THE

MORAL CHARACTER

OF

CIVIL GOVERNMENT,

CONSIDERED WITH REFERENCE TO THE
POLITICAL INSTITUTIONS

OF

THE UNITED STATES,

IN FOUR LETTERS.

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ALBANY: W. C. LITTLE.
SCHENECTADY: J. C. MAGOFFIN.
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1832.

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LETTER I.

ORIGIN, CHARACTER, AND DUTIES OF CIVIL GOVERNMENT.

Dear Sir,

DID the offering of a few remarks from me upon the subject of this letter require an apology, your request would furnish it. But none is called for. The subject occupies a prominent place in every system of morals; in it every citizen has a deep concern, and to it our attention is called for a purpose very different from that which engages the mere political partisan.

You do not need, nor does the occasion require, that any remark should be made on the several forms of government which have obtained among the nations. You and I perfectly accord in the preference of our own well regulated rperesentative Democracy, to either the oligarchy or the monarchy; or any modification of these, such as we find in the British empire. All you require, and all I shall give, will be a mere outline of what occurs to me at the moment, upon the subject. You will take the following positions as containing the principles of my political creed, considered abstractly from any existing government; and I flatter myself, when some unhappy prejudices now existing shall have passed away, and when party conflict shall have been forgotten, they will be found in accordance with the views of most, if not of all, reflecting christians and enlightened statesmen.

POSITION I.—*Civil government is the ordinance of God, as the Creator and Governor of the world, for good to man, founded in the moral law of our social nature, the principles of which law are the standard of its actual constitution and administration.*

The social nature of man and his social interests are too clearly seen and felt, to require any argument in proof of

their existence and importance. The constitution of human nature evinces man to be a subject of moral government.—Between him and his Creator a relation, deeply interesting and of extensive bearing, exists. It is out of this relation the law of our nature arises. That law is stamped with the authority of God. There is no faculty of the soul of man which does not connect him with his Maker; and there is no attribute of Deity, known to us, which does not connect him with his rational creature. God gave to man this constitution, and thereby expressed his will, that its various principles should be brought into action. The law of our nature is the result of this constitution, related as it is to him who made us, and to those beings with whom he has connected us in life. Its requisition is, that we should act suitably to our relations, in the employment of the faculties of that constitution given us by the Creator. Thus it appears evident, that, our nature being moral, the law of that nature must likewise be moral. Morality cannot be excluded from it in its social aspects, and, consequently, the law of social man is God's moral law.

This law is common to man. Wherever you find man you find this law extending its authority over him, and demanding of him a conduct corresponding with its requisitions. The social principle of our common nature urges to enter the social state, and our necessities and dangers come forward, powerfully to second its demands. In these the voice of the law of our nature is heard distinctly speaking, and whilst it presses to the same end, it demands that its principles be duly regarded. Thus civil society and its order are founded in the law of nature, which is common to man, and by the principles of that law, as the immediate rule of action, in the constitution and administration of civil government, must man be regulated.

Man's intellectual, as well as his other powers, have greatly suffered by the fall. He has lost his way to heaven, nor can he find it by any exertion of his own. *The world by wisdom knew not God.* As regards the affairs of the present life, its relations, its obligations, and pursuits; together with a sense of his amenability to God for his conduct, man is neither in the condition of the insensible stock, nor in the state of the irrational tribes of creation. God, in mercy to our world, has preserved on the tablets of the human heart,

notwithstanding its depravity, many important fragments of that law whose inscription upon it was once so full and fair. *These having not the law*, supernaturally revealed, *are a law unto themselves, which show the work of the law written in their hearts.* This inscription is read in the light of nature, and to it the world owes many a magnificent display of valour, patriotism, and generous actings. Upon the subject of political rights and order, it speaks with peculiar distinctness. "There is nothing of which natural men are better judges, than of the common rights with which humanity has been endowed by its bountiful author."* The voice of nature, speaking in nature's law, confesses God as ordaining civil society, and appointing civil authority to be the guardian of its rights. The Bible in many a page sanctions the declaration. *There is no authority except it be of God: the powers that be are ordained of God. By me kings reign and princes decree justice,—even all the judges of the earth.* The atheist alone will be found attempting to separate civil government and its operations from God; and it is the fanatic alone, who will endeavour to settle it upon another foundation, than the common law of our common nature.

POSITION II.—*Political and Ecclesiastical society are essentially different from each other, in their nature, government, and immediate ends.*

Political society is secular, conversant in its constitution and administration with what is external, and not to be permitted by any means, to come within the sanctuary of God. Ecclesiastical society is spiritual, having to do with the consciences of men, for their spiritual advantage; and in the economy which it employs, not going out to mingle in the affairs of state. A careful inquiry into the subject will show the government of the commonwealth and that of the church, to differ in their *origin, object, form, end, effect, subject, distinct exercise, and immediate rule.* An explanation of these several points would carry us beyond our present purpose. You can find them amply discussed in the books. In the CXI Propositions of the Church of Scotland, upon this subject, in A. D. 1645, a distinct, and, in general, lucid statement of

*Rights of God and Man.

them will be found. It is sufficient to refer simply to their origin, to perceive the difference between civil and ecclesiastical power: the former is natural, the latter is supernatural. "Political or civil power is grounded upon the law of nature itself; and for that cause it is common to infidels with christians: the power ecclesiastical dependeth immediately upon the positive laws of Christ alone."*

It ought, however, to be noted, that the Church of God, having in her hand the Bible, in which so much is found respecting the duties of social man, cannot disregard civil society, its order and duty, in her administrations; nor can a state, where the Church of God exists, act irrespective of her, in its administrations. The aims and the actings of both are too deeply interesting to be disregarded by either. Yet neither of them may pass its own limits. Without imminent danger to both they cannot be confounded, in any of the particulars in which they are distinct. Both acting, each in its appropriate sphere, as co-ordinate branches of the great society of man, may greatly subserve the interests of one another, without, on either side, the assumption of superiority or invasion of any peculiar rights. The great means of moral reformation are in the possession of the Church; the application of these means to the attainment of their end, is greatly promoted by the removal of obstacles and the conservation of order and peace, by the civil power. For this service the Church renders an abundant compensation to the state, in the illumination of the public conscience, and in promoting its sensibility. This is but carrying out into public relations what every good man well understands in domestic life, and in personal character and conduct. He knows the difference between his character, as it is devotional and moral, and his prudent management of his secular affairs, while he sees their connexion and experiences their mutual influence, in giving aid to each other.

POSITION III.—*It is not the mere fact of the existence of a political power, but the possession by it of those attributes which fit it to answer the ends of its institution, that makes it the moral ordinance of God.*

*Prop. 44.

Usurpers have obtained power over states. Tyrants have reigned and employed their power in oppressing the people. Neither of these is the ordinance of God. With the throne of iniquity God has no fellowship. To take the simple existence of a power as evidence of its right to rule, evinces the heart of the veriest slave. But whatever unguarded assertions may escape the lips, in the conflict of party, no man ever seriously believed the slavish opinion. The voice of nature revolts against it. Our own United States, more than half a century since, furnished the world with an august exemplification of the principle which we vindicate. The spirit of revolution, now so extensively abroad among the nations, is the voice of God, speaking through outraged humanity, in favour of my position. In this respect the maxim is true, *vox populi vox Dei, the voice of the people is the voice of God.* So long as there is a difference between right and wrong, between truth and falsehood, my ground shall be tenable. In the ordinance of God, wherever it is, we shall find *the matter of the authority moral; those invested with the authority, from the possession of intellectual and moral endowments, competent to its exercise; the mode of investiture legitimate; and its exercise constitutional.*— From all this it follows, that the maintenance of a false principle, or the doing of an immoral act, may neither be imposed, as a term of political fellowship, nor yielded to, in order to the enjoyment of civil advantages. Sin against God is a price too high for any benefit that society can confer. We may not do evil that good may come.

POSITION IV.—*With national society, even when morally constituted, no man may, in any ordinary case, be compelled to incorporate.*

Civil society is a voluntary association. It is formed by compact. Peaceable and orderly deportment is all it can justly exact from any man, unless he choose fully to enter into its communion, as a member of the body politic. I will not be understood, in these assertions, as affirming any thing respecting the duty of the individual. It may be his duty so to incorporate with the society, and in not doing it he may sin; but to compel that duty is a task to which society is not competent. It is like another ordinance of the law of nature, —marriage: to enter into the matrimonial relation may be a

duty; to refuse or neglect to do so, may be criminal in the sight of God; but into it none may be compelled to enter.—The position may be illustrated by the fellowship of the Church of God. Much guilt is incurred by not embracing that communion, yet into it none may be compelled to enter. The Church, like the state, is a voluntary association. God has conferred upon us the power of self-government. It is in the *employment* of this power, that we are obliged to enter into these relations now mentioned. We may abuse or misimprove the power, as we do many other gifts of God, by sometimes forming those relations upon improper principles, or by neglecting them altogether; but the execution of the penalty of this violated law of morality, is not committed to the authorities of society. A reference to the distinction of moralists, between what they denominate perfect and imperfect rights and obligations, will make this plain. If, then, a man may not, in any ordinary case, be compelled to incorporate with a state constituted upon moral principles, much less may he be forced into an immoral association. The truth of the position now stated, is deeply laid at the foundation of human liberty.

POSITION V.—*Mere defects in high and ultimate moral attainments, if fundamental attributes be in comformity with, and in nothing contrary to, moral principle, will not render illegitimate a constitution of government.*

The enlightened friends of moral order, in former times, never plead against the validity of a government, on account of mere defects. Against constitutions founded in apostacy and perjury, and established in usurpation over the claims of God and rights of man, they have often plead. Perfection, indeed, in any institution is not hoped for by man, while upon earth. The measure of moral or political power, which a people ought to commit to the management of their representatives, has never been determined. Perhaps it cannot be fixed. It must then be left to the disposal of each nation, in the exercise of its enlightened discretion. Circumstances must greatly influence that exercise. And as man becomes, by intellectual and moral culture, more capable of self-government, judging that extensive power may be as safe, and as well employed in his own hand, as that of any other; that which he sees proper to

delegate will be found within narrow limits. Who will venture to affirm that, as society advances towards a higher state of excellence, in arts, science, and morals, it will not appear under governments, limited beyond what is now commonly anticipated? High and general acquisitions of intellect and morals will form a public opinion, superior to any terms of government inscribed on parchment. As this condition of man advances it will press upon, reclaim, and limit the delegated powers of government. And I see no reason why the power of promoting the interests of morals, as well as of personal wealth, may not be as safe in the hands of an enlightened and virtuous people, as in the possession of those who may be raised by them to the exercise of a little brief authority.—Upon this subject there can be no distinct conceptions, if the various conditions of man, in different countries and at different times, be confounded.

The great point to be ascertained and effected, is to provide that no immoral principle shall have a place in the system; and that the way shall be open for progressive improvement, in all that is interesting to society. A simple want will never justify the rejection of a system positively moral.—"There is"—I use the language of a very sensible writer,—"There is a manifest and great difference, between *a simple defect* in a deed of civil constitution, whereby *a matter of great importance may be left unprovided for, or unsecured*, and an error whereby a matter of the highest importance must be barred out and buried, and a grave-stone laid and established upon it."* This is in perfect correspondence with the principle of the Reformed Church, avowed in the 44th of the CXI Propositions, already quoted; and of her Confession of Faith, adopted some years after. Her doctrine always was, and still is: "Infidelity or difference in religion, doth not make void the magistrate's just and legal authority."†—We know that this article has been urged by tyrants and their minions, in proof of conscientious subjection being due from the people to them; but how senselessly need not now be said. The language is precise and not to be misunderstood. The assertion is predicated upon the acknowledged principle, that civil society and its government are founded in the law of nature, and

*Mr. Stevens. † Conf. of Faith, C. 23, 4.

therefore common to men,—"it is common to infidels with christians."* It likewise assumes, that a magistracy may be just and lawful, when the occupant of power is an infidel, or of a religion different from that of the people. But let it not be forgotten, that this *magistracy* is not *a tyranny*. The authority must be *just* and *legal: just* as it regards the standard of morals; *legal* as related to the constitution of the land.—Let the authority be such, as far as it goes; defects,—simple wants,—however desirable to have them supplied,—do not make it void. In this it is like marriage. Infidels marry; those of no religion and of different religions enter into wedlock. The institution is founded, like civil order, in the law that is common to man; and where the parties are of age, and otherwise competent to make their choice, and no pledge given to pursue a course of sin, the defect of high moral character, in either of the parties, will not nullify the covenant into which they have entered; nor justify the christian in treating them as living in criminal association.

It will be remembered that, in all this, I am not vindicating culpable defects in civil institutions. In causing or perpetuating those defects, there may be sin. Neglect of what ought to be done is sin. Those who are chargeable with it are guilty. But it is still contended, that the neglect of what is omitted, no pledge being required or given to approve ought that is immoral, does not vitiate and render criminal, in this case, what is done in accordance with the law of righteousness; nor is he who seeks for society a higher moral rank, chargeable with guilt, in co-operating upon such a foundation with his fellow-citizens, while he, in an orderly manner, urges the application of fundamental principles of right toward greater perfection.

POSITION VI.—*Every nation in its civil character, to which the revelation of the Son of God, as Immanuel, is made, and which, according to that revelation, is summoned to submit to him, is bound to confess his name; not merely in words, but* SUBSTANTIALLY, REALLY, *and* PRACTICALLY, *as Lord of all.*

The following thoughts are offered in illustration:

1. The special revelation of the Bible is made to man, that he may believe on the name of the Son of God, and be-

* CXI Prop. No. 44.

lieving may have eternal life. The gospel is God's testimony to man upon this subject and for this end. The Church of God is organized to promote this object, and it is the aim of her faithful ministry to persuade sinful men to flee from the wrath to come, and to trust in their Redeemer for salvation. This is to live by faith upon the Son of God. Persuade the sinner cordially to believe upon him who loved him and gave himself for him, and a life of virtue is secured. We do not conceal our purpose of carrying the Gospel message to every land, and urging its acceptance upon every heart; and our prayer is that the Spirit of the Lord may accompany our message, and make it effectual unto salvation to every description of character. We do not except the most determined infidel in our proposal. We pray that all such may be saved.

2. The living christian cannot forget his Saviour while he mingles in the associations of his fellow men, or engages in the busy scenes of life. He carries with him his christianity, and he, by a faithful and enlightened discharge of his obligations, evinces that he has been with Jesus. In political life, whether it be at the poll, on the legislative floor, on the bench of justice, or in the executive chair, he will remember he is not his own; that he lives not for himself, and that the engagements of time are intimately connected with eternity; and he will accordingly deport himself. He cannot be a saint in the church and an infidel in the state.

