Project Gutenberg's Select Speeches of Daniel Webster, by Daniel Webster

Copyright laws are changing all over the world. Be sure to check the
copyright laws for your country before downloading or redistributing
this or any other Project Gutenberg eBook.

This header should be the first thing seen when viewing this Project
Gutenberg file. Please do not remove it. Do not change or edit the
header without written permission.

Please read the "legal small print," and other information about the
eBook and Project Gutenberg at the bottom of this file. Included is
important information about your specific rights and restrictions in
how the file may be used. You can also find out about how to make a
donation to Project Gutenberg, and how to get involved.

Welcome To The World of Free Plain Vanilla Electronic Texts

eBooks Readable By Both Humans and By Computers, Since 1971

*****These eBooks Were Prepared By Thousands of Volunteers!*****

Title: Select Speeches of Daniel Webster

Author: Daniel Webster

Release Date: February, 2005 [EBook #7600]
[Yes, we are more than one year ahead of schedule]
[This file was first posted on May 17, 2003]

Edition: 10

Language: English

Character set encoding: ISO-Latin-1

*** START OF THE PROJECT GUTENBERG EBOOK SELECT SPEECHES OF DANIEL WEBSTER ***

Produced by Charles Aldarondo, Tiffany Vergon, Jerry Fairbanks
and the Online Distributed Proofreading Team.

SELECT SPEECHES OF DANIEL WEBSTER

1817-1845

WITH PREFACE, INTRODUCTION, AND NOTES BY

A. J. GEORGE, A.M.

Instructor in Rhetoric and English Literature in the Newton, Mass., High School

"The front of Jove himself;
An eye like Mars to threaten and command;
A combination and a form indeed,
Where every god did seem to set his seal,
To give the world assurance of a man"

Boston, U.S.A.
D.C. Heath & Co., Publishers
1903

TO
THE HON. GEORGE F. HOAR, LL.D.
A WORTHY SUCCESSOR OF
DANIEL WEBSTER
IN THE SENATE OF THE UNITED STATES

Blest Statesman He, whose Mind’s unselfish will
Leaves him at ease among grand thoughts: whose eye
Sees that, apart from magnanimity,
Wisdom exists not; nor the humbler skill
Of Prudence, disentangling good and ill
With patient care. What tho’ assaults run high,
They daunt not him who holds his ministry,
Resolute, at all hazards, to fulfil
Its duties; prompt to move, but firm to wait;
Knowing, things rashly sought are rarely found;
That, for the functions of an ancient State--
Strong by her charters, free because imbound,
Servant of Providence, not slave of Fate--
Perilous is sweeping change, all chance unsound.

Preface.

Burke and Webster are models in the forensic literature of our own language as truly as are Demosthenes and Cicero in the language of the ancient classics. Each has distinct and inimitable characteristics which give force and beauty to his work. The study of each should be ordered in such a way as to put one in touch with those qualities of mind and heart, of intellectual and moral manhood, by which each became a leader in political philosophy and a model in literary style. One who studies such authors in order to formulate a historical or a personal estimate merely, or to compare each as to certain externals of rhetorical form, has lost the true perspective of literary judgment.

Reading in the school and in the home is far too often pursued with a purpose to controvert and prove rather than to weigh and consider. Reading which does not result in enlarging, stimulating, and refining one's nature is but a busy idleness. The schools must see to it that the desultory and dissipating methods of reading, so prevalent in the home, are not encouraged. Pupils must be stimulated first of all to enjoy what is beautiful in nature and in art: for here is

"A world of ready wealth,
Their minds and hearts to bless--
Spontaneous wisdom breathed by health,
Truth breathed by cheerfulness."

The wisdom of the classroom is too often "art tongue-tied by authority," and hence it is not wisdom at all, but a sham and a pretence. Not until pupils rise to the spontaneity which betokens a genuine love for the work in hand do they secure the richest results.

The publication of the masterpieces of the epic, the lyric, and the drama; of the novel, the essay, and the oration, in a convenient form and at such a price as to bring them within the reach of our schools, makes it inexcusable if pupils are allowed to be ignorant of the great literary, ethical, and artistic impulses which have touched and quickened the life of the past.

Burke's _American Orations_ present him at his best as a statesman, an orator, and a stylist. When the edition of those speeches was prepared, a selection from Webster's great speeches was contemplated as a companion volume. The present edition represents Webster in the various and distinct fields in which his genius manifested itself so powerfully and so nobly. He is here seen before a jury, before the Supreme Court of the United States, on a great historical occasion, in the Senate of the United States, in a great national canvass, and as a eulogist.

Had it not been for making the volume too large for school use I should have included the famous speech delivered in the Senate on the 7th of March, 1850. This speech has been considered by many as the _vulnus immedicabile_ of Mr. Webster's political life; it is certain that for it he was most rankly abused. "Massachusetts," as Hon. John D. Long has said, "smote and broke the heart of Webster, her idol, and then broke her own above his grave, and to-day writes his name highest upon her roll of

statesmen."

I find in this speech nothing but what is consistent with Mr. Webster's noble adherence to the Constitution and the Union; nothing but what is consistent with the solemn duty of a great man in a great national crisis.

In his address at Buffalo on the 22d of May, 1851, he expressed himself very freely in regard to this speech, saying: "I felt that I had a duty to perform to my country, to my own reputation; for I flattered myself that a service of forty years had given me some character, on which I had a right to repose for my justification in the performance of a duty attended with some degree of local unpopularity. I thought it was my duty to pursue this course, and I did not care what was to be the consequence. And, Gentlemen, allow me to say here to-day, that if the fate of John Rogers had stared me in the face, if I had seen the stake, if I had heard the fagots already crackling, by the blessing of Almighty God I would have gone on and discharged the duty which I thought my country called upon me to perform."

Does this seem the language of one who had abandoned his post and was merely "bidding for the Presidency"?

The address of Hon. Rufus Choate, before the students of Dartmouth College, commemorative of Daniel Webster, has a remark on this subject so just that I cannot refrain from quoting it. He says: "Until the accuser who charges Mr. Webster with having 'sinned against his conscience' will assert that the conscience of a public man may not, must not, be instructed by profound knowledge of the vast subject-matter with which public life is conversant, and will assert that he is certain that the consummate science of our great statesman was _felt by himself to prescribe to his morality_ another conduct than that which he adopted, and that he thus consciously outraged that 'sense of duty which pursues us ever,'--is he not inexcusable, whoever he is, that so judges another?"

At the meeting held in Faneuil Hall, Oct. 27, 1852, commemorative of Mr. Webster's life and work, Mr. Edward Everett said: "Whoever, in after time, shall write the history of the United States for the last forty years will write the life of Daniel Webster; and whoever writes the life of Daniel Webster as it ought to be written will write the history of the Union from the time he took a leading part in its concerns." Mr. Choate, at a meeting of the Supreme Court of Massachusetts, Oct. 25, 1852, said: "Happier than the younger Pliny, happier than Cicero, he has found his historian, unsolicited, in his lifetime, and his countrymen have him all by heart."

If this volume shall aid in bringing the young of this generation "to have him all by heart," to ascend his imaginative heights and sit under the shadow of his profound reflections on that which is fundamental in civil and religious liberty, its purpose will be accomplished.

With few exceptions these selections are given entire. Whenever they have been abridged, the continuity of the discourse has not been impaired.

In the matter of annotation the purpose has been to furnish sufficient aid to the general reader, and at the same time to indicate to the special

student lines along which he may study the speeches.

In Edward Everett's Memoir, found in the first volume of Mr. Webster's works; in the life of Mr. Webster by George Tichnor Curtis, and in Henry Cabot Lodge's _Daniel Webster_, in the American Statesman Series, the student has exhaustive, scholarly, and judicious estimates of Mr. Webster's work.

I am indebted to the Hon. George F. Hoar and the Hon. Edward J. Phelps for assistance in the task of selecting representative speeches; and to the former for permission to associate his name with this edition of Mr. Webster's work.

A. J. G.

Brookline, November, 1892.

Introduction.

Mr. Webster approaches as nearly to the _beau ideal_ of a republican Senator as any man that I have ever seen in the course of my life; worthy of Rome or Venice rather than of our noisy and wrangling generation.--Hallam.

Coleridge used to say that he had seldom known or heard of any great man who had not much of the woman in him. Even so the large intellect of Daniel Webster seemed to be coupled with all softer feelings; and his countenance and bearing, at the very first, impressed me with this. A commanding brow, thoughtful eyes, and a mouth that seemed to respond to all humanities. He deserves his fame, I am sure.--John Kenyon.

He is a magnificent specimen. You might say to all the world, "This is our Yankee Englishman; such limbs we make in Yankee-land!" As a parliamentary Hercules one would incline to back him at first sight against all the extant world. The tanned complexion; that amorphous craglike face; the dull black eyes under the precipice of brows, like dull anthracite furnaces needing only to be _blown_; the mastiff mouth, accurately closed; I have not traced so much of _silent Berserkir rage_ that I remember of in any other man.--Thomas Carlyle.

When the historian shall look back upon the first century of the American Republic, the two names that will shine with most unfading lustre and the serenest glory, high above all others, are Washington and Webster.--Professor Felton.

Consider the remarkable phenomenon of excellence in three unkindred, one might have thought incompatible, forms of public speech,--that of the forum, with its double audience of bench and jury, of the halls of

legislation, and of the most thronged and tumultuous assemblies of the people. Consider, further, that this multiform eloquence, exactly as his words fell, became at once so much accession to permanent literature in the strictest sense,--solid, attractive, rich,--and ask how often in the history of public life such a thing has been exemplified.--Rufus Choate.

The noblest monument to Daniel Webster is in his works. As a repository of political truth and practical wisdom, applied to the affairs of government, I know not where we shall find their equal. The works of Burke naturally suggest themselves to the mind, as the only writings in our language that can sustain the comparison.--Edward Everett.

He writes like a man who is thinking of his subject, and not of his style, and thus he wastes no time upon the mere garb of his thoughts. His style is Doric, not Corinthian. His sentences are like shafts hewn from the granite of his own hills,--simple, massive, strong. We may apply to him what Quinctilian says of Cicero, that a relish for his writings is itself a mark of good taste.--George S. Hillard.

He taught the people of the United States, in the simplicity of common understanding, the principles of the Constitution and government of the country, and he wrought for them, in a style of matchless strength and beauty, the literature of statesmanship. He made his language the very household words of a nation. They are the library of the people. They are the school-book of the citizen.--John D. Long.

Take him for all in all, he was not only the greatest orator this country has ever known, but in the history of eloquence his name will stand with those of Demosthenes and Cicero, Chatham and Burke.--Henry Cabot Lodge.

It may be said that the style of Webster is pre-eminently distinguished by manliness. The intellect and moral manliness of Webster underlies all his great orations and speeches; and this plain force of manhood, this sturdy grapple with every question that comes before his understanding for settlement, leads him to reject all the meretricious aids and ornaments of mere rhetoric, and is prominent, among the many exceptional qualities of his large nature, which have given him a high position among the prose-writers of his country as a consummate master of English style.--Edwin P. Whipple.

