats above our heads, preserved to us by the accident of being already too old for service when we surrendered our arms at Appomattox. A "conquered banner," it may be called, because it was overwhelmed by tenfold odds. I see upon it the names of "Williamsburg," "Seven Pines," "Gaines' Mill," "Frazier's Farm," "Second Manassas," and "Sharpsburg." I see it to be rent with hostile shot. Some dark stains may be on its folds too. But, comrades, they are the sacred drops of patriot blood, which hallow, but cannot defile. There is no spot of dishonor upon thee, thou emblem of a fallen, but upright people, of a cause "lost," so far as the bloody arbitrament of the sword could avail it, but dear to our saddened hearts as the memory of a buried love. Dear old banner! What memories it recalls of strong hands that bore it amid the crash and roar of battle, until they relaxed in the pangs of dissolution—of eyes that strained after it, as it floated amid eddying clouds of smoke, until the films of death blotted it out! Our brave comrades!

"On Fame's eternal camping-ground,  
Their silent tents are spread;  
And glory guards, with solemn round,  
The bivouac of the dead."

In the name of history, whose ample testimony is before you; in the name of the fathers of the Republic, whose words have been cited; in the name of the Constitution, which they framed, and have interpreted for us, I declare, impugn it who will, that they died, true men, valiant warriors, and devoted patriots, martyrs in the defence of truth and right!

Having thus, as I humbly claim, shown that no taint of dishonor attaches to our Association, let me, in conclusion, make a few suggestions relating to our duties as Southern soldiers and as American citizens.

And, first, let me say that we, of all men, need to cultivate the virtues of *patience and charity towards those who differ from us*. I have proved that in all your controversy with our

Northern brethren, you were in the right, as to moral principle and political privileges. But you know that a good cause can be ruined by the spirit and temper in which it is defended. In my heart I feel that herein lay one of our chief defects in days gone by. We allowed ourselves to become too much embittered by their conduct. We learned to dislike, and then to despise, our opponents. The land was filled with boasts of what we would do. Such feelings are sure to prove bad counsellors. It is not very safe to underrate one's enemy and overrate one's self. This we did to a great degree. And I have often thought of the wise man's saying: "Pride goeth before destruction, and a haughty look before a fall." This scornful feeling helped us to jeopardise our just cause, by rushing unprepared into the war. In vain sagacious men like Mr. Davis and Mr. Stephens cautioned us of the danger. We said there would be no war. We called such as they, "too slow." Had we been a little less confident, had we respected other men's determination and fighting qualities, had we cautiously armed ourselves beforehand with the best weapons to be found in the world, where would we have stood to-day? We would have been free and victorious. Let us learn to respect other people's manhood as well as our own. They have wronged us deeply. But it may be said of them—at least of the great mass of the Northern people—as the great Apostle said of himself: "They did it ignorantly through unbelief." They proved their sincerity by their willingness to suffer. Let us, then, respect those convictions, however erroneously founded we may know them to be. Let us reverence their manhood, and try to be glad that they have never passed through such agonies as defeat and "reconstruction" brought to us. Our provocation was great, and it is great now. I remember the sluices of calumny and abuse. My blood will boil yet when I see it in print. Success does not always make people lovely, especially toward such as they may dislike and, perhaps, somewhat fear. We have had a plenty of such treatment to bear. But if patience, self-control, and charity for others, were needful for us when we were strong, how much more so now, in our defeat! We claim to be witnesses for a great principle—the right of local self-government; for the di-

vision of power, as a protection against the corruptions which have ever developed from centralisation in other republics. The taint has shown itself fearfully in our own country. The record testifies that the fathers of the Republic held this principle to be the corner-stone of our institutions. With one voice the great men of that day assent to the declaration of Alexander Hamilton, when in the New York Convention, he said, as you have already heard: "*The States can never lose their powers till the whole people of America are robbed of their liberties. These must go together; they must support each other, or meet one common fate.*"

So spake he whom Mr. Davis with good reason seems to regard as the greatest intellect of his age, though it abounded in great men. The signs of the times seem to give to his words something of the forecast of prophecy. As the territory is developed, wealth will increase at an ever-accelerating speed, and with it the temptation to, and the ready means of, that political corruption which ruined Rome, as it had Babylon, Persia, and Alexander's successors. The hope for us seems to lie in a clearly defined division of powers, in the right of States to oppose an effectual check to the absorption into itself by the General Government of functions not delegated to it by the original compact. We can no longer battle for the heritage. War is no longer dreamed of as a remedy by sane men among us. We must be content to plead before the better judgment of the majority. It is their interest as well as ours. Time is a great reconciler. The soft water-drop wears away the hard stone. We will probably be treated to a dose of scorn, if we claim to be in the right. Some persons think we should be very humble and grateful that we are allowed to live at all. But no matter. Let them feel so, if they will. Let us hold fast to the truth, and testify as we have opportunity. The great writers of the South are doing it nobly. There is no telling what changes can be wrought by fidelity to our convictions. Think what the Abolitionists accomplished by unswerving adhesion to their notions of right. They were despised, they were in the minority, but they triumphed. See the influence of Mr. Calhoun's fidelity upon the mind of his