3. The law of Christ is the christian's rule of conduct.—The religion of the Son of God is the principle of his morals. His morality is the pillar upon which his devotion to the freedom of his country and of man rests. This code embraces all that can be found in the primitive law of our nature, and brings along with it additional light, motives, and influence, for the improvement of man in the various relations of life.—Among these the political relations and ends of civil society are not forgotten. We have seen that civil order is the ordinance of God. Would it not be strange that it should be constituted and administered irrespective of its author? But it cannot be so. Its agents are inducted into office by a solemn appeal to the Supreme Being, and are understood as acting, in their official transactions, under a sense of their responsibility to the Judge of all the earth. The persons, the cha-

racter, the property, the liberty, the morals, the religious rights of men, in the social state, are guarded by the solemnities of religion. The christian feels this with peculiar force, and exemplifies it in conduct. The influence of the religion of the Bible he causes to be felt in every land where he resides.—The rights of the kingdom of the Redeemer will, through christian influence, be recognized, his cause will be protected against injury, and facilities will be afforded for its promulgation. In so far as this is done, Immanuel is confessed. When civil society, guided by christian influence, subserves the interests of righteousness, knowledge, and true religion, it is to be viewed as *substantially*, and *really*, and *practically*, bowing to Messiah. One form of this may be preferable to another, and the extent to which it is effected may in different places be different; but none of these forms should be disregarded. Each of them has its value. The particular shape of submission is of less importance than the substance—the *practical* submission itself.

4. The Son of God, in our nature, is exalted as the Church's Head; and to carry forward the designs of mercy to fallen man, he is Supreme over the nations. To the nations and their rulers the Spirit of God says—*Kiss the Son. He is King of Kings and Lord of Lords.* National society, resting upon its own proper foundation, the law of nature, is morally obliged to hearken to the voice of the subsequent revelation of the great Prophet of God, and is called upon to beautify and perfect its system, by the many advantages which this revelation brings along with it. He is *Head* over all things to the church.

The friend of the Redeemer and of the rights of man will not disregard this claim. In showing it due respect his aim will not be to turn the tabernacle of God into a wordly sanctuary, nor to transform his ministers into lords of his heritage. But it is the aim of every saint, according to his place and means, to extend the benign influence of the religion of Jesus Christ over every land and every character; to carry to every habitation of man the principles of truth, justice, peace and love; nor will the sons of Zion rest till these be felt in and over the mass of the nations, in their transforming influence. The infidel does not like the truths of the gospel; the profligate hates its pure morality; and hence their rude assaults on

both. The christian's course is forward. He will do the infidel no wrong. He will spoil him of no right. But let not the avowed enemy of the Redeemer of man hope for the confidence of him who loves and honours that Redeemer. The enlightened christian will not by his gifts, arm and elevate the man who avows his hostility to all that he believes calculated to bless immortal beings, in time and through eternity. He will not requite his Redeemer for his love, by giving power to his enemy to make war more effectually against his throne. The dark page of the history of infidel misrule, furnishes the patriot on this subject, with an admonitory lesson. Let not the profligate murmur, if the friend of a pure morality refuse to him his suffrage.

POSITION VII.—*In perfect accordance with the last position, it is held, that until a nation make it so by its own deed, the recognition of no principle peculiar to the system of grace, can be considered as necessary to the validity of its actual constitution of government, as a moral ordinance of God.*

I am fully apprized of my liability in the assertion now made, to be misunderstood by some good men, and to be opposed by others who have confined their habits of thought upon this subject, too exclusively to the consideration of what ought to be, and what will be, the final attainments of society, not duly regarding the intermediate agency appointed of God for its accomplishment, nor considering what *may be*, and what *ought* to be admitted and embraced by the friends of social morality, as a step leading toward that which shall be ultimately gained. You will, therefore, indulge me in a few remarks illustrative of the position now stated.

1. The question, then, is not, whether a state has a right to apostatize from its moral attainments, and to cast off the obligations of its plighted faith. It is at once admitted that it may not so do. The question is not, in any given case, whether the community and its social institutions ought to be better; for the importance of progressive improvement is readily conceded. Nor is it a question, whether a nation may be justified in substituting oppression in place of equity, falsehood for truth, or wrong for right. It is not whether every, or any member of a state—it pursuing such a downward course—is bound to incorporate with the body politic, and run with it in

its chosen course of iniquity. The friend of sound morals has no doubt upon any of these points. They have all been discussed, and upon them many an upright man has acted; many an upright man has done more;—he has submitted to inconvenience in not acting, when the case was doubtful, rather than impinge upon the peace of a good conscience; waiting until the providence of God should cast more light upon his path. Such a character, so conducting, will always command the respect of the virtuous, and be trusted as a man of rectitude.

2. The question is, whether a state just forming, or formed, not chargeable with apostacy, or constitutional oppression; embracing no immoral principle, and imposing no immoral act; but resting, by common consent, its constitution upon the principle of universal equity, in affording protection to persons, reputation, liberty, property, and the pursuits of virtue and happiness, is to be rejected as the work of the evil one, merely on the score of certain defects in the assertion of religious obligation. It is supposed to possess, *substantially*, all the fundamental principles of government, for the attainment of its more immediate and proper ends; and only to be defective in the recognition of things, in themselves, indeed, important, but incidental to the institution, and not radically belonging to it. This, it will be observed, is in some sort a new question. It has been glanced at in speculative discussions, but has rarely been examined as a practical inquiry. This aspect of the subject is that which is now before us, and it is worth while to employ some time and patience, to ascertain whether there be any circumstance that marks and distinguishes the condition of an individual, obliging him to stand aloof from a society so constituted. Such a state of society must not be confounded with one based on immorality, and maintained by unrighteousness. The exceptions justly taken to the establishments of anti-christianism, can have no place in the case now supposed.

3. I sustain my position by the admitted truth, that civil order and its authority *are not founded in grace.* I take for granted that the foundation and superstructure may be homogeneous. If the one be legitimate so will the other; and though nothing of a nature superior to the foundation be introduced into the fabric, the system may be legitimate. Indeed

to give it legitimacy, according to its primitive institution, nothing that is unhomogeneous can be contended for. That which is supernatural may be, and in the case already specified, ought to be, superinduced upon what is natural. This may greatly,—and in this case, does greatly improve it; but to its legal and moral being, it cannot be claimed as necessary.—Nothing that is peculiar to the system of grace, is essential to the constitution of man as a social being, the subject of God's moral government; though there is much of it essential to his being, in the sight of God, a morally good man. Civil government in its institution, primarily and directly, contemplates man as a social, moral agent: his christianity is incidental to his being,—of infinite moment, indeed, to his duty and his happiness,—but neither essential to his constitution as a man, nor to the lawful fellowship of others with him, in the general concerns of man. In these facts we have the foundation of the whole matter. The application of the principle so far as this discussion is concerned, is very easy indeed. "Civil government is not founded in grace." God has not founded it there, and man may not. But when reared upon its own proper basis,—the law that is common to the family of man,—nations favoured by his gospel, are authorized, nay, they are required to employ its light and its aids in beautifying and perfecting their political systems; but until they, by their own voluntary act, submit, less or more extensively, to the system of grace, introduce its principles, and build them upon the foundation already laid, nothing peculiar to that system is necessary to give legitimacy to their civil fabrics.

Do you then reply to this view of the subject: If all this be so, will it not follow, that nations may neglect the light of the Bible and yet be innocent? By no means. Nations which have access to the light of the gospel, and yet neglect it, greatly sin. Allow me to illustrate this remark by a case already referred to, that of marriage: The family that is formed and lives in disregard of the system of grace, its principles, and institutes, in a land of gospel light, grievously sins. Yet if the fundamental laws of domestic society be observed, you recognize the legitimacy of the relation. This too, furnishes a remark to obviate another objection to this view of the subject—that it suspends the authority of God upon the will of man. This it does not. The authority of God, binding to duty, is

predicated upon the relation existing between him and his rational creature. The creature may sin in not duly regarding this; but the observance of that duty may not be compelled by man, irrespective of a previous voluntary engagement. It may be the duty of a man to enter into matrimonial bonds, and to do so in the Lord; he sins if he do not; and yet until he does, the discharge of the duties of domestic life, in that relation, may not be required as a condition of our intercourse with him. It may be the duty of a well qualified church member, to give himself up to the work of the ministry; he sins if he do not, yet until he engages voluntarily in it, we cannot require of him the duties of that office; nor can we urge his engagement in it, as a term of communion with him in the church of God; he in other points acting a consistent part. The conclusion is, and it might be illustrated by a thousand instances, that a moral relation or institution constituted upon its own fundamental principles, though defective,—if it be simple defect only,—in many important incidental points, is nevertheless to be recognized as of divine authority.

In the case before us, civil society, existing upon its original basis, and its affairs administered in correspondence with its own primitive law, is legitimate. Mere defect in what is incidental, will not nullify what God's ordinance has already settled upon its own foundation. Whatever of christian principle or influence is added, by the voluntary and dutiful submission of the citizens, is so much moral gain, and to be accordingly prized. The distinct agency of man is indispensible to the progressive advancement of his social state. In employing it in this case, he must continue on the foundation which God has laid. The Creator has attached more importance to the *voluntary actings* of man, than fellow men are sometimes willing to award to them. In most points God has held in his own hand the exclusive right to punish neglect of duty; and where he has done so, men may not become the executors of the penalty of the law, directly nor indirectly, either upon the individual or upon society.

My position is sustained by authorities of high name.—Indeed I am not apprized that any sound moralist or theologian has deliberately asserted, upon full examination of the subject, an opposite opinion. The whole assembly of Westminster divines, the Church of Scotland in her brightest day,

and the several denominations of Presbyterians, the descendants of that church, maintained and still maintain, the assertion I have made. "Infidelity or difference in religion doth not make void the magistrate's *just* and legal *authority*," is a part of the creed of the whole Presbyterian family, solemnly recognized and professed. The Reformed Presbyterian branch of this household, adheres with decision to this, as well as to the other principles of her venerable Confession. She, too, very highly regards the CXI Propositions to which reference has already been made, in which civil government is declared to be "grounded upon the law of nature itself, and—common to infidels with christians." Her voice is distinctly raised against all who hold "that civil government is founded in grace."—Incidental expressions, or doubts, upon certain points, entertained under circumstances of a transient character, in point of authority can never compare with settled constitutional principles, deliberately formed and of perpetual standing. Even occasional judicative deeds, did such pass, inconsistent with established principles, must yield to the superior obligation of such principles.

If I do not greatly mistake, and I am persuaded I do not misapprehend the subject, it will readily be admitted, after the remarks just now offered, that in a land where public apostacy cannot be charged, where there is no obligation to approve of an unsound principle, or to perpetuate either an abuse or a defect, where the institutions are in correspondence with the substantial principles of righteousness, provide for and are in progress toward greater excellence, no christian could expose himself to censure before the well ordered courts of the Church of God, for associating with his fellow-citizens of the state, under such institutions, though altogether silent in respect of principles and ordinances peculiar to the system of grace. It is not needful to argue this as a practical question; for such it is not. But were it required to pursue it, the arguments and illustrations are abundant, by which it might be substantiated. The bearing of this position on the subject before us will hereafter appear.

You will readily perceive by the tenor of this letter, that I am a decided advocate of moral attributes, as necessary to give validity to any constitution of state or national government; and farther, that I maintain the claims of Messiah

upon man in his civil and political, as well as in other relations of life; and that, where the Redeemer by his special revelation makes known his claims, no man or class of men, without incurring his displeasure, as Lord of all, can disregard those claims. This is the decided language of the Church of God. In proof of this truth, as the sentiment of christians, that civil rule, in a christian land, should be employed upon christian principles, I need only refer you to the several Confessions of the respective communities. It would indeed be surprising were it otherwise. That an institution ordained of God, put into the hand of the Christ of God for purposes of high moral consideration; conversant about man as a moral being;—appointed to guard his rights, political and religious; sustained, valuable, and efficient, in promoting his personal and social interests, in proportion as pervaded by a moral influence; that such an institution, in its frame and administration, should, in a land where the gospel is revealed, be regardless of him in whose hand is the temporal, the spiritual, the moral, and immortal destiny of man, is absurd to suppose, and impossible in fact. And let it be observed, whatever may be the *defects* of political institutions, the unceasing aim of the christian will be, in all his deportment under them, to bring them to subserve the high interests of our rational nature; and for that end, he will seek the diffusion of sound principle through the mass of community, among the constituted authorities of the land, and its influence over all their administrations of state. Where no pledge is given to maintain defects, and a testimony against them is admitted, there is no inconsistency in acting upon principles that are sound, and in improving facilities that are afforded, under a system that has its wants, in order to supply them, and in supplying them to gain the ends of the social state.

This will furnish an answer to the inquiry, and it is an inquiry of deep import—How is christianity to be applied to civil society? Most certainly not by provisions and enactments unauthorized, or not sustained, by public sentiment; but by making the members of society sound in principle and virtuous in practice. When this is effected, the people will carry their christianity into every department of civil life. None but they can do it; and they will do it, under such forms as the peculiar condition of each nation may indicate to be most proper.

To further this, every christian should be at his post, and wherever duty to his God, the church, and his country, calls, there he should be found. Let not christians by a mistaken view of spirituality, retire from social duty, or alienate their rights, as men, to be the inheritance of infidels and profligates. Between the most exalted spirituality of mind and an intelligent and liberal assertion of social rights, there is no discrepancy. Infidelity, for obvious reasons, would persuade us to believe, that religious and civil duties are hostile to each other. Believe it not. The man after God's own heart was a statesman and a captain, as well as a distinguished saint.

LETTER II.

THE MORAL ESTIMATE OF THE CIVIL INSTITUTIONS OF THE UNITED STATES.

Dear Sir,

It may be proper to apprize you, that in my brief reply to the query you stated, I purpose to keep far from the vexing points which it involves under their mere political aspects. I treat it exclusively as a question of morality.