His broad, wise statesmanship is to be the ample and refreshing shade, his character the bright and breezy presence, in which all the members of this great and illustrious Republic may meet and sit down and feast together.--H. N. Hudson.

Contents.

Defence of the Kennistons.

Gentlemen of the Jury,--It is true that the offence charged in the indictment in this case is not capital; but perhaps this can hardly be considered as favorable to the defendants. To those who are guilty, and without hope of escape, no doubt the lightness of the penalty of transgression gives consolation. But if the defendants are innocent, it is more natural for them to be thinking upon what they have lost by that alteration of the law which has left highway robbery no longer capital, than upon what the guilty might gain by it. They have lost those great privileges in their trial, which the law allows, in capital cases, for the protection of innocence against unfounded accusation. They have lost the right of being previously furnished with a copy of the indictment, and a list of the government witnesses. They have lost the right of peremptory challenge; and, notwithstanding the prejudices which they know have been excited against them, they must show legal cause of challenge, in each individual case, or else take the jury as they find it. They have lost the benefit of assignment of counsel by the court. They have lost the benefit of the Commonwealth's process to bring in witnesses in their behalf. When to these circumstances it is added that they are strangers, almost wholly without friends, and without the means for preparing their defence, it is evident they must take their trial under great disadvantages.

But without dwelling on these considerations, I proceed, Gentlemen of the Jury, to ask your attention to those circumstances which cannot but cast doubts on the story of the prosecutor.

In the first place, it is impossible to believe that a robbery of this sort could have been committed by three or four men without previous arrangement and concert, and of course without the knowledge of the fact that Goodridge would be there, and that he had money. They did not go on the highway, in such a place, in a cold December's night, for the general purpose of attacking the first passenger, running the chance of his being somebody who had money. It is not easy to believe that a gang of robbers existed, that they acted systematically, communicating intelligence to one another, and meeting and dispersing as occasion required, and that this gang had their head-quarters in such a place as Newburyport. No town is

more distinguished for the general correctness of the habits of its citizens; and it is of such a size that every man in it may be known to all the rest. The pursuits, occupations, and habits of every person within it are within the observation of his neighbors. A suspicious stranger would be instantly observed, and all his movements could be easily traced. This is not the place to be the general rendezvous of a gang of robbers. Offenders of this sort hang on the skirts of large towns. From the commission of their crimes they hasten into the crowd, and hide themselves in the populousness of great cities. If it be wholly improbable that a gang existed in such a place for the purpose of general plunder, the next inquiry is, Is there any reason to think that there was a special or particular combination, for the single purpose of robbing the prosecutor? Now it is material to observe, that not only is there no evidence of any such combination, but also, that circumstances existed which render it next to impossible that the defendants could have been parties to such a combination, or even that they could have any knowledge of the existence of any such man as Goodridge, or that any person, with money, was expected to come from the eastward, and to be near Essex Bridge, at or about nine o'clock, the evening when the robbery is said to have been committed.

One of the defendants had been for some weeks in Newburyport, the other passed the bridge from New Hampshire at twelve o'clock on the 19th of December, 1816. At this time, Goodridge had not yet arrived at Exeter, twelve or fourteen miles from the bridge. How, then, could either of the defendants know that he was coming? Besides, he says that nobody, as far as he is aware, knew on the road that he had money, and nothing happened till he reached Exeter, according to his account, from which it might be conjectured that such was the case. Here, as he relates it, it became known that he had pistols; and he must wish you to infer that the plan to rob him was laid here, at Exeter, by some of the persons who inferred that he had money from his being armed. Who were these persons? Certainly not the defendants, or either of them. Certainly not Taber. Certainly not Jackman. Were they persons of suspicious characters? Was he in a house of a suspicious character? On this point he gives us no information. He has either not taken the pains to inquire, or he chooses not to communicate the result of his inquiries. Yet nothing could be more important, since he seems compelled to lay the scene of the plot against him at Exeter, than to know who the persons were that he saw, or who saw him, at that place. On the face of the facts now proved, nothing could be more improbable than that the plan of robbery was concerted at Exeter. If so, why should those who concerted it send forward to Newburyport to engage the defendants, especially as they did not know that they were there? What should induce any persons so suddenly to apply to the defendants to assist in a robbery? There was nothing in their personal character or previous history that should induce this.

Nor was there time for all this. If the prosecutor had not lingered on the road, for reasons not yet discovered, he must have been in Newburyport long before the time at which he states the robbery to have been committed. How, then, could any one expect to leave Exeter, come to Newburyport, fifteen miles, there look out for and find out assistants for a highway robbery, and get back two miles to a convenient place for the commission of the crime? That any body should have undertaken to act thus

is wholly improbable; and, in point of fact, there is not the least proof of any body's travelling, that afternoon, from Exeter to Newburyport, or of any person who was at the tavern at Exeter having left it that afternoon. In all probability, nothing of this sort could have taken place without being capable of detection and proof. In every particular, the prosecutor has wholly failed to show the least probability of a plan to rob him having been laid at Exeter.

But how comes it that Goodridge was near or quite four hours and a half in travelling a distance which might have been travelled in two hours or two hours and a half. He says he missed his way, and went the Salisbury road. But some of the jury know that this could not have delayed him more than five or ten minutes. He ought to be able to give some better account of this delay.

Failing, as he seems to do, to create any belief that a plan to rob him was arranged at Exeter, the prosecutor goes back to Alfred, and says he saw there a man whom Taber resembles. But Taber is proved to have been at that time, and at the time of the robbery, in Boston. This is proved beyond question. It is so certain, that the Solicitor-General has _nol prossed_ the indictment against him.

There is an end, then, of all pretence of the adoption of a scheme of robbery at Alfred. This leaves the prosecutor altogether unable to point out any manner in which it should become known that he had money, or in which a design to rob him should originate.

It is next to be considered whether the prosecutor's story is either natural or consistent. But, on the threshold of the inquiry, every one puts the question, What motive had the prosecutor to be guilty of the abominable conduct of feigning a robbery? It is difficult to assign motives. The jury do not know enough of his character or circumstances. Such things have happened, and may happen again. Suppose he owed money in Boston, and had it not to pay? Who knows how high he might estimate the value of a plausible apology? Some men have also a whimsical ambition of distinction. There is no end to the variety of modes in which human vanity exhibits itself. A story of this nature excites the public sympathy. It attracts general attention. It causes the name of the prosecutor to be celebrated as a man who has been attacked, and, after a manly resistance, overcome by robbers, and who has renewed his resistance as soon as returning life and sensation enabled him, and, after a second conflict, has been quite subdued, beaten and bruised out of all sense and sensation, and finally left for dead on the field. It is not easy to say how far such motives, trifling and ridiculous as most men would think them, might influence the prosecutor, when connected with any expectation of favor or indulgence, if he wanted such, from his creditors. It is to be remembered that he probably did not see all the consequences of his conduct, if his robbery be a pretence. He might not intend to prosecute any body. But he probably found, and indeed there is evidence to show, that it was necessary for him to do something to find out the authors of the alleged robbery. He manifested no particular zeal on this subject. He was in no haste. He appears rather to have been pressed by others to do that which, if he had really been robbed, we should suppose he would have been most

earnest to do, the earliest moment.

But could he so seriously wound himself? Could he or would he shoot a pistol-bullet through his hand, in order to render the robbery probable, and to obtain belief in his story? All exhibitions are subject to accidents. Whether they are serious or farcical, they may, in some particulars, not proceed exactly as they are designed to do. If we knew that this shot through the hand, if made by himself, must have been intentionally made by himself, it would be a circumstance of greater weight. The bullet went through the sleeve of his coat. He might have intended it should go through nothing else. It is quite certain he did not receive the wound in the way he described. He says he was pulling or thrusting aside the robber's pistol, and while his hand was on it, it was fired, and the contents passed through his hand. This could not have been so, because no part of the contents went through the hand, except the ball. There was powder on the sleeve of his coat, and from the appearance one would think the pistol to have been three or four feet from the hand when fired. The fact of the pistol-bullet being fired through the hand, is doubtless a circumstance of importance. It may not be easy to account for it; but it is to be weighed with other circumstances.

It is most extraordinary, that, in the whole case, the prosecutor should prove hardly any fact in any way but by his own oath. He chooses to trust every thing on his own credit with the jury. Had he the money with him which he mentions? If so, his clerks or persons connected with him in business must have known it; yet no witness is produced. Nothing can be more important than to prove that he had the money. Yet he does not prove it. Why should he leave this essential fact without further support? He is not surprised with this defence, he knew what it would be. He knew that nothing could be more important than to prove that, in truth, he did possess the money which he says he lost; yet he does not prove it. All that he saw, and all that he did, and everything that occurred to him until the alleged robbery, rests solely on his own credit. He does not see fit to corroborate any fact by the testimony of any witness. So he went to New York to arrest Jackman. He did arrest him. He swears positively that he found in his possession papers which he lost at the time of the robbery; yet he neither produces the papers themselves, nor the persons who assisted in the search.

In like manner, he represents his intercourse with Taber at Boston. Taber, he says, made certain confessions. They made a bargain for a disclosure or confession on one side, and a reward on the other. But no one heard these confessions except Goodridge himself. Taber now confronts him, and pronounces this part of his story to be wholly false; and there is nobody who can support the prosecutor.

A jury cannot too seriously reflect on this part of the case. There are many most important allegations of fact, which, if true, could easily be shown by other witnesses, and yet are not so shown.

How came Mr. Goodridge to set out from Bangor, armed in this formal and formidable manner? How came he to be so apprehensive of a robbery? The reason he gives is completely ridiculous. As the foundation of his alarm,

he tells a story of a robbery which he had heard of, but which, as far as appears, no one else ever heard of; and the story itself is so perfectly absurd, it is difficult to resist the belief that it was the product of his imagination at the moment. He seems to have been a little too confident that an attempt would be made to rob him. The manner in which he carried his money, as he says, indicated a strong expectation of this sort. His gold he wrapped in a cambric cloth, put it into a shot bag, and then into a portmanteau. One parcel of bills, of a hundred dollars in amount, he put into his pocket-book; another, of somewhat more than a thousand dollars, he carried next his person, underneath all his clothes. Having disposed of his money in this way, and armed himself with two good pistols, he set out from Bangor. The jury will judge whether this extraordinary care of his money, and this formal arming of himself to defend it, are not circumstances of a very suspicious character.

He stated that he did not travel in the night; that he would not so much expose himself to robbers. He said that, when he came near Alfred, he did not go into the village, but stopped a few miles short, because night was coming on, and he would not trust himself and his money out at night. He represents himself to have observed this rule constantly and invariably until he got to Exeter. Yet, when the time came for the robbery, he was found out at night. He left Exeter about sunset, intending to go to Newburyport, fifteen miles distant, that evening. When he is asked how this should happen, he says he had no fear of robbers after he left the District of Maine. He thought himself quite safe when he arrived at Exeter. Yet he told the jury, that at Exeter he thought it necessary to load his pistol afresh. He asked for a private room at the inn. He told the persons in attendance that he wished such a room for the purpose of changing his clothes. He charged them not to suffer him to be interrupted. But he now testifies that his object was not to change his dress, but to put new loading into his pistols. What sort of a story is this?