noble antagonist. See Mr. Webster, upon the most solemn occasions, reverting to the very positions which he had challenged, and using the very words to which he so bitterly objected. In patience we possess our souls. Truth is a mighty power. It proved itself so on two great occasions in American history before our trouble culminated. The aggressions of the Federal Government were, as Mr. Stephens shows, checked by the firm opposition of Virginia, led by Jefferson and Madison, about the opening of this century. They were checked again, as he thinks, by Calhoun, between 1830 and 1840. Let truth be heard again; and let the voices of her witnesses be gentle and full of good-will to all men. If the principle was worth risking our lives for, as we believed, let us bide our time, and it may yet assert itself in the convictions of the American people. In any event, we can but do our duty.

Next, let me put in a kind word for the children of Africa, whose fate has been so strangely blended with ours. They were, as all admit, the best servants in the world under the old arrangement. We went off to the war, leaving aged parents, defenceless wives and little ones, largely dependent on them. They were wonderfully faithful to the trust. I have never heard of a single instance of deliberate cruelty on their part toward the thousands who were in their power. We had a number of them with us in camp. They were faithful and kind to us. Many a man's life was saved on the battle-field and in the hospital by the fidelity of his black servant. Not one of those attached to our Regiment, so far as I know, ever deserted his master for freedom in the enemy's camp. I am glad to see many of them here among us to-day. I am glad to know that their names have been enrolled along with ours in the Survivors' Association, and that they are wearing the badges of their old masters' companies. Comrades, these good-natured colored men have been more sinned against than sinning. Brought hither from the wilds of Africa by the greed of white men, chiefly from old England and New England, without their own choice, they have been set free, and enfranchised, without seeking it. They must be either more or less than human to have escaped all the tempta-

tions put in their way. It was impossible that their simple minds should fail to be greatly disturbed by such sudden and surprising changes. And as they have been all along used as the "cat's paw" to serve the partisan ends of white men, so they came very near being used by carpet-baggers and other thieves to destroy whatever had been saved from the wreck of the war. But they were hardly more conscious of the horrible evils wrought by their votes, than the little child is of burning down his father's house, while he played with the fire. Putting myself, as far as I can into his place, I very much doubt whether the more determined white race of the North or the South would have done as well. Let us be patient with our black brother. It has pleased a good Providence to make us his greatest benefactors in the past. While others have tampered with his safety in the accomplishment of selfish ends, or in the exercise of sentimental philanthropy, God has made his relations to us to be his greatest blessing. They came to us debased savages, the naked worshippers of *fetiches*, the dupes of Obi-men, and of Gre-gre women, some of them being eaters of human flesh. Under our tuition they were taught the habits of order, decency, and industry. Under us they forsook their bestial idolatry. Hundreds of thousands of them, more, indeed, than have been won to Christ on heathen ground by all the devoted missionaries of Christendom, have become sincere worshippers of the God of heaven. We did not do for them, as our bondmen, all that we ought. We were greatly hindered by the intermeddling of conceited busy-bodies. But we might have done more. Let it not be said that our hearts are turned to stone by evil circumstances.

First of all, we must be *just* to them. I know that many among us have been tempted by the fact that they once were our bondmen, and were wrongfully taken away from us. But remember, we have *consented* to the will of our conquerors. It is so in the record. We have solemnly and deliberately said, They shall be free. Let us not forswear ourselves. Let us promise fair wages, and then pay *what* we promise, and *when* we promise. This is God's law. He says: "The wages of him that is hired shall not abide with thee all night, until the morning." He shall not be

kept waiting even one night after it is due. If any body must go unpaid for a while, let him wait that can best afford it, not the poor laboring man.

And, then, be kind to the black man in his troubles and afflictions. Visit him in his sickness and sorrow, as Christ tells you to do. They are full of sympathy when we are in trouble. I never had a great grief in my home that they did not weep with me.

Help him to guard the sanctity of his humble home, to protect the character of his wife and daughter.

You know far more than he does. Give him a kind word of friendly counsel, when he is in the mood to receive it. Do him a favor whenever you see the chance. I do not see why strangers should come from a distance to teach our colored peasantry. We taught them when we owned them. Many of our most gifted ministers spent their lives preaching to them. My first lessons were received in my father's house along with the colored servants. The first work I ever did, even before I was your Chaplain, was to teach a Sunday-school of colored people. Our great hero, Stonewall Jackson, for years taught a colored Sunday-school in Lexington, Va.

Again, let me urge upon every Confederate veteran, the duty of building up the waste places of our beloved South. One of the greatest things that Macaulay records of Cromwell's invincible old "Ironsides," is, that when peace came, if you saw a grave-looking man who was a little more energetic and industrious than his neighbors, you might be sure he was one of Oliver's old soldiers. Let us be like them. We have bonds of sympathy with them. For after their mighty leader had been laid under the sod, the bloody beastly Stuarts came back, and with them such corruptions as are rarely seen outside of pandemonium. But they were patient and true, until, by and by, the Prince of Orange came, and liberty was forever established. Be like them; and it may be that, by and by, our countrymen at the North will come to our help, and undo, as far as they can, the evil which they have done.