It is well known, however, that since the commencement of the United States' governments, great diversity of opinion has existed, respecting the political provisions of these institutions, as well as concerning their moral character. Men of undoubted integrity and talent, at an early period, were ranged upon different sides. The disputes are not yet settled.—The christian who condescends to examine the matter, if not very deeply versed in its history, may not be the less prepared for his task, in being aware that the question of its morality is more nearly connected than he may have supposed, with that of the political aspect under which the respective parties contemplate the subject. It must, at the same time, be obvious that an examination of the case, upon its own merits, irrespective of opinions which may have been entertained and expressed of it, is likely to result in a decision, at least as candid,

as when influenced by the views of others. Still, I must be far from treating with neglect what respectable men have offered upon the subject. But candour requires that we consider the circumstances under which they formed and stated their sentiments, and that we inquire what changes have taken place since they did so, justifying a modified judgment of the matter, by the same or other men. Great injustice may be done to the opinions formed a quarter or half a century since, should this course be neglected. Upon these things, some profess to see important changes; others say—"All things continue as they were."

To arrive at a satisfactory conclusion in this inquiry, there are some points which ought not to be confounded.—To obtain light, judge fairly, and do justice, we must discriminate. The false witness and the partial judge like to deal in generals. That we do not so, in the case before us, let us distinguish between the men into whose hands our political system may sometimes fall, and the system itself.—We must not confound unauthorized abuses, with regulations which admit of a better application. We must not determine simple neglects, to be absolute rejections of what is good. We ought, too, while describing the requisitions of moral character, and of course pointing to the most perfect standard, and demanding the *maximum*, *the highest excellence*, as our uniform and ultimate end, to remember that there is a *minimum*, *a least*, with which, in the mean time, we will be content to admit the legitimacy of the institution. In reference to civil institutions, the ascertaining of this *minimum* of moral worth, with which an enlightened and virtuous man may be, for the time, so far content, as to act under it, is important. Carrying along with us these, and such preliminary considerations, it may be advisable, in the *first* place, to glance at the moral character of the state governments; and, in the *second* place, consider the effect of the *Union* of the States, upon the moral character of the individual commonwealths.

To pass in review all the twenty-four constitutions of these states, would, indeed, be a laborious task, and I presume, in this case, a very useless one. The selection and examination of one of these instruments will be sufficient, and more satisfactory than taking up the whole. I therefore fix upon the constitution of my own state, and if at any time I

speak in the first person, of a civil relation, it is as a citizen of the commonwealth of New-York. I beg your attention to the following observations.

I. *The Commonwealth of New-York is a free, sovereign, and independent state.*

Sovereignty and independence are claimed by every state of the Union; and, in the constitutions of many of them, expressly asserted. Massachusetts asserts these attributes, in her bill of rights, as belonging to her. The people of New-Hampshire, after the adoption of the Federal Constitution, solemnly declared themselves "a free, *sovereign*, and independent body politic, or state." Such is the style in which the New States speak, it may be presumed, for the purpose of affirming their equality with the elder commonwealths. The term *State*, in this application, is of the same general import with *nation*. It indicates the civil community or body politic. Authorities to establish this import of the term need not be quoted, as it is believed every jurist and statesman admits it; and men of high name in several states of the Union, employ *state* and *nation* as convertible terms.

New-York before and since the adoption of the Federal Constitution, has occupied as high a ground as any of her sister states, in asserting her independent sovereignty. Within herself, this state possessed all the first, comprehensive and essential elements of government; and in delegating a portion of her power to the confederation, she acted, and continues to act, as a sovereign with the other sovereigns of the league. She had and still has her own constitution of government, her own legislature, her own judiciary, her own executive, and her own affairs, with which the confederation may not interfere; and which embrace all that is immediately most interesting to the citizen. How few, comparatively, are the points delegated? How seldom does the citizen, of any state, come in contact with the Federal power? And how few of the citizens in their affairs,—if we except the post office establishment—ever touch it at all? Not so, however, with their own state governments. They are seen and felt wherever they go, and at all times. Thus finely, as well as judiciously, writes one of our distinguished jurists—Chancellor Kent—who will not be suspected, from political partialities, of giving too strict

an interpretation to our federal bond. He truly says: "The vast field of the law of property, the very extensive head of equity jurisdiction, and the *principal rights* and *duties* which flow from our civil and domestic relations, fall within the control, and we might almost say, the *exclusive cognizance of the state governments.* We look essentially to the state courts for protection to all these momentous interests. They touch, in their operation, every cord of human sympathy, and control our best destinies. It is their province to reward and to punish. Their blessings and their terrors will accompany us to the fire-side, and be in constant activity before the public eye. . . . . The true interests and the permanent freedom of this country require, that the jurisprudence of the individual states should be cultivated, cherished, and exalted, and the dignity and reputation of the state authorities sustained with becoming pride."* The state felt herself free and independent when she entered into the confederacy; and she exercised her sovereignty in fixing her terms. Had she refused to enter into the compact, no power on earth could of right have compelled her; in such an event, no compulsion would have been attempted. Like those states which did hold back for a time, she would have found herself treated by the confederated commonwealths, in their commercial and political relations, as a foreign state. The doctrine of state sovereignty has an important bearing upon the moral aspect of the general subject before us. I beg it to be attended to, when I return to its fuller consideration in a more proper place.

II. *The government of this State is founded, fairly and directly upon the common will, expressed in peace, expressed fully and repeatedly, and in the absence of all fear, compulsion, or tumult.*

Since the Revolution three conventions, at distant periods from each other, have been called, to frame or amend the constitution of government. The year 1821, will long be gratefully remembered, by the friends of human right in the state of New-York. Defects were found in her constitution of government, to the rectifying of which the power of ordinary legislation was deemed inadequate. It was recommended to the citizens to express their pleasure upon the measure of

* Kent i. 418.

calling a convention, to do that which their legislature could not constitutionally effect. The public mind was decidedly favourable to the measure. The time of choosing delegates to the proposed convention was fixed. The citizens of every condition, in the utmost quietness and most exemplary order, assembled in their respective towns, wards, or districts. The choice of delegates was fairly made, and they convened in the capitol; into their hands was placed the whole frame of the government of a great state; they sat for months; deliberated, debated, and decided upon those provisions of government, which were deemed best for the public weal. Their doors were open, their halls crowded, their debates published; no guards were required to insure safety, no police officers were put in requisition to preserve the peace. There was neither danger nor tumult. When the convention had done their best, they committed the result of their counsels and toils to the people, in their primary assemblies, to be accepted or rejected by them at their pleasure. After due examination the people expressed their unbiassed judgment, and adopted the deed as their own. That was a proud season for the friends of self-government; and many such seasons have been enjoyed in the western world. Upon this subject, the twenty-four Republics of confederated America, furnish materials for a splendid page in the history of man. Such a condition of society, much less than a century since, was thought of in the closet, but deemed visionary in practice. Government here rests where alone it can be permanent—upon the consent of the public mind, guided in its actings by light, and influenced by a sense of moral order.

In looking back to the period of the reformation, in the British Isles, the heart is pained at the results of the mighty struggles of patriots and saints. Principles, indeed, were exhibited and shed a light upon man which shall never be extinguished; but the fabric of civil reformation tumbled down, and in its ruins buried many of its friends. It could not be otherwise. The foundation was unsound. The government, in all its parts was an usurpation upon the prostrated rights of of humanity. Who authorized the house of Stuart with its feudal lords, to dictate laws and force them upon those realms? The principles of the Reformation were, as they still are, liberal and holy; but they could not sanctify usurpation. The

Saviour who came to redeem and raise from debasement our injured nature, however he might approve of the motives of individuals—as in the case of David in his well meant proposal to build the temple—and whatever the amount, personally, of their moral worth—refused to accept, in rearing the civil edifice of those nations, the labours of men, while in their public character they were clad in the spoils of plundered man.* This fundamental cause of failure in the British reformation of the seventeenth century, calls for the attention of reformers in the nineteenth. Let those of that empire who are the friends of moral reformation look, while their statesmen are beginning to tear away the rubbish, for a firmer basis upon which to lay their excellent material, than was found in the days of their fathers.

From this digression, if such you should be inclined to think it, I return, and shall, mean while, only assert that such a basis of government, as the British reformers wanted, the state of New-York possesses; the public will fully and without compulsion expressed. The mode of building must, too, be somewhat modified. The man who fixes his eye upon the measures and modes of two hundred years ago, determined to pursue them without accommodation to circumstances, will effect little for the public weal. Principles are permanent, but circumstances control their application.

III. *The instrument of which I now speak, the constitution of New-York, is not blotted by a single immoral principle.*

The provisions of this document are, so far as they go, in accordance with the eternal rule of righteousness. God is acknowledged by it as presiding over the destinies of the state, and the confession of his grace and benificence, as manifested in allowing the people to choose their form of government, is inscribed upon its front. Might not then the question be asked: Supposing that in this deed there were no recognition of any principle peculiar to the supernatural system

* *Plundered man.*—The above remarks refer to the *political* system of Great Britain, rather than to individual men. The feudal character of that system was, in the period noticed, more strongly marked than at present.—The revolution of 1688, gained something for the people which they had not before. The American who admires the *political* constitution of Britain, in its radical principles, during any part of the 17th century, and prefers it to the civil institutions of his own country at this day, must be somewhat of a singular being.

of grace, might it not, nevertheless, according to the fundamental positions of my last letter, be acknowledged as the ordinance of God, for good to men? Formed by a free and deliberate expression of the public will, containing many moral provisions, and none that is immoral; the people under it advancing in knowledge, enjoying every right, and in possession of prosperity and happiness in an unexampled degree; would you place your signature to the declaration, that would proclaim it the device of Satan, originating in his dark abode, and posting thither again! You would not. No man who regards, or should be regarded in public opinion, would either conceive such a thought or utter such a declaration. Upon this ground, did I proceed no farther, would I not be safe in affirming the government of New-York to be a moral institution, worthy the support of upright men? It seems to me the assertion should subject no man to reproach. But I go farther, and affirm,

IV. *That it is not only a moral system, but also a christian government, in actual and voluntary subjection to Messiah.*

I do not affirm that it does all in respect of morals and religion, which ought to be done. Try any man or any church, by the test of doing all that ought to be done, and what must the decision be? That there is, in the civil and political system of New-York, both a laudable moral character and a *substantial* confession of Messiah, is the affirmation made. It is sustained by the following considerations:

1. The constitution confesses God and his gracious providence.

2. While it secures liberty of worship, it declares against licentiousness.

3. It prohibits the granting of lottery laws and other games of chance.

4. Slavery is abolished in the state, and can never again be authorized.

5. Tens of thousands of the state treasury are devoted, annually, to the promotion of useful knowledge, in the support of primary schools and higher institutions of literature.

6. The christian Sabbath is acknowledged in the code of public law, and provision is made to guard its sanctity.

7. The infidel is rejected by her courts as incompetent to give testimony.

8. The ministers of the gospel are recognized as an order of men devoted to the spiritual interests of their flocks, and that they may not be diverted from their appropriate labours, are exempted from various civil exactions.

9. Ecclesiastical property is secured by special statutes, and, in some cases, ecclesiastical officers are recognized by law as invested with the power of trustees.

10. By the solemn decisions of her supreme court, the Christian Religion is declared to be the religion of the state; and that the blasphemer of Christianity, or of its Author, is punishable by law. The case has been acted upon and the blasphemy has been punished by fine and imprisonment.—Need I add, that the houses of the legislature employ christian ministers, as their chaplains, and pay them out of the treasury of the state. I deem it altogether out of place to press upon your patience, by a prolonged course of reasoning on the subject. The matters of fact just stated speak for themselves; and, whatever the mere party caviller may say, candour will have no difficulty in understanding their language.

Who, then, is right? He who misnames this an immoral and infidel government, or he who holds it to be a moral institution of God, bowing to Immanuel, and doing good to men? Verily, if this be the institution of the enemy of our race, I fear it will be hard in any land, or at any time, to find the ordinance of God. That government which requires of me the confession of no immoral principle, nor the doing of an immoral act; which protects every citizen, of whatever colour, in his life, liberty, and pursuit of happiness; which disposes, every year, largely of its treasures to promote the interests of literature and science, and to bring education to the habitations of the indigent; which guards the interests of morality against vice; which, while proclaiming liberty in the worship of God, makes constitutional provision against licentiousness; which banishes the infidel from its courts, refusing to believe his testimony; which secures the property of the church, recognizes the gospel of Christ, confers, not corrupting but distinguishing favours upon its ministers, and employs them in its legislative halls; which honours the Son of God by giving its sanction to the consecrated day of religious rest, and guards its sanctity by public law; and finally, which con-

fesses God, in his grace and beneficence, as presiding over the state, and which sends, by its superior court, the blasphemer of the Redeemer of men, or of his holy religion, to the prison-house, as a bad member of society, may by others be held up as immoral and infidel; but with a good conscience I cannot do so.* I will not try it. Who would believe me? It must be the stranger just landing upon our shores that could credit the representation, and he would do it but for a little time.—Matter of fact would soon teach him another and sounder lesson.

* A blasphemer was indicted in 1810, and tried and convicted before Justice Spencer, at the June term, 1811, of the Court of Oyer and Terminer for Washington county. Judgment, $500 fine and three months imprisonment. The judgment was affirmed by the Supreme Court, Aug. 1811. To those who have not access to the report, the following extract may be interesting. It affirms the christian character of the state of New-York. The title of the Report is:—

"*Blasphemy* against God, and contumelious reproaches, and profane ridicule of Christ or the *Holy Scriptures* are offences punishable at the common law, whether uttered by words or writings."

"*Wendell*, for the prisoner, contended, that the offence was not punishable by the law of this state. . . . . The constitution allows a free toleration to all religions and all kinds of worship. . . . There are no statutes concerning religion, except those relative to the Sabbath, and to suppress immorality. . . . The prisoner may have been a *Jew*, a *Mahomedan*, or a *Socinian;* and if so, he had a right, by the constitution, to declare his opinion.

"*Gold*, contra, contended, that the common law of *England*, as it stood in 1776, was adopted by the constitution, and made part of the law of the state. . . . . *Blasphemy*, as defined by *Blackstone*, is the denying the being or providence of God; contumelious reproaches of Christ; profane scoffing at the holy scripture, or exposing it to contempt or ridicule. . . . . While the constitution of this state has saved the rights of conscience, and allowed a free and fair discussion of all points of controversy among religious sects, it has left the principle ingrafted on the body of our common law, that christianity is part of the laws of the state, untouched and unimpaired.

"Kent, Ch. J. delivered the opinion of the court. . . . The single question is, whether this be a public offence by the law of the land. . . . The language was blasphemous not only in a popular, but in a legal sense; for blasphemy, according to the most precise definitions, consists in maliciously reviling God, or religion, and this was reviling christianity through its author.