He says he now felt himself out of all danger from robbers, and was therefore willing to travel at night. At the same time, he thought himself in very great danger from robbers, and therefore took the utmost pains to keep his pistols well loaded and in good order. To account for the pains he took about loading his pistols at Exeter, he says it was his invariable practice, every day after he left Bangor, to discharge and load again one or both of his pistols; that he never missed doing this; that he avoided doing it at the inns, lest he should create suspicion, but that he did it, while alone, on the road, every day.

How far this is probable the jury will judge. It will be observed that he gave up his habits of caution as he approached the place of the robbery. He then loaded his pistols at the tavern, where persons might and did see him; and he then also travelled in the night. He passed the bridge over Merrimack River a few minutes before nine o’clock. He was now at a part of his progress where he was within the observation of other witnesses, and something could be known of him besides what he told of himself. Immediately after him passed the two persons with their wagons, Shaw and Keyser. Close upon them followed the mail-coach. Now, these wagons and the mail must have passed within three rods, at most, of Goodridge, at the very time of the robbery. They must have been very near the spot, the very

moment of the attack; and if he was under the robbers' hands as long as he represents, or if they staid on the spot long enough to do half what he says they did, they must have been there when the wagons and the stage passed. At any rate, it is next to impossible, by any computation of time, to put these carriages so far from the spot, that the drivers should not have heard the cry of murder, which he says he raised, or the report of the two pistols, which he says were discharged. In three quarters of an hour, or an hour, he returned, and repassed the bridge.

The jury will next naturally look to the appearances exhibited on the field after the robbery. The portmanteau was there. The witnesses say, that the straps which fastened it to the saddle had been neither cut nor broken. They were carefully unbuckled. This was very considerate for robbers. It had been opened, and its contents were scattered about the field. The pocket-book, too, had been opened, and many papers it contained found on the ground. Nothing valuable was lost but money. The robbers did not think it well to go off at once with the portmanteau and the pocket-book. The place was so secure, so remote, so unfrequented; they were so far from the highway, at least one full rod; there were so few persons passing, probably not more than four or five then in the road, within hearing of the pistols and the cries of Goodridge; there being, too, not above five or six dwelling-houses, full of people, within the hearing of the report of a pistol; these circumstances were all so favorable to their safety, that the robbers sat down to look over the prosecutor's papers, carefully examined the contents of his pocket-book and portmanteau, and took only the things which they needed! There was money belonging to other persons. The robbers did not take it. They found out it was not the prosecutor's, and left it. It may be said to be favorable to the prosecutor's story, that the money which did not belong to him, and the plunder of which would seem to be the most probable inducement he could have to feign a robbery, was not taken. But the jury will consider whether this circumstance does not bear quite as strongly the other way, and whether they can believe that robbers could have left this money, either from accident or design.

The robbers, by Goodridge's account, were extremely careful to search his person. Having found money in his portmanteau and in his pocket-book, they still forthwith stripped him to the skin, and searched until they found the sum which had been so carefully deposited under his clothes. Was it likely, that, having found money in the places where it is ordinarily carried, robbers should proceed to search for more, where they had no reason to suppose more would be found? Goodridge says that no person knew of his having put his bank-notes in that situation. On the first attack, however, they proceeded to open one garment after another, until they penetrated to the treasure, which was beneath them all.

The testimony of Mr. Howard is material. He examined Goodridge's pistol, which was found on the spot, and thinks it had not been fired at all. If this be so, it would follow that the wound through the hand was not made by this pistol; but then, as the pistol is now discharged, if it had not been fired, he is not correct in swearing that he fired it at the robbers, nor could it have been loaded at Exeter, as he testified.

In the whole case, there is nothing, perhaps, more deserving consideration, than the prosecutor's statement of the violence which the robbers used towards him. He says he was struck with a heavy club, on the back part of his head. He fell senseless to the ground. Three or four rough-handed villains then dragged him to the fence, and through it or over it, with such force as to break one of the boards. They then plundered his money. Presently he came to his senses; perceived his situation; saw one of the robbers sitting or standing near; he valiantly sprung upon, and would have overcome him, but the ruffian called out for his comrades, who returned, and all together they renewed their attack upon, subdued him, and redoubled their violence. They struck him heavy blows; they threw him violently to the ground; they kicked him in the side; they choked him; one of them, to use his own words, jumped upon his breast. They left him only when they supposed they had killed him. He went back to Pearson's, at the bridge, in a state of delirium, and it was several hours before his recollection came to him. This is his account. Now, in point of fact, it is certain that on no part of his person was there the least mark of this beating and wounding. The blow on the head, which brought him senseless to the ground, neither broke the skin, nor caused any tumor, nor left any mark whatever. He fell from his horse on the frozen ground, without any appearance of injury. He was drawn through or over the fence with such force as to break the rail, but not so as to leave any wound or scratch on him. A second time he is knocked down, kicked, stamped upon, choked, and in every way abused and beaten till sense had departed, and the breath of life hardly remained; and yet no wound, bruise, discoloration, or mark of injury was found to result from all this. Except the wound in his hand, and a few slight punctures in his left arm, apparently made with his own penknife, which was found open on the spot, there was no wound or mark which the surgeons, upon repeated examinations, could anywhere discover. This is a story not to be believed. No matter who tells it, it is so impossible to be true, that all belief is set at defiance. No man can believe it. All this tale of blows which left no marks, and of wounds which could not be discovered, must be the work of imagination. If the jury can believe that he was robbed, it is impossible they can believe his account of the manner of it.

With respect, next, to delirium. The jury have heard the physicians. Two of them have no doubt it was all feigned. Dr. Spofford spoke in a more guarded manner, but it was very evident his opinion agreed with theirs. In the height of his raving, the physician who was present said to others, that he could find nothing the matter with the man, and that his pulse was perfectly regular. But consider the facts which Dr. Balch testifies. He suspected the whole of this illness and delirium to be feigned. He wished to ascertain the truth. While he or others were present, Goodridge appeared to be in the greatest pains and agony from his wounds. He could not turn himself in bed, nor be turned by others, without infinite distress. His mind, too, was as much disordered as his body. He was constantly raving about robbery and murder. At length the physicians and others withdrew, and left him alone in the room. Dr. Balch returned softly to the door, which he had left partly open, and there he had a full view of his patient, unobserved by him. Goodridge was then very quiet. His incoherent exclamations had ceased. Dr. Balch saw him turn over without inconvenience. Pretty soon he sat up in bed, and adjusted his neckcloth

and his hair. Then, hearing footsteps on the staircase, he instantly sunk into the bed again; his pains all returned, and he cried out against robbers and murderers as loud as ever. Now, these facts are all sworn to by an intelligent witness, who cannot be mistaken in them; a respectable physician, whose veracity or accuracy is in no way impeached or questioned. After this, it is difficult to retain any good opinion of the prosecutor. Robbed or not robbed, this was his conduct; and such conduct necessarily takes away all claim to sympathy and respect. The jury will consider whether it does not also take away all right to be believed in anything. For if they should be of opinion that in any one point he has intentionally misrepresented facts, he can be believed in nothing. No man is to be convicted on the testimony of a witness whom the jury has found wilfully violating the truth in any particular.

The next part of the case is the conduct of the prosecutor in attempting to find out the robbers, after he had recovered from his illness. He suspected Mr. Pearson, a very honest, respectable man, who keeps the tavern at the bridge. He searched his house and premises. He sent for a conjuror to come, with his metallic rods and witch-hazel, to find the stolen money. Goodridge says now, that he thought he should find it, if the conjuror's instruments were properly prepared. He professes to have full faith in the art. Was this folly, or fraud, or a strange mixture of both? Pretty soon after the last search, gold pieces were actually found near Mr. pearson's house, in the manner stated by the female witness. How came they there? Did the robber deposit them there? That is not possible. Did he accidentally leave them there? Why should not a robber take as good care of his money as others? It is certain, too, that the gold pieces were not put there at the time of the robbery, because the ground was then bare; but when these pieces were found, there were several inches of snow below them. When Goodridge searched here with his conjuror, he was on this spot, alone and unobserved, as he thought. Whether he did not, at that time, drop his gold into the snow, the jury will judge. When he came to this search, he proposed something very ridiculous. He proposed that all persons about to assist in the search should be examined, to see that they had nothing which they could put into Pearson's possession, for the purpose of being found there. But how was this examination to be made? Why, truly, Goodridge proposed that every man should examine himself, and that, among others, he would examine himself, till he was satisfied he had nothing in his pockets which he could leave at pearson's, with the fraudulent design of being afterwards found there, as evidence against pearson. What construction would be given to such conduct?

As to Jackman, Goodridge went to New York and arrested him. In his room he says he found paper coverings of gold, with his own figures on them, and pieces of an old and useless receipt, which he can identify, and which he had in his possession at the time of the robbery. He found these things lying on the floor in Jackman's room. What should induce the robbers, when they left all other papers, to take this receipt? And what should induce Jackman to carry it to New York, and keep it, with the coverings of the gold, in a situation where it was likely to be found, and used as evidence against him?

There is no end to the series of improbabilities growing out of the

prosecutor's story.

One thing especially deserves notice. Wherever Goodridge searches, he always finds something; and what he finds, he always can identify and swear to, as being his. The thing found has always some marks by which he knows it. Yet he never finds much. He never finds the mass of his lost treasure. He finds just enough to be evidence, and no more.

These are the circumstances which tend to raise doubts of the truth of the prosecutor's relation. It is for the jury to say, whether it would be safe to convict any man for this robbery until these doubts shall be cleared up. No doubt they are to judge him candidly; but they are not to make every thing yield to a regard to his reputation, or a desire to vindicate him from the suspicion of a fraudulent prosecution.

He stands like other witnesses, except that he is a very interested witness; and he must hope for credit, if at all, from the consistency and general probability of the facts to which he testifies. The jury will not convict the prisoners to save the prosecutor from disgrace. He has had every opportunity of making out his case. If any person in the State could have corroborated any part of his story, that person he could have produced. He has had the benefit of full time, and good counsel, and of the Commonwealth's process, to bring in his witnesses. More than all, he has had an opportunity of telling his own story, with the simplicity that belongs to truth, if it were true, and the frankness and earnestness of an honest man, if he be such. It is for the jury to say, under their oaths, how he has acquitted himself in these particulars, and whether he has left their minds free from doubt as to the truth of his narration.

But if Goodridge were really robbed, is there satisfactory evidence that the defendants had a hand in the commission of this offence? The evidence relied on is the finding of the money in their house. It appears that these defendants lived together, and, with a sister, constituted one family. Their father lived in another part of the same house, and with his wife constituted another and distinct family. In this house, some six weeks after the robbery, the prosecutor made a search; and the result has been stated by the witnesses. Now, if the money had been passed or used by the defendants it might have been conclusive. If found about their persons, it might have been very strong proof. But, under the circumstances of this case, the mere finding of money in their house, and that only in places where the prosecutor had previously been, is no evidence at all. With respect to the gold pieces, it is certainly true that they were found in Goodridge's track. They were found only where he had been, and might have put them.