Our beloved commander set us the example in this, as in every-

thing else that is manly and noble. During the war, friends of his family secretly made up the funds with which to buy a home in Richmond for his venerable wife, and her daughters, driven, as we all know, from their ample possessions which they had inherited in part from George Washington. But when he heard of it, he assured them that such a course would pain him deeply—that nothing could induce him to think of accepting it. If any had more than they required, let them, he suggested, give it to the suffering soldiers, or donate it for the defence of the country. When, in the universal scarcity of the war, luxuries were pressed upon him, he said: “Send these things to my men in the hospitals.” And when the war had ceased, he was offered a commercial position which guaranteed to him a salary of \$10,000 per annum, he declined it, saying: “I cannot earn the money in a business which I have never mastered.” “Yes; but General,” they said, “we don’t wish you to *work*. Your name will bring us the custom, which will pay your salary.” “If that be so,” was his reply, “I cannot afford to become responsible to those who would trust to my management, unless I knew exactly how to protect their interests.” And so he preferred to accept a small salary as an instructor of our boys. How proud, my comrades, we should be that General Lee did not fall under the censure of Holy Writ, when it says: “The king by judgment establisheth the land; *but he that receiveth gifts overthroweth it.*”

Improve your methods of farming. Bring back to their pristine fertility these old red hill-sides, all riven and torn by bad tillage. They have in them the elements that will insure your success, if only you will do it wisely and patiently.

Do this good work for your own children. Said a wealthy manufacturer the other day to a friend of mine: “I hope your people in the South will take warning by us here in Pennsylvania. Fifty years ago much of our land had been exhausted, as yours is, and it was sold at five or six dollars an acre. Strangers came in and bought it. They cultivated it wisely, and now you could not buy that land for \$100 an acre.”

*Build cotton-mills, and be independent.* I am glad to see you are doing so. The United States Census shows that mills in the

South average  $22\frac{1}{2}$  *per centum* on investments. Be prudent as well as energetic. You have all the needed water-power; you have the climate; you can save cost of transportation both ways and handling. Be independent, and get back some of the wealth which Protective Tariffs have squeezed out of you.

When you exercise that solemn responsibility of American citizenship—the calling of men to discharge official responsibilities through your votes—be sure that you call none who cannot be trusted. The men who stood by you in your troubles are those who will serve you, not for the “loaves and fishes,” but for love.

A real “Union man,” one whose judgment and conscience having decided against the lawfulness of Secession stood up for his own convictions like a man, we can all admire, and, if capable, vote for, always provided that we do not thereby sacrifice the great principle of local self-government. But the turncoat and trimmer is, like Ephraim of old, “unstable as water, and will not excel” in any good work. Trust him not. He will betray you, whenever it serves his purpose.

Finally, build upon and cherish your Southern *homes*. There lies the secret of your power. As I have wandered amid the splendors of Northern cities, looking at their shipping, their factories, massive buildings, and mighty railroad systems, I have often said to myself: You excel us far in all that pertains to material civilisation. But there is one product in which we have never been surpassed by you, and that is *the quality of our men and women*. In that we have held our own, not to say more, from George Washington to his heir, Robert Edmond Lee. And such men as Albert Sidney Johnston and Stonewall Jackson, attested, when the trial came, that the old heroic stock had not decayed. Let who will gainsay it, I hold that such men are formed in God’s school—the *Christian home*. And I believe that much of that fearful decline in the character and intellect of public men in other parts of the country nowadays, is due to a breaking down of that great, primitive, divine institution, more essential than either Church or State—the *family*. It is a matter of pride to me, as a Carolinian, that so soon as you wrenched

your "Prostrate State" from the avaricious grip of thieves and carpet-baggers, you rescinded their divorce law, and went back to the old colonial record, which says: "What God has joined together, let not man put asunder." The rule that denies all divorce is, perhaps, a little too severe. But infinitely better to be that, than to turn marriage into licensed impurity, as is being done in parts of the United States to-day. Hold fast to whatever is right in your old traditions. Maintain your individuality. Don't consent to be absorbed. An eminent gentleman in Boston, who has had no hand in throttling the South—and there are thousands like him at the North—said to a friend of mine not long since: "You are in the right so far; but the great danger is that the South will give way, and loose her *individuality*." It is a friendly warning. Let us take it.

And now, my brothers and comrades, during all the years in which I was your minister, you will bear me witness that I never, even on one occasion, gave you politics instead of the gospel. I adhere to that rule yet, when I undertake to preach. But to-day, I am speaking as a citizen and Southern soldier, not as a minister of the gospel. But I cannot sit down until I add one word of the old sort: May Almighty God bless you all, now and forever more!