"Such words, uttered with such a disposition, were an offence at common law. . . . . The reviling is still an offence, because it tends to corrupt the morals of the people, and to destroy good order. Such offences have always been considered independent of any religious establishment or the rights of the church. They are treated as affecting the essential interests of civil society.

"And why should not the language contained in the indictment be still an offence with us? There is nothing in our manners or institutions which has prevented the application or the necessity of this part of the common law. We stand equally in need, now as formerly, of all that moral discipline, and of those principles of virtue, which help to bind society together. The people of this state, in common with the people of this country, profess the general doctrines of christianity, as the rule of their faith and practice; and to scandalize the author of these doctrines is not only, in a religious point of

V. *The most devout and conscientious christians, voluntarily and without hesitation, maintain communion with the government in its official acts.*

In this assertion I do not embrace those acts, which involve merely a compliance with the common order of society, in peacefully contributing an imposed proportion of the common taxation. I refer to such as the following:

1. The prosecution of suits at law; in the doing of which political and religious fellowship is held with the magistracy of the land, in the administration of oaths and other official acts.

2. The employment of the civil authorities in giving validity by their official acts, to deeds, indentures, mortgages, and bonds, between parties who are professors of religion, and in the same communion.

3. The voluntary stand which is taken by militiamen, of religious character, along with other citizens, under officers qualified by an oath of office, and placed under military law.

4. The application for, and acceptance of, special acts of incorporation, for the security of ecclesiastical and other property.

view, extremely impious, but, even in respect to the obligations due to society, is a gross violation of decency and good order. Nothing could be more offensive to the virtuous part of the community, or more injurious to the tender morals of the young, than to declare such profanity lawful. It would go to confound all distinction between things sacred and profane; for to use the words of one of the greatest oracles of human wisdom "profane scoffing doth by little and little deface the reverence for religion."

"The free, equal, and undisturbed enjoyment of religious opinion, whatever it may be, and free and decent discussions on any religious subject, is granted and secured: but to revile, with malicious and blasphemous contempt, the religion professed by almost the whole community, is an abuse of that right. Nor are we bound by any expressions in the constitution, as some have strangely supposed, either not to punish it at all, or to punish indiscriminately the like attacks upon the religion of *Mahomet* or of the grand *Lama;* and for this plain reason, that the case assumes that we are a christian people, and the morality of the country is deeply ingrafted upon christianity, and not upon the doctrines or worship of those impostors.

"Though the constitution has discarded religious establishments, it does not forbid judicial cognizance of those offences against religion and morality, which have no reference to any such establishment, or to any particular form of government, but are punishable because they strike at the root of moral obligation, and weaken the security of the social ties. The object of the 38th article of the constitution, was, to "guard against spiritual oppression and intolerance," by declaring that "the free exercise and enjoyment of religious profession and worship, without discrimination or preference, should for ever thereafter be allowed in this state, to all mankind." This declaration (noble and magnanimous as it is, when duly understood) never meant to withdraw religion in general, and with it the best sanctions of moral and social obligations, from all consideration and notice of the law. It

5. The employment of a judge of probate to give validity to that deed of a religious man, by which he disposes of his property among his religious heirs; and to effect which, six oaths, administered by that officer, must be taken by as many, perhaps, religious men,—witnesses and executors.

I know not what some good men may think of all this, who have no hesitation to order, or engage in the whole of these transactions; but, for myself, I am persuaded there is, to no very limited extent, a fellowship, and an intimate one, too, with the authorities of the commonwealth; a fellowship which, if meaning any thing, implies a recognition of the legitimacy of the powers so employed. Whatever may be said of a species of compelled appearance, before existing powers, under certain circumstances, must appear altogether out of keeping with the cases now mentioned. Arguments predicated upon such compulsion can have no place in such free applications to government, for those securities which government

will be fully satisfied by a free and universal toleration, without any of the tests, disabilities, or discriminations, incident to a religious establishment.—To construe it as breaking down the common law barriers against licentious, wanton, and impious attacks upon christianity itself, would be an enormous perversion of its meaning. The *proviso* guards the article from such dangerous latitude of construction, when it declares, that "*the liberty of conscience hereby granted*, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace and safety of this state."

"The legislative exposition of the constitution is conformable to this view of it. Christianity, in its enlarged sense, as a religion revealed and taught in the bible, is not unknown to our law. The *statute for preventing immorality* (*Laws*, vol. 1. 224.) consecrates the first day of the week, as holy time, and considers the violation of it as immoral . . . . Surely, then, we are bound to conclude, that wicked and malicious words, writings and actions, which go to vilify those gospels, continue, as at common law, to be an offence against the public peace and safety. They are inconsistent with the reverence due to the administration of an oath, and among their other evil consequences, they tend to lessen, in the public mind, its religious sanction."

Chief Justice Spencer, upon the floor of the convention of the state of New-York, declared it to be his decided and deliberate opinion, that the Christian Religion is a part of the law of the land. He adduced several decisions of courts of justice, where the principle he contended for was recognized.—Vide, Reports of Proceed. of the Conv. pp. 574, 566.

The high personal character, as well as the juridicial acquisitions of these distinguished jurists of our state,—Chancellor Kent and Judge Spencer,—lend much authority to their opinions, on the subject before us. The citizen who carries the influence of his christianity into all his actings, in civil life, has the satisfaction to know, that while he honours his Redeemer, he is acting in accordance with, and in the spirit of the law of the land. It is well recollected by the author of these letters, what satisfaction the decision of the Supreme Court, in the above case, gave to christian men at the time; and the change of mind which it effected in reference to the character of the state. It is refreshing to reflect, that without offering violence to conscience, giving a pledge to error, or restraining liberal inquiry, *the State is a Christian Commonwealth, in actual and voluntary subjection to Messiah.*

alone can give; not only in reference to the openly lawless; but likewise among religious and orderly men themselves.—Consistency seems to say, if the upright man may voluntarily hold this communion himself, and call upon others to join him in his fellowship, with the government, for his own advantage or that of his family; he may as reasonably be expected to join it in other points, for the behoof of those who aided him: it being always understood, that no immorality is sanctioned by the latter, more than by the former course.

The religious man who, upon his dying bed, looks to the civil power, either to give its sanction to his testament, accompanied as it must be with religious solemnities administered by its officers; or to make the disposal of his property, according to existing laws, surely cannot seriously believe the government to be Satanic in its origin, and its officers *officially immoral*. Disapprobation of certain measures, and a rejection of the government, as immorally constituted, are very different things. Such actings as are now referred to, seem incompatible with the latter, but not with the former of these.

From the facts now stated, it appears that the commonwealth of New-York is a sovereign, free, and independent state; that its constitution is based upon the common will, fully and fairly expressed; that it embraces no immoral principle, and enjoins no immoral action; that while the constitution provides within itself for progressive improvement, the state in the mean time, as a christian community, is in actual subjection to Messiah; that the most upright christians, of *all denominations*, have an extensive and very intimate communion with its government, in the administration of its powers; and that no reason appears why the fellowship may not be extended to all that is properly constitutional in the affairs of state. If the fact, that bad men being found sometimes invested with power, will make a government illegitimate, it will be difficult to find the record of one lawful. The sons of Zeruiah were high in place, and at an interesting period too strong for David, in the administration of the affairs of Israel. Wicked men, imperfect laws, and good regulations perverted to evil purposes, are incident to every association of men whether of church or state, in this imperfect life. The question in these cases is—Does the system, as resting on its constitutional basis, require such men, such laws, such provisions? If not, the duty

of the virtuous citizen is obvious: have recourse to constitutional principles to rectify whatever evils may occur, to guard against misapplications for the future, and to give greater excellence to the whole.

I have selected the state of New-York, in which to exemplify a moral and christian government. I will not be understood as intimating, that this is the only commonwealth which exhibits such a model. I am aware that others do so somewhat more explicitly. I have not chosen the strongest case. New-Jersey might be adduced as recognizing in her constitution, the protestant religion;* that of Vermont, the Lord's day, christian worship, and the word of God as the rule of that worship;† the constitution of North Carolina,‡ as establishing the test of a belief in the being of God, the truth of the protestant religion, and the divine authority of the Old and New-Testament. As a religious test, Maryland requires a belief in the christian religion;§ to which may be added, all those states, among which Pennsylvania has a place, that, at common law, or by statute, forbid and punish blasphemy against the christian religion, or any of the Persons of the Holy Trinity. But I forbear to protract the discussion. You will at once perceive either how ill advised, or how reckless of truth they are, who without qualification, assert that our civil institutions are infidel and immoral.

To these views it may be replied—Have not men of great respectability considered the governments of the land, as criminally defective in moral character? That they have is readily admitted; and I have not said these institutions are perfect. The question at issue is, are the citizens pledged to approve of, and to perpetuate those imperfections?—Must no virtuous man participate in the affairs of state, till its constitution be without defect? Permit the following remarks in answer to the above suggestions.

1. I proposed to treat the subject upon its own merits.—By these and not by the opinions of respectable men it should be judged.

2. Thirty, forty, or fifty years ago, while our institutions were young, and before their developments manifested sufficiently their character, men of high intellectual and moral

*Const. of N. J. Art. 19. †Const. of Vt. Ch. i. Art. 3.
‡Const. of N. C. Art. 32. §Const. of Md. Decl. of Rights, 33, 35.

standing, expressed their doubts, their fears, and their disapprobation, of several things in those deeds, as then apprehended.

3. Numbers of those men who yet live, have had some of their doubts resolved, many of their fears disappointed; and subsequent applications have corrected former apprehensions. All this very distinguished men are ready to confess; and instead of attempting to perpetuate early misapprehensions on intricate points, confess with gratitude, and are proud to acknowledge that the causes of their fears no longer exist; and disapprobation without object they will not continue.

4. Changes of a happy character and the settlement of many things once unsettled, have shed a light upon the whole subject, not possible to be had at an early day. Within the last fifteen years, the first moralists, jurists, and statesmen of the land have bent their minds to the great questions of constitutional law. Their labours have not been in vain. The principles and provisions of our constitutions are better understood, than at any former period. And still there are momentous questions which remain undecided. For the settlement of these, time and labour, as well as the talents of the statesman and jurist, must be put in requisition. Upon them the reflecting citizen will wait, undisturbed by the heedless rashness of the irresponsible partizan; and of his prudence the christian will approve.

I have adverted to changes in public deeds and measures, which call for a correspondent change of sentiment and expression in reference to them. In this commonwealth, within a quarter of a century past, we have seen the people embodying in their constitution the confession of the being of God and of his gracious providence; we have heard it solemnly argued before the supreme court of the state, whether the constitution did not, by the liberty of conscience which it guaranties, secure to the infidel the right of blaspheming the Redeemer and his religion; and we have heard that court pronounce decisively in the negative. The name of the Saviour is legally declared to be sacred, and his religion to be the religion of the state; we have seen the state within that time break off the manacles from the black man's hands, and pronounce him free; twenty-five years ago the state, had she seen proper, might have employed her citizens and her ships in the African slave-trade, but now with

her full consent, the citizen found in that nefarious traffic, is pronounced a pirate, and the gallows is his reward. Other happy changes might be mentioned, but I forbear. I ask you —Were not men of high moral sensibility justified, thirty years ago, upon these subjects, in employing a language which if used now would be false and slanderous? Such men will not employ it. They rejoice in the change, while they are neither blind nor silent as to remaining defects. The change of their language, let it be noted, is predicated on the change of things about which they speak. Are we not authorized to conclude, that the judgment of those, who, in these changes, see nothing worthy of notice, must be perverted by some strange and unaccountable influence?

But another objection is urged: Admitting all that is said to be fact,—The state of New-York is a member of the Federal Union, and is in league with slave holding states.

Be it so: yet New-York is not a slave holding state.—She has emancipated her slaves, and upon her soil none can be held in bondage. She approves not of the slavery of the south, nor is she required to approve of it. Like Pennsylvania and other states, she has, by legislative resolutions, instructed her representatives in congress, to seek its abolition in the only place where that body can act upon the subject.—The great objects of the Union are right, laudable, and indispensible, to public independence and safety; its provisions are not immoral, though all the parties united be not equally moral. Against the confederacy no objection can be urged, which would not hold with equal force, against a virtuous individual associating with or under men of doubtful reputation, on the field of battle, or in the partnerships of business.

The great and only practical moral evil, charged upon the Federal government, was the recognition of the slave trade. Whether this, to the extent supposed, or at all, was chargeable against the Confederation, is not at this day a practical question. If the hands of the Federal government were bound up from acting against the slave trade, it was only till the year 1808,—a period, indeed, too long by twenty years; but which after all that has been said, was the first effectual step of the kind, ever taken among the empires of christendom, toward the abolition of the slave trade. In this much abused document, we find thirteen independent sovereignties raising up a

power, *authorized* at a given day to employ their resources in stopping that profligate course of murder and plunder; and, mean while, each of those sovereignties had power to say, and most of them did say,—Our soil shall not be polluted by the importation of another slave. The Federal government does not,—it never did,—interpose an obstacle to the emancipation of the slaves of any state. For twenty-four years the United States have prohibited the African slave trade. The citizen engaged in it, upon conviction, is liable to execution as a pirate. When all the truth is brought forth in evidence, and a court, impartial, and otherwise competent, shall sit upon it in judgment, for the moral character of our bond of Federal Union no fears need to be entertained. To this subject your attention shall be called in my next. Mean time, adieu.

LETTER III.

THE CHARACTER OF THE FEDERAL GOVERNMENT.

Dear Sir,

AFTER glancing at the state constitutions, it was proposed to consider the effect of the Union upon their moral character. Viewed in themselves, should we take that of New-York as a specimen, and some of them at least are not inferior to it, they appear, not perfect, indeed, but free from any stain of positive immorality; and admitting their own imperfection, provide in themselves for their own progressive amendment. The question then occurs,—Does their relation to the Federal bond of union corrupt them? To obtain a satisfactory reply to this query, that instrument must be examined, its nature understood, its provisions considered, and its ends perceived. The subject will not be well understood unless we advert to the history of the times, the condition of the country, and what was requisite to the improvement of that which had been achieved.