When the sheriff was in the house and Goodridge in the cellar, gold was found in the cellar. When the sheriff was up stairs and Goodridge in the rooms below, the sheriff was called down to look for money where Goodridge directed, and there money was found. As to the bank-note, the evidence is not quite so clear. Mr. Leavitt says he found a note in a drawer in a room in which none of the party had before been; that he thought it an uncurrent or counterfeit note, and not a part of Goodridge's money, and left it where he found it, without further notice. An hour or two

afterward, Upton perceived a note in the same drawer, Goodridge being then with or near him, and called to Leavitt. Leavitt told him that he had discovered that note before, but that it could not be Goodridge's. It was then examined. Leavitt says he looked at it, and saw writing on the back of it. Upton says he looked at it, and saw writing on the back of it. He says also that it was shown to Goodridge, who examined it in the same way that he and Leavitt examined it. None of the party at this time suspected it to be Goodridge's. It was then put into Leavitt's pocket-book, where it remained till evening, when it was taken out at the tavern; and then it turns out to be, plainly and clearly, one of Goodridge's notes, and has the name of "James Poor, Bangor," in Goodridge's own handwriting, on the back of it. The first thing that strikes one in this account is, Why was not this discovery made at the time? Goodridge was looking for notes, as well as gold. He was looking for Boston notes, for such he had lost. He was looking for ten-dollar notes, for such he had lost. He was looking for notes which he could recognize and identify. He would, therefore, naturally be particularly attentive to any writing or marks upon such as he might find. Under these circumstances, a note is found in the house of the supposed robbers. It is a Boston note, it is a ten-dollar note, it has writing on the back of it; that writing is the name of his town and the name of one of his neighbors; more than all, that writing is his own handwriting! Notwithstanding all this, neither Goodridge, nor Upton, nor the sheriff, examined it so as to see whether it was Goodridge's money. Notwithstanding it so fully resembled, in all points, the money they were looking for, and notwithstanding they also saw writing on the back of it, which, they must know, if they read it, would probably have shown where it came from, neither of them did so far examine it as to see any proof of its being Goodridge's.

This is hardly to be believed. It must be a pretty strong faith in the prosecutor that could credit this story. In every part of it, it is improbable and absurd. It is much more easy to believe that the note was changed. There might have been, and there probably was, an uncurrent or counterfeit note found in the drawer by Leavitt. He certainly did not at the time think it to be Goodridge's, and he left it in the drawer where he found it. Before he saw it again, the prosecutor had been in that room, and was in or near it when the sheriff was again called in, and asked to put that bill in his pocket-book. How do the jury know that this was the same note which Leavitt had before seen? Or suppose it was. Leavitt carried it to Coffin's; in the evening he produced it, and, after having been handed about for some time among the company, it turns out to be Goodridge's note, and to have upon it infallible marks of identity. How do the jury know that a sleight of hand had not changed the note at Coffin's? It is sufficient to say, the note might have been changed. It is not certain that this is the note which Leavitt first found in the drawer, and this not being certain, it is not proof against the defendants.

Is it not extremely improbable, if the defendants are guilty, that they should deposit the money in the places where it was found? Why should they put it in small parcels in so many places, for no end but to multiply the chances of detection? Why, especially, should they put a doubloon in their father's pocket-book? There is no evidence, nor any ground of suspicion, that the father knew of the money being in his pocket-book. He swears he

did not know it. His general character is unimpeached, and there is nothing against his credit. The inquiry at Stratham was calculated to elicit the truth; and, after all, there is not the slightest reason to suspect that he knew that the doubloon was in his pocket-book. What could possibly induce the defendants to place it there? No man can conjecture a reason. On the other hand, if this is a fraudulent proceeding on the part of the prosecutor, this circumstance could be explained. He did not know that the pocket-book, and the garment in which it was found, did not belong to one of the defendants. He was as likely, therefore, to place it there as elsewhere. It is very material to consider that nothing was found in that part of the house which belonged to the defendants. Every thing was discovered in the father's apartments. They were not found, therefore, in the possession of the defendants, any more than if they had been discovered in any other house in the neighborhood. The two tenements, it is true, were under the same roof; but they were not on that account the same tenements. They were as distinct as any other houses. Now, how should it happen that the several parcels of money should all be found in the father's possession? He is not suspected, certainly there is no reason to suspect him, of having had any hand either in the commission of the robbery or the concealing of the goods. He swears he had no knowledge of any part of this money being in his house. It is not easy to imagine how it came there, unless it be supposed to have been put there by some one who did not know what part of the house belonged to the defendants and what part did not.

The witnesses on the part of the prosecution have testified that the defendants, when arrested, manifested great agitation and alarm; paleness overspread their faces, and drops of sweat stood on their temples. This satisfied the witnesses of the defendants' guilt, and they now state the circumstances as being indubitable proof. This argument manifests, in those who use it, an equal want of sense and sensibility. It is precisely fitted to the feeling and the intellect of a bum-bailiff. In a court of justice it deserves nothing but contempt. Is there nothing that can agitate the frame or excite the blood but the consciousness of guilt? If the defendants were innocent, would they not feel indignation at this unjust accusation? If they saw an attempt to produce false evidence against them, would they not be angry? And, seeing the production of such evidence, might they not feel fear and alarm? And have indignation, and anger, and terror, no power to affect the human countenance or the human frame?

Miserable, miserable, indeed, is the reasoning which would infer any man's guilt from his agitation when he found himself accused of a heinous offence; when he saw evidence which he might know to be false and fraudulent brought against him; when his house was filled, from the garret to the cellar, by those whom he might esteem as false witnesses; and when he himself, instead of being at liberty to observe their conduct and watch their motions, was a prisoner in close custody in his own house, with the fists of a catch-poll clenched upon his throat.

The defendants were at Newburyport the afternoon and evening of the robbery. For the greater part of the time they show where they were, and what they were doing. Their proof, it is true, does not apply to every

moment. But when it is considered that, from the moment of their arrest, they have been in close prison, perhaps they have shown as much as could be expected. Few men, when called on afterwards, can remember, and fewer still can prove, how they have passed every half-hour of an evening. At a reasonable hour they both came to the house where Laban had lodged the night before. Nothing suspicious was observed in their manner or conversation. Is it probable they would thus come unconcernedly into the company of others, from a field of robbery, and, as they must have supposed, of murder, before they could have ascertained whether the stain of blood was not on their garments? They remained in the place a part of the next day. The town was alarmed; a strict inquiry was made of all strangers, and of the defendants among others. Nothing suspicious was discovered. They avoided no inquiry, nor did they leave the town in any haste. The jury has had an opportunity of seeing the defendants. Does their general appearance indicate that hardihood which would enable them to act this cool, unconcerned part? Is it not more likely they would have fled?

From the time of the robbery to the arrest, five or six weeks, the defendants were engaged in their usual occupations. They are not found to have passed a dollar of money to any body. They continued their ordinary habits of labor. No man saw money about them, nor any circumstance that might lead to a suspicion that they had money. Nothing occurred tending in any degree to excite suspicion against them. When arrested, and when all this array of evidence was brought against them, and when they could hope in nothing but their innocence, immunity was offered them again if they would confess. They were pressed, and urged, and allured, by every motive which could be set before them, to acknowledge their participation in the offence, and to bring out their accomplices. They steadily protested that they could confess nothing because they knew nothing. In defiance of all the discoveries made in their house, they have trusted to their innocence. On that, and on the candor and discernment of an enlightened jury, they still rely. If the jury are satisfied that there is the highest improbability that these persons could have had any previous knowledge of Goodridge, or been concerned in any previous concert to rob him; if their conduct that evening and the next day was marked by no circumstances of suspicion; if from that moment until their arrest nothing appeared against them; if they neither passed money, nor are found to have had money; if the manner of the search of their house, and the circumstances attending it, excite strong suspicions of unfair and fraudulent practices; if, in the hour of their utmost peril, no promises of safety could draw from the defendants any confession affecting themselves or others, it will be for the jury to say whether they can pronounce them guilty.

The Dartmouth College Case.

The general question is, whether the acts of the legislature of New Hampshire of the 27th of June, and of the 18th and 26th of December, 1816,

are valid and binding on the plaintiffs, _without their acceptance or assent_.

The charter of 1769 created and established a corporation, to consist of twelve persons, and no more; to be called the "Trustees of Dartmouth College."

After the institution thus created and constituted had existed, uninterruptedly and usefully, nearly fifty years, the legislature of New Hampshire passed the acts in question.

The first act makes the twelve trustees under the charter, and nine other individuals, to be appointed by the Governor and Council, a corporation, by a new name; and to this new corporation transfers all the _property, rights, powers, liberties, and privileges_ of the old corporation; with further power to establish new colleges and an institute, and to apply all or any part of the funds to these purposes; subject to the power and control of a board of twenty-five overseers, to be appointed by the Governor and Council.

The second act makes further provisions for executing the objects of the first, and the last act authorizes the defendant, the treasurer of the plaintiffs, to retain and hold their property, against their will.

If these acts are valid, the old corporation is abolished, and a new one created. The first act does, in fact, if it can have any effect, create a new corporation, and transfer to it all the property and franchises of the old. The two corporations are not the same in anything which essentially belongs to the existence of a corporation. They have different names, and different powers, rights, and duties. Their organization is wholly different. The powers of the corporation are not vested in the same, or similar hands. In one, the trustees are twelve, and no more. In the other, they are twenty-one. In one, the power is in a single board. In the other, it is divided between two boards. Although the act professes to include the old trustees in the new corporation, yet that was without their assent, and against their remonstrance; and no person can be compelled to be a member of such a corporation against his will. It was neither expected nor intended that they should be members of the new corporation. The act itself treats the old corporation as at an end, and, going on the ground that all its functions have ceased, it provides for the first meeting and organization of the new corporation. It expressly provides, also, that the new corporation shall have and hold all the property of the old; a provision which would be quite unnecessary upon any other ground, than that the old corporation was dissolved. But if it could be contended that the effect of these acts was not entirely to abolish the old corporation, yet it is manifest that they impair and invade the rights, property, and powers of the trustees under the charter, as a corporation, and the legal rights, privileges, and immunities which belong to them, as individual members of the corporation.

The twelve trustees were the _sole_ legal owners of all the property acquired under the charter. By the acts, others are admitted, against _their_ will, to be joint owners. The twelve individuals who are

trustees were possessed of all the franchises and immunities conferred by the charter. By the acts, _nine_ other trustees and _twenty-five_ overseers are admitted, against their will, to divide these franchises and immunities with them.

If, either as a corporation or as individuals, they have any legal rights, this forcible intrusion of others violates those rights, as manifestly as an entire and complete ouster and dispossession. These acts alter the whole constitution of the corporation. They affect the rights of the whole body as a corporation, and the rights of the individuals who compose it. They revoke corporate powers and franchises. They alienate and transfer the property of the college to others. By the charter, the trustees had a right to fill vacancies in their own number. This is now taken away. They were to consist of twelve, and, by express provision, of no more. This is altered. They and their successors, appointed by themselves, were for ever to hold the property. The legislature has found successors for them, before their seats are vacant. The powers and privileges which the twelve were to exercise exclusively, are now to be exercised by others. By one of the acts, they are subjected to heavy penalties if they exercise their offices, or any of those powers and privileges granted them by charter, and which they had exercised for fifty years. They are to be punished for not accepting the new grant and taking its benefits. This, it must be confessed, is rather a summary mode of settling a question of constitutional right. Not only are new trustees forced into the corporation, but new trusts and uses are created. The college is turned into a university. Power is given to create new colleges, and, to authorize any diversion of the funds which may be agreeable to the new boards, sufficient latitude is given by the undefined power of establishing an institute. To these new colleges, and this institute, the funds contributed by the founder, Dr. Wheelock, and by the original donors, the Earl of Dartmouth and others, are to be applied, in plain and manifest disregard of the uses to which they were given.