In treating of the moral aspect of our civil institutions, it appears to me important to remark, that their whole frame and spirit are different from what obtains in the several departments of the empire of the "Man of Sin." The pilgrims of the Tabernacle, and the covenanted friends of the federation of

churches and of states, in the bonds of peace and righteousness, sought their way across the trackless deep, that on the shores of "the land of forests," they might enjoy the rights of nature and the freedom of the gospel. Their principles were in perpetual conflict with the spirit of European domination; nor did the struggle terminate till the declaration of July 4th, 1776, snapped the chain which had bound us to the British throne, and proclaimed an association of western empires free, emancipated from, and triumphant over, the schemes and principles of anti-christian misrule. The declaration of independence was the consistent, nay, the inevitable result of the conflict, so long maintained. The cup of infatuated policy was placed in England's guilty hand, and her statesmen drank it to the dregs; while God gave wisdom in counsel and energy in action, to those struggling on this side the Atlantic, for the rights of man. They succeeded. The recognition of their independence and the declaration of peace, found the states exhausted by a long and bloody war; involved in debt; connected by feeble ties; with conflicting interests; exposed to continued internal feuds, the intrigues of the ambitious, the violence of factionists; and in danger of becoming the victims of foreign intrigue, or of foreign violence.

The day had now dawned, on which trial was to be made whether the privations, the sufferings, the perils, the blood, and the desolations of a seven years' war, were all to go for nought, —whether man be capable of self-government,—whether the fury of anarchy and the dead calm of despotism must alternately, without hope of better, mark his lot;—or whether an example should be exhibited, upon an extended scale, of his capacity to rule himself, secure the interests of virtue and the means of happiness, and thus falsify the doctrine of tyrants and their hired minions. Never to the care of imperfect man was there committed a state subject of deeper moral interest; —a subject in which humanity throughout the nations was more immediately concerned. Under the pressure of responsibilities rarely laid upon, or felt by man, did the convention of the American States assemble in A. D. 1787, in the city of Philadelphia. The members carried along with them an unusual amount of talent, information, political integrity, and patriotism. To reprobate the result of their toils and of their sacrifices, is, to the man who cares little for the moral grandeur

of his country, or who mistakes her interests, or those of humanity; who himself feels no responsibility for those interests, and is well assured, that neither this, nor a coming age, will hold him amenable for the condition, the character, and the progress of society at this day, an easy task. Permit me to say, that no man is prepared to decide justly upon the character of the Federal constitution, who is a stranger to the condition of things at the period of its formation, and the prospects then presented of the future; and who does not place himself in the relation of the citizen, upon whose counsel and vote, under God, were suspended, interests so awful, extensive and lasting, as the American Republics then embraced.

It is proper, too, to remark, that while we concede to the convention great political capacity and integrity, its members differed widely in their views of the frame of government most eligible for the states. Their peculiar circumstances and interests were many and very different. Some very powerful delegates were the advocates of a strong, *national*, *consolidated*, government, to the utter annihilation of the sovereignty of the states; taking the British government as the most perfect model. Another class contended for a *national* government, but in consistency with the continuance of the states, as distinct corporations under, and controllable by it. It was confessed that both these schemes were at variance with the views of the people of the several states. A third and more numerous portion of the delegates, in talent and integrity not inferior to their companions, were the friends of state sovereignty and advocated, not a *National* but a *Federal* government, invested with powers of a defined and very limited character. These conflicting views, for a while maintained with great pertinacity by their respective advocates, prolonged the discussions; and at times seemed to forbid the hope of a happy termination. The friends of a *Federal* government prevailed. This was what the people of the states authorized. The advocates of a *National* government, as patriots, yielded their own predilections to the common weal, and united in recommending the federal bond to the acceptance of all; though in some of its provisions not precisely such as they themselves approved. A spirit of moderation and mutual concession of local interests prevailed in the convention, and ultimately in the States. In the progress of the administration of the government, the con-

tinued operation of that spirit of concession is indispensible to the prosperity of the land, and happy permanence of the Union.

It will not, however, be out of place to observe, that, while the advocates of a *consolidated* government yielded the federal form to the friends of the continued sovereignty of the States, they did not abandon their preference of the views they had previously entertained. Hence the discrepancy of interpretation given to the deed of federal compact.* Is it strange that the friends of a national government, generally, should have endeavoured in practice to bend the constitution, in accordance with their previous views? Or that the advocates of state rights should have plead for a strict and literal interpretation of that instrument? A constructive exposition, drawing upon implied grants of power, tends to enlarge the dominion of the federal government, and correspondently to limit the authority of the states; and just as this is effected, the old democracy of the Union has feared for the cause of civil liberty.

Should you think I dwell too long among the vexing questions of litigating policy, I trust to your candour to find an apology. You well know how much I despise little political squabbles, and how far I keep aloof from them. It is, however, different when great questions of state occur, and where the first men,—men high in intellectual powers and acquisitions, high in moral worth, and justly high in public confidence,—are honestly ranged in opposite parties. I acknowledge my propensity to listen to their lessons, and though I may lean to one of the sides, I hope to be just in estimating the great value of the men upon the other. But I come now more directly to give you, in a few words, my view of the Union and its constitution. While I do this with deference to those who think differently, I do it with confidence of being substantially correct.

The constitution is a compact of sovereign states; the government is *Federal*, originating in the compact, and is the creature of the parties to the compact, for the accomplishment

* The Federalist is a standard work in the exposition of the Federal Constitution; and is, indeed, one of great merit. It is not, however, upon all points a satisfactory guide in the interpretation of that instrument. Its distinguished writers were solicitous for the adoption of the constitution; but two of them, at least, differed from each other in the explanation of some of its important provisions. And the suggestion, which is probably well founded, of the same writer being sometimes at variance with himself, may be accounted for, without affecting his justly high reputation.

of its defined and specified ends. It is a government within its own sphere, which is a limited one, and acts with governmental power; because the power delegated from the principals in the league, is governmental, and to be employed for governmental ends; and would be so employed by each of the parties to the contract for its own behoof, if not lodged in the hand of the federal agent. *The Federal government is not a party to the compact.* The compact is between the sovereign States, and was constituted before this government existed.—The powers belonging to it are defined by the constitution, and beyond the specified limits it may not go. It belongs to the confederated States to modify these powers, enlarging, abridging, or altering them, as their interest and their duty may require; and for this they have provided in the instrument itself. In all doubtful cases of moment, to avoid the charge of rashness, it becomes the agent before proceeding to act, to consult and take advice of the principals.

You already know, that the objects about which the Federal government is authorized to act, are comparatively few, and particularly limited. These chiefly refer to exterior relations among the States themselves, and especially to foreign nations. In reference to the States, it partakes of the nature of a board of arbitrators, appointed by mutual consent, to settle differences that may arise among the parties, invested with authority to carry its decision into effect. This is a peculiar characteristic, distinguishing it from other treaties of sovereign powers. As regards foreign states, it presents a *national* front. The States in union have judged it proper to know, and be known to nations abroad, by their federal agents alone. The powers delegated are such as can be more advantageously employed by the agent than by the principals separately; but few or none of them belong to the first, nearest, and most important objects of governmental regard. All the powers of the Union and their exercise, we have seen are incidental to a civil state, rather than essential to its constitution and existence.—Not so, however, with the States themselves. They have their own constitutions, legislatures, courts, and magistrates, chief and subordinate; and each possesses all those *residuary* powers, upon which the governments may draw for the public advantage. As subjects of governmental care, you will recollect, they have before them the interests of personal lib-

erty, property, reputation, morals, and religion; and upon all of these may act as the public good requires. These residuary powers, they have reserved to themselves, and upon them the federal agent may not encroach.

You will appreciate another consideration upon this subject. If you take up any one of the State constitutions, you will find it marked by some very striking political defects; defects that should not belong to a complete system regulating the whole policy of a state: it may not declare war, form a commercial treaty, or coin money. Turn to the federal constitution and you will find it still more defective, in the provisions of a complete government. It is conversant, as before noticed, only about a comparatively few things, incidental, though important, to civil society, while it is silent, or restricted, in all that is of first interest, most important, and most extensive, in a well framed government. Should you ask me—Is the federal government a full exemplification of God's ordinance for civil rule? My reply, at once, would be; No: The Federal Union presents but few features of God's ordinance of civil magistracy; and it is defective in provisions of the first necessity. I ask you in turn—Was it intended to exemplify a complete magistratical system? Your reply will be;—No. Do not, then, exact more from it, than it was intended to afford.

The whole mystery of this is explained, by bringing the Federal government into union with each of the state governments. Then you have a complete system. The state supplies what the federal wants, and the federal makes up the deficiencies of the government of the state.* The Federal government is equally related to each of the States; and it was the pleasure of each of these to constitute the confederation its agent, in transacting a portion of its business; that portion which belonged to it in common with the other confederates, or which was exterior; but reserving to itself the management of the estate at home. The confederation is destitute of many moral attributes which belong to a well constituted government. Go to the state and you find them in a good measure supplied. Bring the two together to make a whole, and you have before you the system of government to which the citizen is pledged.* Much mistake must prevail from not viewing the

* In this view of the subject we subscribe to the assertions of Chief Justice Marshall, from whose opinions few will dissent without some hes-

subject as it really is; and false conclusions must be drawn when the whole truth is not in evidence before the mind.

It is admitted, I believe, that if the government of the United States be a *Federal* and not a *consolidated* government, it would be unreasonable and unjust, to expect in it those minute characteristics, or from it those special acts which belong to a full *national* authority. If the remarks already made, be not sufficient to establish its federate character, in its aspect at home, you will bear with me while I adduce a few of the many considerations that carry, on that point, conviction to my own mind. I cannot, indeed, view the subject in any other light, and the deductions legitimately flowing from it, I am compelled to admit. You will not misapprehend my ground: While the government of the United States is, within its delegated limits, a sovereign power, sustained by the states, in relation to its appropriate objects, it is, nevertheless, *Federal;* the several States of the confederacy retaining their fundamental principles of sovereignty, with all the *residuary* powers thereto pertaining.—I shall do little more than briefly state a part, and a small part only, of the matter of proof, leaving to you the task of its rational application.

I. *The great and most important public acts of the states, previous to the Federal convention, furnish my first proof of their sovereignty, and of the Federal character of the government of the Union.*

These acts are the *Declaration of Independence*, *the old Confederation*, and the *Acknowledgement of Independence* by the government of Great Britain. You have only to turn to the memorable deed of the 4th of July, 1776, to see the proof of sovereignty in each state at that day. The colonies were represented in congress, and, by the fact of their respective

itation. He says—"The States are one great empire—for some purposes *sovereign;* for some purposes subordinate." And again—"The national and state systems are to be regarded as *one whole.*" An able jurist of Pennsylvania, Mr. Rawle, remarks—"The Constitution of the United States is *to a certain extent, incorporated into the constitutions of the several states* by the act of the people." It is equally true that the constitutions of the several states are, to a certain extent, incorporated into the Federal Constitution. Between them there is a mutual recognition. The defects of the one are supplied from the fulness of the other. Yet they are distinct. Mr. Taylor, of Caroline, contemplates the subject in a similar light—"Neither the federal nor state," says he, "are perfect governments, both being only invested as distinct and checking political departments, with limited portions or dividends of civil and political power."

representatives appearing on that floor, in a common cause, and without any other bond, they were *United* Colonies.—The declaration of independence runs—They *are, and of right ought to be,* FREE *and* INDEPENDENT *States.* Two years subsequent to this, it was found necessary to enter into a more perfect union. This gave occasion to the "Articles of Confederation," which commence by declaring that "each state retains its SOVEREIGNTY, *freedom,* and *independence.* At the conclusion of the war, the treaty in which their independence is acknowledged, enumerates the states by name, and declares them to be *free,* SOVEREIGN, and *independent States.*" This was in accordance with their own declaration, when they formed the confederacy. Although they entered into a close union, they still remained sovereign powers. This state of things continued until 1788. If the States retained their sovereignty then, and that they did so is not disputed, the government of the Union is *Federal,* and not *National.* It was formed by the people of the *States,* for the States in union.

II. *Another proof is found in the instructions given by the several States, to their delegates in the Federal Convention of* 1787.

You will recollect that the deputies of 1786, at Annapolis, recommended by resolution, a convention of delegates from the States, to modify the frame of government. It has been remarked that the language and ideas of that resolution, are confused and somewhat contradictory. It speaks of forming both a *federal* and *national* government. It is remarkable that of the twelve States which commissioned delegates, not one of them authorized its agents to form a *national,* but all of them expressly mentioned a *federal* constitution or government.—This, Mr. Taylor, of Virginia, with great probability supposes, was not without design. A national government had its advocates at that day; but as this must have been established at the expense of state sovereignty, it was unpopular. To counteract the tendency of the inadvertent or dubious terms, *national government,* used in the Annapolis resolution, the States were particular in excluding the epithet *national,* and employing the term *federal,* in their instructions. If, then, the delegates acted in good faith toward their constituents, they formed a federal and not a national constitution. That they did so will appear in the sequel.

III. *The* ACTINGS *of the Convention of* 1787, *furnish farther proof upon the subject.*

You have in your library the "Secret Debates of the Convention," and to the "Journal" you have access. I refer you to those documents, where you will find among the evidences of a prevailing opposition to a national government:

1. The rejection of Mr. Pinckney's motion to authorize a *national legislature* to put a veto upon state laws.*

2. The unanimous expunction of the terms "national government," from the first of Mr. Randolph's resolutions, substituting for them, "government of the United States."†

3. The declaration of Mr. Lansing and others, that they had no power to form a consolidated government.‡

4. The rejection of the proposal to give various undefined powers to the Union, under the imposing idea of being "for the public good."§

5. The language employed by the convention in submitting the constitution to congress, to be laid before the states.‖ It was presented as a constitution of a *Federal government;* possessing delegated powers for federal purposes. The rejection of the term *national*, the adoption of that of *States*, the refusal of all the provisions calculated to consolidate the government, which were proposed by the advocates of consolidation, and the perfect understanding of the subject by the members, all go to prove how abhorrent to the convention was the idea of a *national* government.

IV. *The principles upon which the States proceeded in adopting the Constitution, and in modifying the Union under it, prove the Federal character of their relation.*

1. We have seen that their delegates in convention, were authorized to do no more than to frame the plan of a *federal* government.

2. When the convention had finished their labours, they, through a specified channel, laid the result before their constituents, for approbation or rejection.

3. The particular States, as sovereign powers, met in convention to pass upon the instrument. In this they acted in their highest character of sovereignty; and no obligation,

*Yates, p. 122. †Idem, p. 108. ‡Id. 142. §Jour. of Aug. 18th. ‖Letter to Congress.

from any exterior power, lay upon any State to adopt the constitution.

4. They fixed their terms as sovereign powers.* The people, not as one consolidated mass, but as the people of the particular states, acting under their own respective systems, adopted the constitution. States and people, in this deed, are terms equivalent and convertible. Men not united under principles of order, however numerous, are not a *People.*

5. They carried into the Union their former appellation, adopted in the Declaration of Independence, continued in the confederation of 1778, and, in 1783, acknowledged in the treaty of peace by George III. viz: '*The United States,*' as expressive of their individual sovereignty though in union—to the rejection of the term *nation*, which would imply the destruction of that sovereignty.

6. The federal constitution is no more than a modification of their former articles of Union, extending some farther the delegation of powers to their agents, the representatives of the states in the confederacy; but by no means affecting their own sovereignty in all the reserved residuary powers; and even in reference to their portion of delegated authority, they, as States, retained and still retain a *controlling power over it, to modify or recall it at their pleasure.* Yet no one state may withdraw from the Union except upon revolutionary principles; and for causes justifying revolution.†

You can, at leisure, follow out these considerations, and with me I doubt not you are ready to say,—Before this can be considered as a national government, language must change its meaning, and ideas be inverted in their import.

* New-York has not yet blotted from her records, the terms on which she acceded to the Union, among which is the following: "That the judicial power of the United States, in laws in which a state may be a party, does not extend to *criminal prosecutions*, or to authorize any suit by any person against a state."

†A distinguished jurist already named, seems to hold, what I should have doubted, that any state may, when in its sovereign character it shall so determine, secede from the Union; and that no obligation, beyond their own pleasure, lies even upon the territories, when they become states, to enter into the confederacy. When they adopt their constitutions, if republican in their form, and they ask admission into the Union, they must be received; but into it they cannot be, constitutionally, compelled to enter.—Vid. Rawle, pp. 300, 301, 302.

V. *The reserved power to amend the constitution, evinces sovereignty in the states, and its exercise is altogether federal, and not national.*

In confirmation of this argument, and to show its application to the point before us, let it be noted,

1. That it excludes at once the idea proposed by Mr. Madison, in the convention, of the states being reduced to mere municipal corporations. The sovereign power may modify the corporation which it creates; but the corporation cannot touch the sovereign that gave it being.

2. The federal government neither can amend its own, nor modify a state constitution. All the power of the Congress, the President, and Judiciary, united, cannot add an article to either of these; nor can the people, *as one body*, acting under one consolidated system do it; and that for the strongest of all reasons,—*no such people exist, and no such system has obtained.*

3. The amendments to the constitution of the United States must be made by the states, and that in their sovereign capacity. Three fourths of the states, acting as states, have it in their power to amend the federal constitution; to modify, abridge, extend, or reclaim, any portion of the power delegated to the federal government.

4. The people of the several states may modify, amend, or alter their own respective constitutions; making such distribution of their residuary powers of sovereignty, as may to them seem advisable, they retaining the republican form; and with them, in so doing, the federal government may not interfere. You will from these items infer, and very fairly, that if the appellation of *municipal corporation* be applicable to any of the parties before us, it is to the government of the Union, and not to that of the individual States.

VI. *The states themselves assert and exercise sovereignty.*

In a former letter, I adverted to this fact. Because of its importance I recur to it again; but do not pursue it, being assured that your own acquaintance with the style and spirit of the constitutions and administrations of the several commonwealths, will supply you with abundant evidence of my assertion, and of its important bearing.

VII. *State sovereignty and the federate character of the United States government are admitted, by those who were advocates of a consolidated form, as well as by those of an opposite creed.*

In proof of this position I refer you to the Federalist, which records the sentiments of two of its distinguished authors—Madison and Hamilton. The debates of the convention show them both to have been advocates of what they considered, at that period, a stronger government than that which they obtained.

1. Mr. Madison admits the government "to be of a mixed character, presenting at least as many federal as national features. The local authorities form distinct and independent portions of the supremacy, no more subject, within their respective spheres, to the general authority, than the general authority is to them within its own sphere. In this respect then, the proposed government *cannot be deemed one*, since its jurisdiction extends to certain limited objects only, and leaves to the several states a *a residuary and inviolable sovereignty over all other objects.** Again: "The States will retain a very considerable portion of active sovereignty. The powers delegated—to the *federal* government, are *few* and *defined*. Those which are to remain to the State governments are *numerous* and indefinite."†

2. Mr. Hamilton says: "The State governments, by their original constitutions, are invested with complete *sovereignty*."‡ And in No. 32 of the *Federalist*, he goes on, in proof of the sovereignty of the states, to show the consistency of the *concurrent* exercise of power by the state and federal authorities. Much more from both these writers might be adduced. I offer the above as a specimen. In a letter of Mr. Madison, now before me, to the editor of the North American Review, dated August, 1830, he says, "The Constitution is a compact," and he very justly intimates, that it provides in itself for its own exposition.

Legislative resolutions and opinions of other distinguished individuals might be adduced in proof of my general view of the subject, but I forbear. The suggestion of the statesman who now occupies the second place in the government, appears

*Fed. No. 39. †Idem, No. 15. ‡Id. No. 31.

happily calculated to illustrate the point; that the government is to be considered as partaking of the character of a *joint commission*, appointed for a specified service, and limited by special instructions to the objects which that service presents.

VIII. *What is usually denominated "The House of Representatives," is equally federal, and in its appointment State sovereignty is no less conspicuous.*

In proof of this position observe,

1. It was, and still is, the pleasure of the states, as states, in the exercise of their sovereignty, that in the federal government there should be two legislative branches; and they accordingly fixed the manner of their appointment: the Senate immediately by their own legislatures, and the other house directly by the people of the states. But the one, as really as the other, represents the states for federal purposes. They are both federal, originating from the same source, having before them the same ultimate ends; and differing only in the manner of their appointment, some immediate duties and term of service; but not in their federate character.

2. There is no consolidated national people, distinct from the people of the states, as such, to be represented in any department of the government.

3. The state directs the time, and the mode of election, and settles the qualifications of the electors of members of congress; which are frequently different in the different states.

4. The legislative actings of the lower house operate no more directly, nor otherwise, upon the people, than do those of the senate which all confess to be federal in its character.

5. This complex legislature is *a Congress*. The Senate is not the Congress; the other house is not the Congress; but both, assembled in their respective halls, constitute the *Congress* of the United States. The language of the constitution is—"All legislative powers, *herein granted*, shall be vested in *a Congress of the United States*, which shall consist of a senate and house of representatives."* Language is imperfect, and, in this instance, the terms, "house of representatives," are not very distinctive; for surely the senate is as really a representative body, as that so denominated. If, however, the thing be understood, names are of less account.

*Cons. Art. i. Sec. 1.

6. The two houses constitute the *Congress* of the United States. The term Congress, when used by statesmen, and in affairs of state, is technical in its import, and is well understood. It does not indicate the immediate representatives of individuals, appointed under a consolidated authority; but the assembled representatives of sovereign states or nations. Such is its import in the case before us, and this import goes to confirm the truth of the nature of the United States government, as the result of a federal compact, sustained by the sovereign states in league.

IX. *The President of the United States is a federal officer, appointed by the States in their sovereign capacity, and not exclusively a national functionary.*

The immediate electors of the President are appointed by the several states; the manner of their appointment is different in different states; in a given case, the presidential election is directly by states; and, when it is so, the smallest has as much power as the largest;—Delaware with her few thousands, is equal to New-York with her millions. But whether the ordinary or more unusual mode be acted on, each is equally by state sovereignty, and the chosen functionary is equally a federal and, as regards the states, not a national officer.

X. The fact of each state, however small its territory or few its inhabitants, being entitled to appear by representation in the Congress of the Union;—the cession of territory by the particular states to the Confederacy, and, in certain cases, the continued extension of their law over the ceded district;—the incapability of a state to be prosecuted at law by an individual; the universally admitted fact of the senate of the United States being a body representing the several states, and that, in its formation, they act as sovereigns, afford so many distinct proofs, which may be followed out at pleasure, showing with irrefutable evidence the federal character of the government. To do this is left to you. I pursue it no farther.

Indeed, upon a case so plain, perhaps, I have been too long in feeling the danger of exhausting your patience; and yet the evidence is so abundant, the proof so strong, and the subject so important, that I am tempted still farther to prolong my remarks. Federal government and sovereign states are

correlatives. They stamp the signature of their reality upon our political vocabulary. Federal government, federal legislature, federal judiciary, federal executive, federal city, are applications of the federate epithet, which show how deeply the thing intended is engraved upon the public mind, in opposition to the ideas conveyed by the terms *concentrated*, *consolidated*, and *national*, with their kindred appellatives. Believing, however, that enough is said upon the subject, I dismiss it with a single remark, in which I recall your attention to the reason of the interest I feel in pursuing this inquiry into the character of the government of the United States. It is not for mere political purposes. It is not with the expectation or wish to mingle my humble and unknown name, or opinions, with those of the distinguished men of the land, among whom the subject is agitated with feeling as intense as with talent that is eminent. At your request I commenced the discussion. My object in pursuing it is moral, and if you will, even ecclesiastical. You know there are men in our country, of great moral worth, who fear to touch the political institutions of their respective states, because of the relation in which they stand to a supposed immoral general constitution. The remarks which have been made upon the nature of our bond of union, showing it to be federate, and on the relation between it and the several states, indicate the source of mistake. It is far from my wish to induce any man to become a dabbler in politics; but it is my desire that his mind, who is disquieted upon this point, should be set at rest, both with respect to himself and others, in relation to their civil rights and obligations. Should the view now taken of the matter appear to such men to be correct, and upon candid examination I doubt not it will so appear, many grounds of needless uneasiness will surely be removed. For a little, I bid you adieu.

LETTER IV.

OBJECTIONS CONSIDERED.

Dear Sir,

It will not escape your recollection, that neither for the constitutions of the several states, nor for that of the United States, do I lay in a claim for perfection. They are the productions of men, and though distinguished in their place, yet imperfect men; the circumstances, too, under which they were called to act, were very peculiar. Against these deeds various objections have been alledged with more or less appearance of reason; and part of them, at least, are worthy of consideration. Some six or seven years since, I well recollect, in our conversations which were then frequent upon this and kindred subjects, that the reasons I assigned were not adequate to the removal of some of your exceptions to those instruments. I cannot promise myself to be successful now, in obviating every doubt. Of one thing, however, I assure myself, that your judgment will be candid, and upon a subject somewhat complex, you will further admit the possibility of previous mistake.

To one consideration, already hinted at, I beg your particular attention:—the distinction between the provisions of the constitution, and the character, opinions and acts of the administrators, or others under it. To the former a pledge is given, in the spirit in which it is required, but approbation of the latter is not demanded. Indeed the whole constitution is to be considered in the light of 'articles of peace,' rather than an immutable system. The object was to have a bond of union providing for an orderly and peaceful progress in seeking the common weal, capable of being changed without tumult, and making provision for its own improvement, without danger to the public peace, safety, or liberty. Perhaps no one member of the convention that formed, and no one of the states which adopted it, approved entirely of this deed. Upon it they animadverted with freedom, and to it already are added twelve amendments. Other amendments may and will be added in due time. Of the constitution, its laws, and administrations, you are at liberty to speak with freedom; their reformation you are bound to seek, and in seeking it you have pledged to you their protection. Falsehood, violence, and disorder, are

the only means prohibited in seeking a change; and neither of these are you inclined to employ. Such is the import of the oath of allegiance and of office.

All the objections which I have heard advanced against this federal deed, may be reduced to three general heads: *The violation of the principle of fair representation; the establishment and support of slavery; and its irreligious character.* A few brief notices of what is alledged under each of these heads, is all that I now intend. Indeed a volume, instead of a short letter, would be requsite for a full discussion of these topics.

The alledged violation of the representative principle, as unjust, giving a sanction to slavery, and a boon to the slave-holder, is the first exception to which I advert.

The complaint is founded upon the following provision of the constitution: "Representation and direct taxes shall be apportioned among the several states, which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons."* The addition of *three-fifths* of an unfortunate species of the population, to the citizens, or original representees of the states, is that to which exception is taken. I offer the following thoughts in explanation:

1. It is at once admitted, that this provision violates the equality of representation. And were the Union a consolidated government, purporting to represent individuals associated as a nation, the objection would be valid against this provision. But we have seen that the government is federal; it is a representation of sovereign states, in which equality of individual representation is impossible, and is never required.—This is like the wealthy and distinguished man and the man of small possessions and attainments at the polls; there both are equal.

2. This provision now complained of, is not the only instance which the constitution furnishes, of such a violation of equal individual representation:—The senate of the United States exemplifies it more strongly. On the floor of that house the state of Delaware or Rhode Island, with a very small pop-

*Art. i. Sec. 2. Parag. 3.

ulation compared with that of New-York, Pennsylvania, or Virginia, is equal to each of these states.

Why not complain of this senatorial representation, which, in the highest branch of the government, and in acts of deepest and most extensive interest, raises the little commonwealths of Rhode Island, Connecticut, and Delaware, to the rank and power of the great states just named? Why not on the same ground, object to the various qualifying election laws of several of the states, which exclude so many white men from the polls? Why not take exception to the numbering of the multitude of aliens, in the middle and western states, among the representees of the federal legislature, and thus giving an augmented power, beyond that of the citizens, to the representation of those districts? The whole of this finds an easy answer in the fact, that the government is a federal compact. It is a compromise among associated sovereign states. Speculative perfection is out of the question in these practical arrangements. Though the small states, however otherwise important, simply in respect of numbers could not claim an equality with the larger states, yet the larger may have good reasons for conceding that equality, so far as it is given. They have, as moral persons, a right to do so; and that right in this case they wisely exercised. For this apparent discrepancy there is no remedy, but the breaking down of the state sovereignties,—those strongest political securities of our personal and public liberty,—and forming one sole, extended, consolidation of power. For such a sacrifice, the equality of representation would be found a very inadequate compensation. This inequality, in the present case, is a question, not of morality, but of expediency.

3. I cannot consider this provision as either giving a sanction to slavery, or as a boon to the slave-holder. In case of raising a revenue by capitation, it places three out of every five slaves upon a footing with so many free men. In this light it is to be viewed, not as a boon, but as a tax upon the slave-holder, from which a consideration of them as property would have exempted him. So far it cannot be viewed as giving slavery a sanction.