The president, one of the old trustees, had a right to his office, salary, and emoluments, subject to the twelve trustees alone. His title to these is now changed, and he is made accountable to new masters. So also all the professors and tutors. If the legislature can at pleasure make these alterations and changes in the rights and privileges of the plaintiffs, it may, with equal propriety, abolish these rights and privileges altogether. The same power which can do any part of this work can accomplish the whole. And, indeed, the argument on which these acts have been hitherto defended goes altogether on the ground, that this is such a corporation as the legislature may abolish at pleasure; and that its members have _no rights, liberties, franchises, property, or privileges_, which the legislature may not revoke, annul, alienate, or transfer to others, whenever it sees fit.

It will be contended by the plaintiffs, that these acts are not valid and binding on them without their assent,--

1. Because they are against common right, and the Constitution of New Hampshire.

2. Because they are repugnant to the Constitution of the United States.

I am aware of the limits which bound the jurisdiction of the court in this case, and that on this record nothing can be decided but the single question, whether these acts are repugnant to the Constitution of the United States. Yet it may assist in forming an opinion of their true nature and character to compare them with those fundamental principles introduced into the State governments for the purpose of limiting the exercise of the legislative power, and which the Constitution of New Hampshire expresses with great fulness and accuracy.

It is not too much to assert, that the legislature of New Hampshire would not have been competent to pass the acts in question, and to make them binding on the plaintiffs without their assent, even if there had been, in the Constitution of New Hampshire, or of the United States, no special restriction on their power, because these acts are not the exercise of a power properly legislative. Their effect and object are to take away, from one, rights, property, and franchises, and to grant them to another. This is not the exercise of a legislative power. To justify the taking away of vested rights there must be a forfeiture, to adjudge upon and declare which is the proper province of the judiciary. Attainder and confiscation are acts of sovereign power, not acts of legislation. The British Parliament, among other unlimited powers, claims that of altering and vacating charters; not as an act of ordinary legislation, but of uncontrolled authority. It is theoretically omnipotent. Yet, in modern times, it has very rarely attempted the exercise of this power.

The legislature of New Hampshire has no more power over the rights of the plaintiffs than existed somewhere, in some department of government, before the Revolution. The British Parliament could not have annulled or revoked this grant as an act of ordinary legislation. If it had done it at all, it could only have been in virtue of that sovereign power, called omnipotent, which does not belong to any legislature in the United States. The legislature of New Hampshire has the same power over this charter which belonged to the king who granted it, and no more. By the law of England, the power to create corporations is a part of the royal prerogative. By the Revolution, this power may be considered as having devolved on the legislature of the State, and it has accordingly been exercised by the legislature. But the king cannot abolish a corporation, or new-model it, or alter its powers, without its assent. This is the acknowledged and well-known doctrine of the common law.

There are prohibitions in the Constitution and Bill of Rights of New Hampshire, introduced for the purpose of limiting the legislative power and protecting the rights and property of the citizens. One prohibition is, "that no person shall be deprived of his property, immunities, or privileges, put out of the protection of the law, or deprived of his life, liberty, or estate, but by judgment of his peers or the law of the land."

In the opinion, however, which was given in the court below, it is denied that the trustees under the charter had any property, immunity, liberty, or privilege in this corporation, within the meaning of this prohibition in the Bill of Rights. It is said that it is a public corporation and

public property; that the trustees have no greater interest in it than any other individuals; that it is not private property, which they can sell or transmit to their heirs, and that therefore they have no interest in it; that their office is a public trust, like that of the Governor or a judge, and that they have no more concern in the property of the college than the Governor in the property of the State, or than the judges in the fines which they impose on the culprits at their bar; that it is nothing to them whether their powers shall be extended or lessened, any more than it is to their honors whether their jurisdiction shall be enlarged or diminished. It is necessary, therefore, to inquire into the true nature and character of the corporation which was created by the charter of 1769.

There are divers sorts of corporations; and it may be safely admitted that the legislature has more power over some than others. Some corporations are for government and political arrangement; such, for example, as cities, counties, and towns in New England. These may be changed and modified as public convenience may require, due regard being always had to the rights of property. Of such corporations, all who live within the limits are of course obliged to be members, and to submit to the duties which the law imposes on them as such. Other civil corporations are for the advancement of trade and business, such as banks, insurance companies, and the like. These are created, not by general law, but usually by grant. Their constitution is special. It is such as the legislature sees fit to give, and the grantees to accept.

The corporation in question is not a civil, although it is a lay corporation. It is an eleemosynary corporation. It is a private charity, originally founded and endowed by an individual, with a charter obtained for it at his request, for the better administration of his charity. "The eleemosynary sort of corporations are such as are constituted for the perpetual distributions of the free alms or bounty of the founder of them, to such persons as he has directed. Of this are all hospitals for the maintenance of the poor, sick, and impotent; and all colleges both in our universities and out of them." Eleemosynary corporations are for the management of private property, according to the will of the donors. They are private corporations. A college is as much a private corporation as a hospital; especially a college founded, as this was, by private bounty. A college is a charity. "The establishment of learning," says Lord Hardwicke, "is a charity, and so considered in the statute of Elizabeth. To devise to a college, for their benefit, is a laudable charity, and deserves encouragement."

The legal signification of _a charity_ is derived chiefly from the statute 43 Eliz. ch. 4. "Those purposes," says Sir William Grant, "are considered _charitable_ which that statute enumerates." Colleges are enumerated as charities in that statute. The government, in these cases, lends its aid to perpetuate the beneficent intention of the donor, by granting a charter under which his private charity shall continue to be dispensed after his death. This is done either by incorporating the objects of the charity, as, for instance, the scholars in a college or the poor in a hospital, or by incorporating those who are to be governors or trustees of the charity. In cases of the first sort, the founder is, by the common law, visitor. In early times it became a maxim, that he who

gave the property might regulate it in future. "Cujus est dare, ejus est disponere." This right of visitation descended from the founder to his heir as a right of property, and precisely as his other property went to his heir; and in default of heirs it went to the king, as all other property goes to the king for the want of heirs. The right of visitation arises from the property. It grows out of the endowment. The founder may, if he please, part with it at the time when he establishes the charity, and may vest it in others. Therefore, if he chooses that governors, trustees, or overseers should be appointed in the charter, he may cause it to be done, and his power of visitation may be transferred to them, instead of descending to his heirs. The persons thus assigned or appointed by the founder will be visitors, with all the powers of the founder, in exclusion of his heir. The right of visitation, then, accrues to them, as a matter of property, by the gift, transfer, or appointment of the founder. This is a private right, which they can assert in all legal modes, and in which they have the same protection of the law as in all other rights. As visitors they may make rules, ordinances, and statutes, and alter and repeal them, as far as permitted so to do by the charter. Although the charter proceeds from the crown or the government, it is considered as the will of the donor. It is obtained at his request. He uses it as the rule which is to prevail in the dispensation of his bounty in all future times. The king or government which grants the charter is not thereby the founder, but he who furnishes the funds. The gift of the revenues is the foundation.

The leading case on this subject is _Phillips v. Bury_. This was an ejectment brought to recover the rectory-house, &c. of Exeter College in Oxford. The question was whether the plaintiff or defendant was legal rector. Exeter College was founded by an individual, and incorporated by a charter granted by Queen Elizabeth. The controversy turned upon the power of the visitor, and, in the discussion of the cause, the nature of college charters and corporations was very fully considered.

Lord Holt’s judgment is that that college was a _private corporation_, and that the founder had a right to appoint a visitor, and to give him such power as he saw fit.

The learned Bishop Stillingfleet’s argument in the same cause, as a member of the House of Lords, when it was there heard, exhibits very clearly the nature of colleges and similar corporations. It is to the following effect. "That colleges, although founded by private persons, are yet incorporated by the king’s charter; but although the kings by their charter made the colleges to be such in law, that is, to be legal corporations, yet they left to the particular founders authority to appoint what statutes they thought fit for the regulation of them. And not only the statutes, but the appointment of visitors, was left to them, and the manner of government, and the several conditions on which any persons were to be made or continue partakers of their bounty."

These opinions received the sanction of the House of Lords, and they seem to be settled and undoubted law.

"There is nothing better established," says Lord Commissioner Eyre, "than

that this court does not entertain a general jurisdiction, or regulate and control charities _established by charter_. There the establishment is fixed and determined; and the court has no power to vary it. If the governors established for the regulation of it are not those who have the management of the revenue, this court has no jurisdiction, and if it is ever so much abused, as far as it respects the jurisdiction of this court it is without remedy; but if those established as governors have also the management of the revenues, this court does assume a jurisdiction of necessity, so far as they are to be considered as trustees of the revenue."

"The foundations of colleges," says Lord Mansfield, "are to be considered in two views; namely, as they are _corporations_ and as they are _eleemosynary_. As eleemosynary, they are the creatures of the founder; he may delegate his power, either generally or specially; he may prescribe particular modes and manners, as to the exercise of part of it."

In New England, and perhaps throughout the United States, eleemosynary corporations have been generally established by incorporating governors, or trustees, and vesting in them the right of visitation. The case before the court is clearly that of an eleemosynary corporation. It is, in the strictest legal sense, a private charity. In _King v. St. Catherine's Hall_, that college is called a private eleemosynary lay corporation. It was endowed by a private founder, and incorporated by letters patent. And in the same manner was Dartmouth College founded and incorporated. Dr. Wheelock is declared by the charter to be its founder. It was established by him, or funds contributed and collected by himself.

As such founder, he had a right of visitation, which he assigned to the trustees, and they received it by his consent and appointment, and held it under the charter. He appointed these trustees visitors, and in that respect to take place of his heir; as he might have appointed devisees, to take his estate instead of his heir. Little, probably, did he think, at that time, that the legislature would ever take away this property and these privileges, and give them to others. Little did he suppose that this charter secured to him and his successors no legal rights. Little did the other donors think so. If they had, the college would have been, what the university is now, a thing upon paper, existing only in name.

The numerous academies in New England have been established substantially in the same manner. They hold their property by the same tenure, and no other. Nor has Harvard College any surer title than Dartmouth College. It may to-day have more friends; but to-morrow it may have more enemies. Its legal rights are the same. So also of Yale College; and, indeed, of all the others. When the legislature gives to these institutions, it may and does accompany its grants with such conditions as it pleases. The grant of lands by the legislature of New Hampshire to Dartmouth College, in 1789, was accompanied with various conditions. When donations are made, by the legislature or others, to a charity already existing, without any condition, or the specification of any new use, the donation follows the nature of the charity. Hence the doctrine, that all eleemosynary corporations are private bodies. They are founded by private persons, and on private property. The public cannot be charitable in these

institutions. It is not the money of the public, but of private persons, which is dispensed. It may be public, that is general, in its uses and advantages; and the State may very laudably add contributions of its own to the funds; but it is still private in the tenure of the property, and in the right of administering the funds.