In another aspect of the subject, the provision is far from granting a boon to the southern planter. The slave-holding

states in this, as in other instances, might have urged, and did urge, their independent sovereignty, and, denying the right of the other states to interfere with their domestic policy, have embraced in their census, their entire population; and with apparent reason and force, they did plead, that, as the whole population of the other states, paupers, apprentices, aliens, and non-voting citizens, and others constituted the basis of their representation, so they, on their part, were entitled to all the advantage in this respect, of the whole population of their own states. Their argument was: "Our representation shall, like yours, be as our population." And had they demanded—What is the difference between the representative of your disfranchised white men, and of our disfranchised black men?—Upon *principle* what could have been the reply? Had this plea succeeded, upon the floor of Congress, it would have greatly augmented the representation of the South. And even in that event, the Union could not have been charged with the abetting of slavery. For the representation of their entire population the South did not pertinaciously contend, but in the spirit of concession, yielded up nearly one half of their disfranchised inhabitants; while the non-slave holding states are allowed to profit, in their congressional representation, by the whole number of those within their bounds, who are not entitled to the elective franchise. Contemplated in this light, may I not ask you,—Does not the arrangement, instead of being a boon to the slave holder, evidently appear to be a diminution of his political power, obtained by the confederacy through stipulation, and consequently, while it abstracts from the influence of the slave holding States, increases that of the non-slave holding in the house of representatives? Of slavery there is no approbation in this article, but rather a disapprobation, indicated in cutting off from the representation of those who practise it, two-fifths of their non-voting population; and on the three-fifths that remain, a tax equal to that upon citizens may be imposed; a tax not paid by those persons themselves, but by their masters. In this, as in almost every case in which the confederacy was permitted to act, in reference to slavery, we find a cramping and frowning policy adopted, and that to the full extent of the granted power. In it too we find the liberal spirit of southern concession, which it is hoped will be exemplified as often as the cause of the *Union* demands it.

These considerations, when carried out in all their bearings, will, I trust, be sufficient to remove much, if not all, of the odium attached to the confederation, by the above allegations. I proceed in my remarks upon the second head of accusation:

The approbation of the principle and the authorizing of the practice of slavery,

Beside the ground of accusation just disposed of, three others are adduced to sustain the charge. To you who know how deeply I feel upon this subject, it is not requisite to say, that of slavery I am not the advocate. It is a calamity to its subject, and not less so to the body politic in which it exists, while in its abettors it is a crime against every species of right. Let no son of the republic deny that it is so; and let no son of the reformation ever attempt to palliate the evil, or speak of it in terms other than those of emphatic reprobation. In doing this, however, be it our care to attach blame to the guilty alone. Fix the crime upon the criminal. Before passing sentence, view the subject on all its sides, and pass a righteous decision. Condemn not the innocent with the guilty. In estimating the amount of guilt, remember on the one hand, the strong and continued remonstrances of the American colonies, both in the North and in the South, against the slave trade and the introduction of slaves within their territories; and, on the other, the violence of royal decrees, forcing the trade upon the reluctant colonies. Read the acts nullifying that trade by so many of the states, upon the gaining of their independence, and as soon as they had liberty to act their own will. Slavery is an evil entailed upon these States by a violent policy of the mother country toward them, while in a colonial state. So far as any of them have refused, since that period, to mitigate the evil and prepare the way for its final removal, when in their power, let them bear the blame; but condemn not those who have done all that was in their power to do, or that the case required.

The idea of immediate and universal emancipation, in the slave holding States, is preposterous. Fatuity or fanaticism alone could demand it. Diseases of a state like those of an individual person, though induced by criminal conduct and followed by neglect of duty, yet in order to a cure, require not only the remedy, but likewise skill in its application, and

patience for the result. If the limb can be healed, have not recourse to amputation. Upon this subject it becomes the American citizen to consult, both for the welfare of the unhappy slave and the safety of the State. "Immediate and unqualified emancipation," generally, would not be more dangerous to the latter than calamitous to the former. The condition of the black man in America must always be a degraded one. He cannot amalgamate with the white. To be benefitted by emancipation he must forthwith be removed beyond the regions of his former servitude. A combination of means, physical and moral, are now in powerful operation to remove this evil from the land; and perhaps as soon as could be reasonably expected, or, for the final good of the slaves, desired.—From continued, enlightened and liberal exertion in the cause, let none hold himself excused.* I reply to your inquiry—

Did the federal constitution, in Art. I. *Sec.* 9, *authorize the African slave trade?* The provision supposed to do so, is couched in these terms: "The migration or *importation* of such persons as any of the states, now existing, shall think proper to admit, shall not be prohibited by the congress prior to the year 1808; but a tax or duty may be imposed on such *importation*, not exceeding ten dollars for each person." In answer to your question, and in illustration of that part of the constitution upon which it is predicated, were it necessary, much might be said. But it is not necessary. The following are the facts of the case, as you will easily gather from the statements made in my former communications.

Previously to the formation of the federal constitution, the states of Europe and a *few* of the United States, were engaged in the slave trade. The majority of our states had for themselves by legislative acts, prohibited the nefarious traffic; but they had no authority to interfere with those which still pursued it. When the constitution was formed, a very few of the States refused to abandon that trade immediately, and accordingly reserved all control over it, as regarded them, for twenty years, from the powers delegated to the Union. The United

* The enlightened American, while he laments the existence, condemns the crime and exerts himself to remove the evils of slavery, can, upon this subject, estimate as they deserve, the ill-advised reproaches of ignorance and faction at home, as well as the ill-timed sneers of those abroad, who, in their sorrow, put on the robes of mourning when feudal tyranny is compelled to slacken the chain, which for ages has held millions of its victims in durance upon their native soil.

States government, it has already been made to appear, had no power except what was actually delegated by the individual states, and without usurpation could exercise none but what it possessed. The conclusion is—the Federal Government, before the year 1808, had neither power to *authorize*, nor to *prohibit* the slave trade, as respected the states that pursued it. There was secured by the compact, the right to abolish entirely the inhuman traffic in that year; and this was, as has been before remarked, the first public act, on the subject, by any government in favor of injured Africa.* The government promptly employed its power. By legislating in anticipation, on the 1st of January, 1808, it was prohibited for ever to all the states; and is at this day, by statute, declared to be piracy. The citizen of any state, who shall be found engaged in it, is liable to capital punishment.

Upon this subject, at your leisure, you will be gratified in tracing the steps of federal legislation from the *Ordinance* of 1787, which made the admission of the new states that should be formed, in the then unpeopled North Western Territory, into the Union, to depend upon their constitutional prohibition of slavery, down through the years 1794, 1800, 1807, 1818, 1819, 1820, when a participation in that dark commerce was made, by law, a capital crime. The federal government never made a slave. It has rescued the black man from the pirate's grasp, and employed its money, its ships, and its men, in sending him back free to his native land. By this time you perceive your question is not at this day a practical one. The year 1808 is passed; and remember that during twenty-four years, the United States government has been actively engaged in the suppression of the slave trade, a trade which it never had either the power or will to authorize.

Is there not still slavery in some of the States, and are not the free States, and all the States in Union, if not equally, yet in a great degree, chargeable with the evil as it exists?

I reply at once, slavery, less or more, exists in one half of the states of the confederacy. But that this evil is chargeable either upon the free states or upon the federal government, I deny. The suggestion that it does, springs from the operation of the latent mistake as to the nature of the government.

*Vid. Federalist, Nos. 42, 43.—Kent i. p. 180.—Rawle's View, p. 117.

It is difficult to banish from the mind the influence of preconceived misapprehensions, even after they are seen and confessed. The idea of a consolidated government, possessing all power of doing whatever may be deemed calculated to advance the public good, all the States and their governments being mere municipal corporations, deriving their characteristics, good and bad, from the supposed *national consolidation*, gives origin to the accusation implied in the query before us. So long as this mistaken idea prevails in any mind, the whole subject will be misunderstood. From what has been made to appear, the federal government can be charged with nothing beyond the power delegated to it, in any given case. It may not act upon that which the compact exempts from its operation. The States, viewed individually, have no power to interfere with what is internal and peculiar to each. They never had when separate, and now that they are united they have no right to act politically upon each other, except through the federal medium; and upon the subject now in question that medium may not be employed.

Slavery wherever it exists is an evil; but neither the non-slave holding States, nor the United States, have the right to correct this evil in another State, more than any other wickedness that may be perpetrated there. The federal government has no more right to rectify this evil in South Carolina, than it has to punish slander, fraud, or profanity in the commonwealth of New-York, or in England. The power of controlling and removing these and such evils, the States hold in their own hand.

Is it needful to pursue farther the ill-founded accusation, that the federal government sanctions and establishes both the principle and practice of slavery, binding the citizen to its maintenance? Surely not. The charge is refuted by the acts of so many of the confederated commonwealths, subsequent to the year 1787, emancipating their slaves;—by the conduct of the Confederacy itself, when the subject came before it;—and by the open and repeated arguments of members upon the floor of Congress, and of the officers of the government against both the principle and practice of slavery, who had just bound themselves by oath to support the constitution of the Union. Do not these facts call upon us to admit, that the authorizing of this great evil is not chargeable upon the Confederacy? Or

shall we say that the government of the Union has been, in this respect, habitually acting in opposition to the principles of its constitution? Did those States which purged themselves of the scandal, break their pledge to the principles of the Union? Do those members of Congress, and other functionaries, in their proper place as public men, violate their plighted faith, when they denounce slavery and all its train of ills? Does public sentiment, the proper interpreter of public conduct in this land,—for it is sovereign,—pronounce those distinguished sons of the Republic perjured in so acting? Certainly not.—They never swore to support slavery, either in principle or in practice; the constitution to which they gave their pledge authorizes it not; but in whatever shape it has passed before the government, it has been contemplated with marked disapprobation.

Still it is inquired:—*Is not countenance and support given to slavery*, by Art. IV. Sect. 2, of the Constitution, which provides that, "No person held to service or labour 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 labour; but shall be delivered up on claim of the party to whom such service or labour may be due."

It is acknowledged that this provision will cover the case of the absconding apprentice, slave, or hired servant; towards all of whom cruelty may be exercised, or injustice be done, under the regulations of their own states. But however much humanity may lament the sufferings of foreigners, it is not usually competent to any nation but their own, to legislate for their relief. Foreign legislation cannot be claimed for them as a right.

The case before us is referrible, simply, to the principle of sovereignty in states. And when independent states in amity with each other, having their distinct and peculiar policy, are only separated by geographical lines, or boundaries easily passed, some such general regulations, mutually obligatory, must at once be conceded to be necessary to prevent occurrences of a vexatious and hazardous character. Is a sovereign State bound to admit within its territories, to its protection, and to its rights, every species of character that might choose to emigrate thither? Neither morality nor sound policy will dictate an answer in the affirmative. "It rests with every indepen-

dent state to open its doors to the admission of foreigners on such terms only, as it may think proper.* To whom and how far its hospitality shall extend, every sovereign power has a right to say; and in this, as in all ordinary cases, the public interest is the rule of action. The immediate end of the association is the welfare of the citizens; and when that would be put to hazard, by the admission of any species of foreign population, the right to prohibit their introduction is indisputable.

The application of these remarks to this provision of the constitution is obvious. The condition of the unhappy slave, or ill treated apprentice of another state, is not made worse by the refusal of this, to run the risk of a dangerous population, of the turmoils and wars of non-confederated states, by making it the harbour of the runaway. The State simply consults for its own safety and prosperity, without injustice to any other party; for upon it the absconding individuals can have no claim. The provision of the compact is public and stands as a warning against the immigration of inhabitants that must always be a distinct and degraded class, and consequently, dangerous, bringing evils in their train. To this article when candidly and fully viewed, neither expediency nor morality presents an objection. And whether the exclusion of undesired individuals from entering the state from abroad be by legislation or compact, it matters not. In this case it is by compact, and to it sound principle does not object. Over this unhappy and injured race humanity weeps; but were this provision of the constitution expunged from it, what relief would it bring to them? This question finds a melancholy answer in the legislation of some of the most free states, in reference to the coloured man.

The statute given to Israel, Deut. xxiii. 15, presents nothing in controvention of the above remarks. This will appear by the time you have settled such inquiries as these, which are requisite to the understanding of the law. Was it a regulation peculiar to Israel, or is it a law of universal obligation?—Was it predicated upon the immorality of slavery?—Did it equally apply to the servant in Israel and the servant of the Gentile?—Did it apply to the servant hired,—held to service for a time, or to the absolute slave?—Had it no respect to an exasperated

* Rawle, p. 101.

master, whose passions were to be allowed time to moderate? —Had it no reference to religion,—to escaping from idolatry, and seeking proximity to the ordinances of the true God?— Had it no regard to the maintenance of national sovereignty, against encroachments from abroad, or demands unauthorized by compact or safety? But enough, and more than enough, to show that the injunction applies not to the case before us. Improbable suppositions and extreme cases are not the objects of ordinary legislation, nor against objections predicated upon them am I inclined to guard, for such objections you have no disposition to advance. Were mere feeling to be consulted, regardless of the dictates of reason, the fruits of a restless policy would soon be matured. It is time, too, to have done with that morbid casuistry, the fruit of a factitious conscience, which makes criminal the use of cotton or the production of the sugar-cane, because these, being the fruits of slave labour, it indirectly but really renders encouragement to slavery.— Such quibbling if consistently followed out would drive its author from the world.

Does not, however, the constitution give its sanction to slavery in the pledge, that "The United States shall protect each of them (the states,) *against domestic violence?"** Does not this violence intend the possible insurrection of the slaves?

To decide finally upon this subject, regard must be had to the discussions of the framers of that instrument, and to the opinions of statesmen expressed since that period, as well as to the nature of the case. Viewing the subject in itself, and in its own proper relations, it would appear that such an interference of the federal power was not contemplated. The slave in the slave holding state is private property. He is made so by the law of the state, and that law which created the property must defend it. As well might the federal power be called upon to aid the constable of the township, to collect his bills, as to settle a dispute between the master and the slave. Such has been the opinion expressed upon the floor of congress by southern statesmen. In this they say—"We do not ask the aid of any government whatever. It is created property by our law, and our own state governments are able to carry that law into execution."—"This government has no more to do with it than the Khan of Tartary. Our laws will, may, and

*Art. iv. Sec. 4.

must execute themselves." I believe this to be the true view of the subject, and expressive of the general sentiment of the South,—the region of country most interested in a broad exposition of the article now before us. The violence contemplated is political, and not such as may arise in a struggle for property. A contrary opinion, the acting of a military officer, or even the order of the chief magistrate to the military to interfere, if at variance with the spirit of the government, must not be taken as the constitution.

Should the slaves ever organize themselves, which is not likely, in a regular manner, to take possession of a state government, and administer its institutions by their own hands, a question will arise for consideration which the constitution never contemplated. Interference whether by the government or by others, to prevent assassination, as in the late massacres of women and children in Virginia, can be faulted by none but an assassin at heart.

I refer you to the 43d No. of the Federalist, to ascertain how this provision was understood by Mr. Madison. In his own clear and fine style, you will find that distinguished statesman refuting the imputation attempted to be fixed upon this part of the constitution. The rising of slaves was not in the view of the convention, except as they might be rallied around the standard of some ambitious leader of faction, not for their liberty but his own interests. The violence to which the constitution refers, is exemplified by a well known insurrection in one of our states, at the close of the revolutionary war, conducted by some misguided men, and to which Mr. Madison appears to allude. He shows that such a provision, and for a similar purpose, was made among the Swiss Cantons, where it is well known that slaves did not exist.

I dismiss a farther reply to this violent construction of the provision, by adverting to the uniform practice of the Reformed Presbyterian Church, in debarring from her communion all factious citizens, who, under the pretext of effecting reform, would by violence disturb the order of society; and to the solemn declaration of her supreme judicatory, pledging themselves and their people to "support to the utmost, the independence of the United States, and *the several States*, against all foreign aggressions, and DOMESTIC FACTIONS,"* &c. This

*Min. of Synod, 1812.

is altogether as broad and as strong as the constitutional provision under the review; but neither the constitution of the United States, nor the declaration of the Reformed Presbyterian Church can be continued as a pledge to support slavery.

What of the District of Columbia? Is it not under the government of Congress, and are there not slaves in that District?

That all this is matter of fact, is well known and it is likewise well known by all conversant with the subject, that the constitution of the Union neither made those slaves, nor keeps them in servitude. With the slavery of that District it has little to do. The facts are these: The constitution was formed, adopted, and for years in operation, before there was any 'District of Columbia;' the States of Virginia and Maryland ceded to the United States a portion of their territories, for the seat of the Federal government; that District, formed of these ceded tracts, is an anomaly in government, it has no state legislature, no representation in congress, no uniform system of rule, the Maryland portion is governed by the old laws of Maryland; the Virginia section by those of Virginia, by which it was governed previous to its cession; an unhappy species of population is found in it; Congress, in actual legislation, greatly neglects it; states and individuals have for years been calling the attention of Congress to it; the subject is before them, and will be kept before them; evils will be reformed; there is no constitutional obstacle in the way of the emancipation of its slaves; of the evil while it exists, no one is required to approve. Of the negligence of Congress in the case, many good men complain, while to the factionist, to answer his momentary purpose, it gives occasion to misrepresentation, and furnishes a topic upon which he may declaim. Against the Federal Constitution, the evils in the District of Columbia sustain no charge. It is altogether a practical not a constitutional question. So it may be said of most of the legislation upon this subject.

To legislate respecting an evil which cannot be eradicated is not wrong. Slavery, such as that of which we complain, is an evil. It was always so. It was so in Israel. But it was a practice of the East and interwoven with the habits of thought that prevailed among the descendants of Jacob. It is a mistake to suppose that God approved of slavery in Israel, except as a punishment of crime. He no more approved of their ge-

neral practice of slavery than of their hard-hearted divorces. Both were in principle opposed to his law of love. Yet respecting both he legislated, without *at once* abolishing either. Their abolition he left to be effected by the progress of moral principle; for the operation of which security was made by their constitutional provisions. But what estimate should you form of that man's discretion, who, in Israel, would have dared to revile or reject the constitution of the empire, because it provided for legislating about those existing evils without immediately abolishing them? While seeking reformation, let us not forget the means appointed of God for its attainment.—Patient perseverance in the application of sound principles for the removal of evils incorporated with the habits of society is found exemplified both by prophets and apostles. A more violent course is unwarranted.

To our federal bond of union, there is a remaining head of exceptions, to which candour requires that some attention should be given: it is charged with *infidelity* and *irreligion*. The charge, as is supposed, is sustained by the fact, that the being of God is not explicitly acknowledged in it; that the Christian religion is not recognized; that it disclaims a religious test as a qualification for office; and that it prohibits Congress from legislating respecting an establishment of religion.

With lengthened remarks upon the religious defects of this instrument, I shall not detain you. Of them no citizen is obliged to approve. Against the omission every one is at perfect liberty to enter his protest, in the most public and explicit manner, and in so doing both to profess his own faith, and purge himself of the criminality of the omission. How often this is done in the proceedings of the church, without breach of communion, is well known to ecclesiastical men. The amount of the evil, however, while no justification of culpable neglect should be set up, ought with candour to be ascertained, and its bearing upon the moral validity of the deed ought to be understood.

The omissions complained of cannot be construed into a rejection of the truth of either the being of God, or of Christianity. Such a construction is at variance with explicit provisions of the constitution itself, and with the general administration of the government under it. The oath of office, or

solemn affirmation, required of its functionaries, recognizes the truth that God is, that he is the avenger of perjury, and that the business of government is conducted under religious responsibilities. The first amendment of the constitution confesses the soundness of religious worship, and refuses to Congress the power of legislating to prohibit its free exercise.— This instrument recognizes the first day of the week as sacred time, and exempts the president of the United States, by an explicit provision, from the discharge of official duties on that day. The sanctity of the first day of the week is purely of Christian authority, and not of mere national law. So far, then, at least, the system of grace is acknowledged, and Christian influence and character extended to the government. To these provisions of a religious nation, add the confession of God and his providence in the Declaration of Independence, a deed that lies deeply at the foundation of all our political institutions; the relation between the general and state governments, from the latter of which, as in the case of New-York and others, a consecrating influence extends to the latter; the facts, that on the Sabbath Congress adjourns, the courts of the Union are suspended, and the custom houses shut.* Each house of Congress, too, has its chaplain, a Christian minister, who daily opens their proceedings by prayer to God, in the name of Christ; and on the Lord's day ministers to them, as a leader in devotion and instruction. Chaplains are likewise employed by the government, in the army and navy. These Christian instructors are supported from the treasury of the Confederacy. On special occasions, too, the executive of the Union has recommended days of fasting, prayer, and thanksgiving, to be observed by the people.

From these facts it appears, that the government, instead

*The desecration of the Sabbath by the transportation of the mail is not forgotten. This is a practical evil, not authorized by any principle of the constitution. It is, indeed, an anomaly in the practice of the government, *an invasion of state rights*, in its principle dangerous, and inconsistent with the entire genius of our civil institutions. Its policy is as short sighted as it is profane. The gratifications of infidelity and the acquisitions of gain, procured by invading the sanctity of this day of sacred rest, aside from considerations purely religious, very poorly recompense the loss of those decencies of life, those humane sentiments, that civilization, that sense of order, and that happy moral influence upon society, which its regular observance produces and so effectually cherishes. Blot the Sabbath from the calander as a consecrated season, and the civil disorders, as well as the moral desolations of our social state, would soon admonish even the infidel himself, of the folly of his opposition to its sanctification.

of being infidel, is distinguished by many religious characteristics. Remember that it is a *federal* and not a *national* establishment. Connect it with the state government, and you will find, as has already been seen, that many of its defects are supplied; and of those which remain no approbation is required while they continue, no pledge is given to perpetuate them, and the way is open to amendment. I should as soon think of declaring void and of non-effect, a last will and testament, because the testator had not begun it in the name of God, or had omitted to record in it the hope of a blessed resurrection, as to nullify the federal constitution because of its alleged defects.

The religious test and establishment which the States refused to intrust to Congress, refer to European practice; and, to be sure, the tests and establishments of the nations thereon, had little to recommend them to the friends either of religion, or of man. At any rate, the people judged that their religion would be as safe in their own keeping, under the superintendence of the churches to which they respectively belonged, and the protection of their several States, as in the hand of Congress; and upon reflection few will be found to differ from their decision. If our civil institutions in these respects, have their defects, some compensation will be found in our exemption from the oppressions of a *political* church, and in the consequent freedom from either the reproach of *persecution*, or the profanity of an *authoritative toleration*. Persecution and toleration are equally unknown in the United States; and for ever may they both be strangers to our country.

Should you ask the objector to our institutions,—What would you have of moral and religious security for yourself, which you do not enjoy?—What mean of extending intellectual and moral improvement to others, which is not protected by the strong arm of the social power? His reply very probably would be,—Nothing. What then does he wish? Why does he complain? Tell him that these institutions open the way for the attainment of all that the good man can desire; and that to the actual attainment of his wishes, all that is requisite under a beneficent Providence, is to have the administration of our affairs in the hands of upright and competent men, sustained by a sound and enlightened public sentiment, in the discharge of their respective duties. To have such represen-

tatives and such a public sentiment, is in the hand of the people of the States. Let no citizen lend his suffrage to elevate the vicious and incompetent aspirant after power, and all will soon be well.

Can it be a serious question at this day—Because the States refused to delegate a little more or a little less authority, or because they refused to surrender into one consolidated mass of power their entire sovereignty, should the union of the States have been, or should it now be rejected? Reject a union predicated upon common interests, interests altogether distinct from the domestic evils of each, at the fearful hazard of losing all for which so much treasure had been spent, so many toils undergone, and so much blood profusely shed!—Such a rejection must have been followed by scenes of crime and calamity which forbid description. I, therefore, dwell not on the sinking of heart which must have followed the disappointment of so many hopes, fondly cherished for the interests of our race, by the best of men. The failure of the American States in their hallowed designs, would for ages have produced a retrogression of the cause of man in other lands; while at home we should not only have had the thousands of African slaves, but should also have witnessed the millions of our own people sunk into vassalage, and, as in Europe, under the imposing name of freemen, retainers to imperious lordlings, shaking a heavier chain than the sons of Ham; with the prospect at a distance immeasurably greater of causes, moral and political, calculated to operate their final emancipation. A happier destiny awaited our country. Heaven secured it by the formation and adoption of the Federal Constitution; in which, though imperfect, no immoral principle is embraced, nor immoral act enjoined; and under which a condition of society has arisen that is the admiration of patriots, and a model to the nations.

Of the dangers, however, to which our country is exposed, you are not unapprized. Vigilance, fidelity, and candor, together with intelligence and an unceasing activity, guided by an uncompromising integrity, are indispensible to our safety. Should candor and forbearance be laid aside by the citizens, and each proceed to urge his own private expositions of every point in the civil deeds of the country, as terms of fellowship in their advantages, the dreadful effects would neither be diffi-

cult to be foreseen, nor very distant in their operations. And none can apprehend more readily than yourself, how preposterous would be the introduction of these complicated subjects of political dispute, among the terms of the church's communion. Supposing all the members competent to decide upon the matter in contest, the measure would be extravagant; how much more so, to call upon every pious youth, and every devout and aged saint, who may seek admission to the fellowship of Zion, to pass, religiously, upon subjects which they never examined, which they are never likely to have the means of examining, and to the examination of which they are utterly incompetent?

But no church has ever attempted such legislation. In this land, assuredly no church, of which we have heard, has ever made the rejection of our civil institutions a *tessera* of fitness for her fellowship. Many individuals, may, indeed, have had their doubts, and may have expressed them, as to some parts of the moral character of those institutions, and with their scruples there was no ecclesiastical interference. Warnings may have been given, in particular cases, where there was danger of falling into sin, and individuals may have attempted, in some instances, to make their doubts conditions of their religious fellowship, but no ecclesiastical judicatory, by a deliberate deed, has done so. The historian may have recorded the views, the opinions, and the actings of individuals, but no historian ever proposed his record, no judicatory ever made such record a term of communion. The complexity of the subject, the moral character of the government, and the actual and extensive fellowship of Christians of the present churches with the government of the country, refute the idea of such legislation ever having taken place, and forbid the thought of ever attempting it in future. This recognition of the civil order of the country, by a communion with it, and with its functionaries in their official character, according to the convenience, inclination or interest of the individuals concerned,—but real with all,—has been generally left to be regulated by an enlightened conscience, under a sense of responsibility to God, and the social authorities to which the individual was amenable for the uprightness of his deportment. Thus it must always be, unless a species of religious mechanism be established, which is a stranger to piety and alien to the spirit of the Reforma-

tion. "No connexion with the laws, the officers, or the order of the state, is prohibited by the church, except what truly involves immorality."* The fundamental legitimacy of the order, officers, and laws of the state is not disputed.

Such a course of administration must be followed either by the exclusion of many worthy characters, from the enjoyments of the church, or their abandonment of civil rights which they might possess, consistently with a due regard to all the obligations of the purest morality; neither of which alternatives should be needlessly imposed. It may be said of the social virtues as of the sciences,—they flourish most in the neighborhood of each other. The social constitution of man is addressed by every relation in life. The enlightened exercise of the principles of that constitution in any one department, fits for a more efficient employment of them in others. The exclusion of an individual from what concerns him in any of the great moral relationships of time, will soon be found to operate injuriously upon him in those in which he remains. Could we witness a religious community altogether separated from taking an active part in the extensive and interesting affairs of the nation where they reside, such exclusion, whether voluntary or by compulsion, would, in no long period of time, be sensibly felt in their ecclesiastical concerns, and its operation would soon disadvantageously appear in their intellectual and moral habits. Nothing, if we except the negation of moral principle itself, more directly tends to effect the degradation of man, than separation from all share in the liberalizing views, active pursuits, and honors of civil life. Upon this subject many admonitory lessons are furnished, which none should disregard. I dwell not upon the character of the free man of Liberia, contrasted with that of the Carolinian slave; nor will I compare the European serf with the American citizen, in illustration of my remark.

To effect such separation as that now referred to, in the United States, would be impossible. In vain would the indolence of the human character be addressed by the prospect of ease or of freedom from the perplexities of public life, amidst such objects of interest and spirit-stirring scenes as our country presents. Equally vain will the attempt be to persuade men,

* Min. Ref. P. Ch. 1821.

soning, in warning, in testifying, in applying the whole enginery of moral and spiritual means, to lead and influence public sentiment to moral and spiritual ends, you have the pledge of public protection. General errors cannot be corrected in a day, deep rooted habits of evil cannot be eradicated but by persevering and well directed effort. In attempting reformation, something must be ventured, if any thing shall be gained. Let the friend of social happiness and moral order be armed against danger, arise to action, and go forward with a firm and well advised step; and for final success let him rely upon that wisdom which never errs, and confide in that power which never fails. Listen to the encouragement—*As thy day is so shall thy strength be. I am the Almighty God, walk before me and be thou perfect.*

That the kingdoms of this world may speedily become the kingdom of our Lord and his Christ, is the prayer of

Yours in the Gospel of God,

GILBERT McMASTER.