The charter declares that the powers conferred on the trustees are "privileges, advantages, liberties, and immunities"; and that they shall be for ever holden by them and their successors. The New Hampshire Bill of Rights declares that no one shall be deprived of his "property, privileges, or immunities," but by judgment of his peers, or the law of the land. The argument on the other side is, that, although these terms may mean something in the Bill of Rights, they mean nothing in this charter. They are equivalent with _franchises_. Blackstone says that _franchise_ and _liberty_ are used as synonymous terms.

The privilege, then, of being a member of a corporation, under a lawful grant, and of exercising the rights and powers of such member, is such a privilege, _liberty_, or _franchise_, as has been the object of legal protection, and the subject of a legal interest, from the time of Magna Charta to the present moment. The plaintiffs have such an interest in this corporation, individually, as they could assert and maintain in a court of law, not as agents of the public, but in their own right. Each trustee has a _franchise_, and if he be disturbed in the enjoyment of it, he would have redress, on appealing to the law, as promptly as for any other injury. If the other trustees should conspire against any one of them to prevent his equal right and voice in the appointment of a president or professor, or in the passing of any statute or ordinance of the college, he would be entitled to his action, for depriving him of his franchise. It makes no difference, that this property is to be holden and administered, and these franchises exercised, for the purpose of diffusing learning. No principle and no case establishes any such distinction. The public may be benefited by the use of this property. But this does not change the nature of the property, or the rights of the owners. The object of the charter may be public good; so it is in all other corporations; and this would as well justify the resumption or violation of the grant in any other case as in this. In the case of an advowson, the use is public, and the right cannot be turned to any private benefit or emolument. It is nevertheless a legal private right, and the _property_ of the owner, as emphatically as his freehold. The rights and privileges of trustees, visitors, or governors of incorporated colleges, stand on the same foundation. They are so considered, both by Lord Holt and Lord Hardwicke.

To contend that the rights of the plaintiffs may be taken away, because they derive from them no pecuniary benefit or private emolument, or because they cannot be transmitted to their heirs, or would not be assets to pay their debts, is taking an extremely narrow view of the subject. According to this notion, the case would be different, if, in the charter, they had stipulated for a commission on the disbursement of the funds; and they have ceased to have any interest in the property, because they have undertaken to administer it gratuitously.

It cannot be necessary to say much in refutation of the idea, that there

cannot be a legal interest, or ownership, in any thing which does not yield a pecuniary profit; as if the law regarded no rights but the rights of money, and of visible, tangible property. Of what nature are all rights of suffrage? No elector has a particular personal interest; but each has a legal right, to be exercised at his own discretion, and it cannot be taken away from him. The exercise of this right directly and very materially affects the public; much more so than the exercise of the privileges of a trustee of this college. Consequences of the utmost magnitude may sometimes depend on the exercise of the right of suffrage by one or a few electors. Nobody was ever yet heard to contend, however, that on that account the public might take away the right, or impair it. This notion appears to be borrowed from no better source than the repudiated doctrine of the three judges in the Aylesbury case. The doctrine having been exploded for a century, seems now for the first time to be revived.

Individuals have a right to use their own property for purposes of benevolence, either towards the public, or towards other individuals. They have a right to exercise this benevolence in such lawful manner as they may choose; and when the government has induced and excited it, by contracting to give perpetuity to the stipulated manner of exercising it, it is not law, but violence, to rescind this contract, and seize on the property. Whether the State will grant these franchises, and under what conditions it will grant them, it decides for itself. But when once granted, the constitution holds them to be sacred, till forfeited for just cause.

That all property, of which the use may be beneficial to the public, belongs therefore to the public, is quite a new doctrine. It has no precedent, and is supported by no known principle. Dr. Wheelock might have answered his purposes, in this case, by executing a private deed of trust. He might have conveyed his property to trustees, for precisely such uses as are described in this charter. Indeed, it appears that he had contemplated the establishing of his school in that manner, and had made his will, and devised the property to the same persons who were afterwards appointed trustees in the charter. Many literary and other charitable institutions are founded in that manner, and the trust is renewed, and conferred on other persons, from time to time, as occasion may require. In such a case, no lawyer would or could say, that the legislature might divest the trustees, constituted by deed or will, seize upon the property, and give it to other persons, for other purposes. And does the granting of a charter, which is only done to perpetuate the trust in a more convenient manner, make any difference? Does or can this change the nature of the charity, and turn it into a public political corporation? Happily, we are not without authority on this point. It has been considered and adjudged. Lord Hardwicke says, in so many words, "The charter of the crown cannot make a charity more or less public, but only more permanent than it would otherwise be."

The granting of the corporation is but making the trust perpetual, and does not alter the nature of the charity. The very object sought in obtaining such charter, and in giving property to such a corporation, is to make and keep it private property, and to clothe it with all the security and inviolability of private property. The intent is, that there

shall be a legal private ownership, and that the legal owners shall maintain and protect the property, for the benefit of those for whose use it was designed. Who ever endowed the public? Who ever appointed a legislature to administer his charity? Or who ever heard, before, that a gift to a college, or a hospital, or an asylum, was, in reality, nothing but a gift to the State?

The State of Vermont is a principal donor to Dartmouth College. The lands given lie in that State. This appears in the special verdict. Is Vermont to be considered as having intended a gift to the State of New Hampshire in this case, as, it has been said, is to be the reasonable construction of all donations to the college? The legislature of New Hampshire affects to represent the public, and therefore claims a right to control all property destined to public use. What hinders Vermont from considering herself equally the representative of the public, and from resuming her grants, at her own pleasure? Her right to do so is less doubtful than the power of New Hampshire to pass the laws in question. I hope enough has been said to show that the trustees possessed vested liberties, privileges, and immunities, under this charter; and that such liberties, privileges, and immunities, being once lawfully obtained and vested, are as inviolable as any vested rights of property whatever. Rights to do certain acts, such, for instance, as the visitation and superintendence of a college and the appointment of its officers, may surely be vested rights, to all legal intents, as completely as the right to possess property. A late learned judge of this court has said, "When I say that a _right_ is vested in a citizen, I mean that he has the power to do _certain actions_, or to possess _certain things_, according to the law of the land."

If such be the true nature of the plaintiffs' interests under this charter, what are the articles in the New Hampshire Bill of Rights which these acts infringe?

They infringe the second article; which says, that the citizens of the State have a right to hold and possess property. The plaintiffs had a legal property in this charter; and they had acquired property under it. The acts deprive them of both. They impair and take away the charter; and they appropriate the property to new uses, against their consent. The plaintiffs cannot now hold the property acquired by themselves, and which this article says they have a right to hold.

They infringe the twentieth article. By that article it is declared that, in questions of property, there is a right to trial. The plaintiffs are divested, without trial or judgment.

They infringe the twenty-third article. It is therein declared that no retrospective laws shall be passed. This article bears directly on the case. These acts must be deemed to be retrospective, within the settled construction of that term. What a retrospective law is, has been decided, on the construction of this very article, in the Circuit Court for the First Circuit, The learned judge of that circuit says: "Every statute which takes away or impairs vested rights, acquired under existing laws, must be deemed retrospective." That all such laws are retrospective was

decided also in the case of _Dash v. Van Kleek_, where a most learned judge quotes this article from the constitution of New Hampshire, with manifest approbation, as a plain and clear expression of those fundamental and unalterable principles of justice, which must lie at the foundation of every free and just system of laws. Can any man deny that the plaintiffs had rights, under the charter, which were legally vested, and that by these acts those rights are impaired?

"It is a principle in the English law," says Chief Justice Kent, in the case last cited, "as ancient as the law itself, that a statute, even of its omnipotent Parliament, is not to have a retrospective effect. 'Nova constitutio futuris formam imponere debet, et non praeteritis.' The maxim in Bracton was taken from the civil law, for we find in that system the same principle, expressed substantially in the same words, that the law-giver cannot alter his mind to the prejudice of a vested right. 'Nemo potest mutare concilium suum in alterius injuriam.'"

These acts infringe also the thirty-seventh article of the constitution of New Hampshire; which says, that the powers of government shall be kept separate. By these acts, the legislature assumes to exercise a judicial power. It declares a forfeiture, and resumes franchises, once granted, without trial or hearing.

If the constitution be not altogether waste-paper, it has restrained the power of the legislature in these particulars. If it has any meaning, it is that the legislature shall pass no act directly and manifestly impairing private property and private privileges. It shall not judge by act. It shall not decide by act. It shall not deprive by act. But it shall leave all these things to be tried and adjudged by the law of the land.

The fifteenth article has been referred to before. It declares that no one shall be "deprived of his property, immunities, or privileges, but by the judgment of his peers or the law of the land." Notwithstanding the light in which the learned judges in New Hampshire viewed the rights of the plaintiffs under the charter, and which has been before adverted to, it is found to be admitted in their opinion, that those rights are privileges within the meaning of this fifteenth article of the Bill of Rights. Having quoted that article, they say: "That the right to manage the affairs of this college is a privilege, within the meaning of this clause of the Bill of Rights, is not to be doubted." In my humble opinion, this surrenders the point. To resist the effect of this admission, however, the learned judges add: "But how a privilege can be protected from the operation of the law of the land by a clause in the constitution, declaring that it shall not be taken away but by the law of the land, is not very easily understood." This answer goes on the ground, that the acts in question are laws of the land, within the meaning of the constitution. If they be so, the argument drawn from this article is fully answered. If they be not so, it being admitted that the plaintiffs' rights are "privileges," within the meaning of the article, the argument is not answered, and the article is infringed by the acts. Are, then, these acts of the legislature, which affect only particular persons and their particular privileges, laws of the land? Lord Coke citing and commenting on the celebrated twenty-ninth chapter of Magna Charta, says: "No man shall be disseized, &c., unless it

be by the lawful judgment, that is, verdict of equals, or by the law of the land, that is (to speak it once for all), by the due course and process of law." Have the plaintiffs lost their franchises by "due course and process of law"? On the contrary, are not these acts "particular acts of the legislature, which have no relation to the community in general, and which are rather sentences than laws"?

By the law of the land is most clearly intended the general law; a law which hears before it condemns; which proceeds upon inquiry, and renders judgment only after trial. The meaning is, that every citizen shall hold his life, liberty, property, and immunities under the protection of the general rules which govern society. Every thing which may pass under the form of an enactment is not therefore to be considered the law of the land. If this were so, acts of attainder, bills of pains and penalties, acts of confiscation, acts reversing judgments, and acts directly transferring one man’s estate to another, legislative judgments, decrees, and forfeitures in all possible forms, would be the law of the land.

Such a strange construction would render constitutional provisions of the highest importance completely inoperative and void. It would tend directly to establish the union of all powers in the legislature. There would be no general, permanent law for courts to administer or men to live under. The administration of justice would be an empty form, an idle ceremony. Judges would sit to execute legislative judgments and decrees; not to declare the law or to administer the justice of the country.

That the power of electing and appointing the officers of this college is not only a right of the trustees as a corporation, generally, and in the aggregate, but that each individual trustee has also his own individual franchise in such right of election and appointment, is according to the language of all the authorities. Lord Holt says: "It is agreeable to reason and the rules of law, that a franchise should be vested in the corporation aggregate, and yet the benefit of it to redound to the particular members, and to be enjoyed by them in their private capacity. Where the privilege of election is used by particular persons, _it is a particular right, vested in every particular man_."

It is also to be considered, that the president and professors of this college have rights to be affected by these acts. Their interest is similar to that of fellows in the English colleges; because they derive their living, wholly or in part, from the founders’ bounty. The president is one of the trustees or corporators. The professors are not necessarily members of the corporation; but they are appointed by the trustees, are removable only by them, and have fixed salaries payable out of the general funds of the college. Both president and professors have freeholds in their offices; subject only to be removed by the trustees, as their legal visitors, for good cause. All the authorities speak of fellowships in colleges as freeholds, notwithstanding the fellows may be liable to be suspended or removed, for misbehavior, by their constituted visitors.

Nothing could have been less expected, in this age, than that there should have been an attempt, by acts of the legislature, to take away these college livings, the inadequate but the only support of literary men who

have devoted their lives to the instruction of youth. The president and professors were appointed by the twelve trustees. They were accountable to nobody else, and could be removed by nobody else. They accepted their offices on this tenure. Yet the legislature has appointed other persons, with power to remove these officers and to deprive them of their livings; and those other persons have exercised that power. No description of private property has been regarded as more sacred than college livings. They are the estates and freeholds of a most deserving class of men; of scholars who have consented to forego the advantages of professional and public employments, and to devote themselves to science and literature and the instruction of youth in the quiet retreats of academic life. Whether to dispossess and oust them; to deprive them of their office, and to turn them out of their livings; to do this, not by the power of their legal visitors or governors, but by acts of the legislature, and to do it without forfeiture and without fault; whether all this be not in the highest degree an indefensible and arbitrary proceeding, is a question of which there would seem to be but one side fit for a lawyer or a scholar to espouse.

If it could be made to appear that the trustees and the president and professors held their offices and franchises during the pleasure of the legislature, and that the property holden belonged to the State, then indeed the legislature have done no more than they had a right to do. But this is not so. The charter is a charter of privileges and immunities; and these are holden by the trustees expressly against the State for ever.

It is admitted that the State, by its courts of law, can enforce the will of the donor, and compel a faithful execution of the trust. The plaintiffs claim no exemption from legal responsibility. They hold themselves at all times answerable to the law of the land, for their conduct in the trust committed to them. They ask only to hold the property of which they are owners, and the franchises which belong to them, until they shall be found, by due course and process of law, to have forfeited them.

It can make no difference whether the legislature exercise the power it has assumed by removing the trustees and the president and professors, directly and by name, or by appointing others to expel them. The principle is the same, and in point of fact the result has been the same. If the entire franchise cannot be taken away, neither can it be essentially impaired. If the trustees are legal owners of the property, they are sole owners. If they are visitors, they are sole visitors. No one will be found to say, that, if the legislature may do what it has done, it may not do any thing and every thing which it may choose to do, relative to the property of the corporation, and the privileges of its members and officers.

If the view which has been taken of this question be at all correct, this was an eleemosynary corporation, a private charity. The property was private property. The trustees were visitors, and the right to hold the charter, administer the funds, and visit and govern the college, was a franchise and privilege, solemnly granted to them. The use being public in no way diminishes their legal estate in the property, or their title to the franchise. There is no principle, nor any case, which declares that a

gift to such a corporation is a gift to the public. The acts in question violate property. They take away privileges, immunities, and franchises. They deny to the trustees the protection of the law; and they are retrospective in their operation. In all which respects they are against the constitution of New Hampshire.

The plaintiffs contend, in the second place, that the acts in question are repugnant to the tenth section of the first article of the Constitution of the United States. The material words of that section are: "No State shall pass any bill of attainder, _ex post facto_ law, or law impairing the obligation of contracts."

The object of these most important provisions in the national constitution has often been discussed, both here and elsewhere. It is exhibited with great clearness and force by one of the distinguished persons who framed that instrument. "Bills of attainder, _ex post facto_ laws, and laws impairing the obligation of contracts, are contrary to the first principles of the social compact, and to every principle of sound legislation. The two former are expressly prohibited by the declarations prefixed to some of the State constitutions, and all of them are prohibited by the spirit and scope of these fundamental charters. Our own experience has taught us, nevertheless, that additional fences against these dangers ought not to be omitted. Very properly, therefore, have the convention added this constitutional bulwark, in favor of personal security and private rights; and I am much deceived, if they have not, in so doing, as faithfully consulted the genuine sentiments as the undoubted interests of their constituents. The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret, and with indignation, that sudden changes, and legislative interferences in cases affecting personal rights, become jobs in the hands of enterprising and influential speculators, and snares to the more industrious and less informed part of the community. They have seen, too, that one legislative interference is but the link of a long chain of repetitions; every subsequent interference being naturally produced by the effects of the preceding."

It has already been decided in this court, that a _grant_ is a contract, within the meaning of this provision; and that a grant by a State is also a contract, as much as the grant of an individual. In the case of _Fletcher v. Peck_, this court says: "A contract is a compact between two or more parties, and is either executory or executed. An executory contract is one in which a party binds himself to do, or not to do, a particular thing; such was the law under which the conveyance was made by the government. A contract executed is one in which the object of contract is performed; and this, says Blackstone, differs in nothing from a grant. The contract between Georgia and the purchasers was executed by the grant. A contract executed, as well as one which is executory, contains obligations binding on the parties. A grant, in its own nature, amounts to an extinguishment of the right of the grantor, and implies a contract not to reassert that right. If, under a fair construction of the Constitution, grants are comprehended under the term contracts, is a grant from the State excluded from the operation of the provision? Is the clause to be considered as inhibiting the State from impairing the obligation of

contracts between two individuals, but as excluding from that inhibition contracts made with itself? The words themselves contain no such distinction. They are general, and are applicable to contracts of every description. If contracts made with the State are to be exempted from their operation, the exception must arise from the character of the contracting party, not from the words which are employed. Whatever respect might have been felt for the State sovereignties, it is not to be disguised that the framers of the Constitution viewed with some apprehension the violent acts which might grow out of the feelings of the moment; and that the people of the United States, in adopting that instrument, have manifested a determination to shield themselves and their property from the effects of those sudden and strong passions to which men are exposed. The restrictions on the legislative power of the States are obviously founded in this sentiment; and the Constitution of the United States contains what may be deemed a bill of rights for the people of each State."

It also has been decided that a grant by a State before the Revolution is as much to be protected as a grant since. But the case of _Terrett v. Taylor_, before cited, is of all others most pertinent to the present argument. Indeed, the judgment of the court in that case seems to leave little to be argued or decided in this. "A private corporation," say the court, "created by the legislature, may lose its franchises by a _misuser_ or a _nonuser_ of them; and they may be resumed by the government under a judicial judgment upon a _quo warranto_ to ascertain and enforce the forfeiture. This is the common law of the land, and is a tacit condition annexed to the creation of every such corporation. Upon a change of government, too, it may be admitted, that such exclusive privileges attached to a private corporation as are inconsistent with the new government may be abolished. In respect, also, to _public_ corporations which exist only for public purposes, such as counties, towns, cities, and so forth, the legislature may, under proper limitations, have a right to change, modify, enlarge, or restrain them, securing, however, the property for the uses of those for whom and at whose expense it was originally purchased. But that the legislature can repeal statutes creating private corporations, or confirming to them property already acquired under the faith of previous laws, and by such repeal can vest the property of such corporations exclusively in the State, or dispose of the same to such purposes as they please, without the consent or default of the corporators, we are not prepared to admit; and we think ourselves standing upon the principles of natural justice, upon the fundamental laws of every free government, upon the spirit and letter of the Constitution of the United States, and upon the decisions of most respectable judicial tribunals, in resisting such a doctrine."

This court, then, does not admit the doctrine, that a legislature can repeal statutes creating private corporations. If it cannot repeal them altogether, of course it cannot repeal any part of them, or impair them, or essentially alter them, without the consent of the corporators. If, therefore, it has been shown that this college is to be regarded as a private charity, this case is embraced within the very terms of that decision. A grant of corporate powers and privileges is as much a contract as a grant of land. What proves all charters of this sort to be contracts

is, that they must be accepted to give them force and effect. If they are not accepted, they are void. And in the case of an existing corporation, if a new charter is given it, it may even accept part and reject the rest. In _Rex v. Vice-Chancellor of Cambridge_, Lord Mansfield says: "There is a vast deal of difference between a new charter granted to a new corporation, (who must take it as it is given,) and a new charter given to a corporation already in being, and acting either under a former charter or under prescriptive usage. The latter, a corporation already existing, are not obliged to accept the new charter _in toto_, and to receive either all or none of it; they may act partly under it, and partly under their old charter or prescription. The validity of these new charters must turn upon the acceptance of them." In the same case Mr. Justice Wilmot says: "It is the concurrence and acceptance of the university that gives the force to the charter of the crown." In the _King v. Pasmore_, Lord Kenyon observes: "Some things are clear: when a corporation exists capable of discharging its functions, the crown cannot obtrude another charter upon them; they may either accept or reject it."

And because charters of incorporation are of the nature of contracts, they cannot be altered or varied but by consent of the original parties. If a charter be granted by the king, it may be altered by a new charter granted by the king, and accepted by the corporators. But if the first charter be granted by Parliament, the consent of Parliament must be obtained to any alteration. In _King v. Miller_, Lord Kenyon says: "Where a corporation takes its rise from the king's charter, the king by granting, and the corporation by accepting another charter, may alter it, because it is done with the consent of all the parties who are competent to consent to the alteration."

There are, in this case, all the essential constituent parts of a contract. There is something to be contracted about, there are parties, and there are plain terms in which the agreement of the parties on the subject of the contract is expressed. There are mutual considerations and inducements. The charter recites, that the founder, on his part, has agreed to establish his seminary in New Hampshire, and to enlarge it beyond its original design, among other things, for the benefit of that Province; and thereupon a charter is given to him and his associates, designated by himself, promising and assuring to them, under the plighted faith of the State, the right of governing the college and administering its concerns in the manner provided in the charter. There is a complete and perfect grant to them of all the power of superintendence, visitation, and government. Is not this a contract? If lands or money had been granted to him and his associates, for the same purposes, such grant could not be rescinded. And is there any difference, in legal contemplation, between a grant of corporate franchises and a grant of tangible property? No such difference is recognized in any decided case, nor does it exist in the common apprehension of mankind.

It is therefore contended, that this case falls within the true meaning of this provision of the Constitution, as expounded in the decisions of this court; that the charter of 1769 is a contract, a stipulation or agreement, mutual in its considerations, express and formal in its terms, and of a most binding and solemn nature. That the acts in question impair this

contract, has already been sufficiently shown. They repeal and abrogate its most essential parts.

A single observation may not be improper on the opinion of the court of New Hampshire, which has been published. The learned judges who delivered that opinion have viewed this question in a very different light from that in which the plaintiffs have endeavored to exhibit it. After some general remarks, they assume that this college is a public corporation; and on this basis their judgment rests. Whether all colleges are not regarded as private and eleemosynary corporations, by all law writers and all judicial decisions; whether this college was not founded by Dr. Wheelock; whether the charter was not granted at his request, the better to execute a trust, which he had already created; whether he and his associates did not become visitors, by the charter; and whether Dartmouth College be not, therefore, in the strictest sense, a private charity, are questions which the learned judges do not appear to have discussed.

It is admitted in that opinion, that, if it be a private corporation, its rights stand on the same ground as those of an individual. The great question, therefore, to be decided is, To which class of corporations do colleges thus founded belong? And the plaintiffs have endeavored to satisfy the court, that, according to the well-settled principles and uniform decisions of law, they are private, eleemosynary corporations.

Much has heretofore been said on the necessity of admitting such a power in the legislature as has been assumed in this case. Many cases of possible evil have been imagined, which might otherwise be without remedy. Abuses, it is contended, might arise in the management of such institutions, which the ordinary courts of law would be unable to correct. But this is only another instance of that habit of supposing extreme cases, and then of reasoning from them, which is the constant refuge of those who are obliged to defend a cause, which, upon its merits, is indefensible. It would be sufficient to say in answer, that it is not pretended that there was here any such case of necessity. But a still more satisfactory answer is, that the apprehension of danger is groundless, and therefore the whole argument fails. Experience has not taught us that there is danger of great evils or of great inconvenience from this source. Hitherto, neither in our own country nor elsewhere have such cases of necessity occurred. The judicial establishments of the State are presumed to be competent to prevent abuses and violations of trust, in cases of this kind, as well as in all others. If they be not, they are imperfect, and their amendment would be a most proper subject for legislative wisdom. Under the government and protection of the general laws of the land, these institutions have always been found safe, as well as useful. They go on, with the progress of society, accommodating themselves easily, without sudden change or violence, to the alterations which take place in its condition, and in the knowledge, the habits, and pursuits of men. The English colleges were founded in Catholic ages. Their religion was reformed with the general reformation of the nation; and they are suited perfectly well to the purpose of educating the Protestant youth of modern times. Dartmouth College was established under a charter granted by the Provincial government; but a better constitution for a college or one more adapted to the condition of things under the present government, in all

material respects, could not now be framed. Nothing in it was found to need alteration at the Revolution. The wise men of that day saw in it one of the best hopes of future times, and commended it as it was, with parental care, to the protection and guardianship of the government of the State. A charter of more liberal sentiments, of wiser provisions, drawn with more care, or in a better spirit, could not be expected at any time or from any source. The college needed no change in its organization or government. That which it did need was the kindness, the patronage, the bounty of the legislature; not a mock elevation to the character of a university, without the solid benefit of a shilling's donation to sustain the character; not the swelling and empty authority of establishing institutes and other colleges. This unsubstantial pageantry would seem to have been in derision of the scanty endowment and limited means of an unobtrusive, but useful and growing seminary. Least of all was there a necessity, or pretence of necessity, to infringe its legal rights, violate its franchises and privileges, and pour upon it these overwhelming streams of litigation.

But this argument from necessity would equally apply in all other cases. If it be well founded, it would prove, that, whenever any inconvenience or evil is experienced from the restrictions imposed on the legislature by the Constitution, these restrictions ought to be disregarded. It is enough to say, that the people have thought otherwise. They have, most wisely, chosen to take the risk of occasional inconvenience from the want of power, in order that there might be a settled limit to its exercise, and a permanent security against its abuse. They have imposed prohibitions and restraints; and they have not rendered these altogether vain and nugatory by conferring the power of dispensation. If inconvenience should arise which the legislature cannot remedy under the power conferred upon it, it is not answerable for such inconvenience. That which it cannot do within the limits prescribed to it, it cannot do at all. No legislature in this country is able, and may the time never come when it shall be able, to apply to itself the memorable expression of a Roman pontiff: "Licet hoc _de jure_ non possumus, volumus tamen _de plenitudine potestatis_."

The case before the court is not of ordinary importance, nor of every-day occurrence. It affects not this college only, but every college, and all the literary institutions of the country. They have flourished hitherto, and have become in a high degree respectable and useful to the community. They have all a common principle of existence, the inviolability of their charters. It will be a dangerous, a most dangerous experiment, to hold these institutions subject to the rise and fall of popular parties, and the fluctuations of political opinions. If the franchise may be at any time taken away, or impaired, the property also may be taken away, or its use perverted. Benefactors will have no certainty of effecting the object of their bounty; and learned men will be deterred from devoting themselves to the service of such institutions, from the precarious title of their offices. Colleges and halls will be deserted by all better spirits, and become a theatre for the contentions of politics, Party and faction will be cherished in the places consecrated to piety and learning. These consequences are neither remote nor possible only. They are certain and immediate.

When the court in North Carolina declared the law of the State, which repealed a grant to its university, unconstitutional and void, the legislature had the candor and the wisdom to repeal the law. This example, so honorable to the State which exhibited it, is most fit to be followed on this occasion. And there is good reason to hope that a State, which has hitherto been so much distinguished for temperate counsels, cautious legislation, and regard to law, will not fail to adopt a course which will accord with her highest and best interests, and in no small degree elevate her reputation. It was for many and obvious reasons most anxiously desired that the question of the power of the legislature over this charter should have been finally decided in the State court. An earnest hope was entertained that the judges of the court might have viewed the case in a light favorable to the rights of the trustees. That hope has failed. It is here that those rights are now to be maintained, or they are prostrated for ever. "Omnia alia perfugia bonorum, subsidia, consilia, auxilia, jura ceciderunt. Quem enim alium appellem? quem obtester? quern implorem? Nisi hoc loco, nisi apud vos, nisi per vos, judices, salutem nostram, quae spe exigua extremaque pendet, tenuerimus; nihil est praeterea quo confugere possimus." [1]

This, sir, is my case. It is the case, not merely of that humble institution, it is the case of every college in the land. It is more. It is the case of every eleemosynary institution throughout our country--of all those great charities formed by the piety of our ancestors, to alleviate human misery, and scatter blessings along the pathway of life. It is more! It is, in some sense, the case of every man among us who has property, of which he may be stripped, for the question is simply this: Shall our State legislatures be allowed to take that which is not their own, to turn it from its original use, and apply it to such ends or purposes as they in their discretion shall see fit?

Sir, you may destroy this little institution; it is weak; it is in your hands! I know it is one of the lesser lights in the literary horizon of our country. You may put it out. But, if you do so, you must carry through your work! You must extinguish, one after another, all those greater lights of science, which, for more than a century, have thrown their radiance over our land!

It is, sir, as I have said, a small college, and yet there are those who love it. [2]

Sir, I know not how others may feel (glancing at the opponents of the colleges before him), but for myself, when I see my Alma Mater surrounded, like Caesar, in the senate house, by those who are reiterating stab after stab, I would not, for this right hand, have her turn to me, and say, _et tu quoque, mi fili! And thou too, my son!_ [3]

First Settlement of New England.

Let us rejoice that we behold this day. Let us be thankful that we have lived to see the bright and happy breaking of the auspicious morn, which commences the third century of the history of New England. Auspicious, indeed,--bringing a happiness beyond the common allotment of Providence to men,--full of present joy, and gilding with bright beams the prospect of futurity, is the dawn that awakens us to the commemoration of the landing of the Pilgrims.

Living at an epoch which naturally marks the progress of the history of our native land, we have come hither to celebrate the great event with which that history commenced. For ever honored be this, the place of our fathers' refuge! For ever remembered the day which saw them, weary and distressed, broken in every thing but spirit, poor in all but faith and courage, at last secure from the dangers of wintry seas, and impressing this shore with the first footsteps of civilized man!

It is a noble faculty of our nature which enables us to connect our thoughts, our sympathies, and our happiness with what is distant in place or time; and, looking before and after, to hold communion at once with our ancestors and our posterity. Human and mortal although we are, we are nevertheless not mere insulated beings, without relation to the past or the future. Neither the point of time, nor the spot of earth, in which we physically live, bounds our rational and intellectual enjoyments. We live in the past by a knowledge of its history; and in the future, by hope and anticipation. By ascending to an association with our ancestors; by contemplating their example and studying their character; by partaking their sentiments, and imbibing their spirit; by accompanying them in their toils, by sympathizing in their sufferings, and rejoicing in their successes and their triumphs; we seem to belong to their age, and to mingle our own existence with theirs. We become their contemporaries, live the lives which they lived, endure what they endured, and partake in the rewards which they enjoyed. And in like manner, by running along the line of future time, by contemplating the probable fortunes of those who are coming after us, by attempting something which may promote their happiness, and leave some not dishonorable memorial of ourselves for their regard, when we shall sleep with the fathers, we protract our own earthly being, and seem to crowd whatever is future, as well as all that is past, into the narrow compass of our earthly existence. As it is not a vain and false, but an exalted and religious imagination, which leads us to raise our thoughts from the orb, which, amidst this universe of worlds, the Creator has given us to inhabit, and to send them with something of the feeling which nature prompts, and teaches to be proper among children of the same Eternal Parent, to the contemplation of the myriads of fellow-beings with which his goodness has peopled the infinite of space; so neither is it false or vain to consider ourselves as interested and connected with our whole race, through all time; allied to our ancestors; allied to our posterity; closely compacted on all sides with others; ourselves being but links in the great chain of being, which begins with the origin of our race, runs onward through its successive generations, binding together the past, the present, and the future, and terminating at last, with the consummation of all things earthly, at the throne of God.

There may be, and there often is, indeed, a regard for ancestry, which nourishes only a weak pride; as there is also a care for posterity, which only disguises an habitual avarice, or hides the workings of a low and grovelling vanity. But there is also a moral and philosophical respect for our ancestors, which elevates the character and improves the heart. Next to the sense of religious duty and moral feeling, I hardly know what should bear with stronger obligation on a liberal and enlightened mind, than a consciousness of alliance with excellence which is departed; and a consciousness, too, that in its acts and conduct, and even in its sentiments and thoughts, it may be actively operating on the happiness of those who come after it. Poetry is found to have few stronger conceptions, by which it would affect or overwhelm the mind, than those in which it presents the moving and speaking image of the departed dead to the senses of the living. This belongs to poetry, only because it is congenial to our nature. Poetry is, in this respect, but the handmaid of true philosophy and morality; it deals with us as human beings, naturally reverencing those whose visible connection with this state of existence is severed, and who may yet exercise we know not what sympathy with ourselves; and when it carries us forward, also, and shows us the long continued result of all the good we do, in the prosperity of those who follow us, till it bears us from ourselves, and absorbs us in an intense interest for what shall happen to the generations after us, it speaks only in the language of our nature, and affects us with sentiments which belong to us as human beings.

Standing in this relation to our ancestors and our posterity, we are assembled on this memorable spot, to perform the duties which that relation and the present occasion impose upon us. We have come to this Rock, to record here our homage for our Pilgrim Fathers; our sympathy in their sufferings; our gratitude for their labors; our admiration of their virtues; our veneration for their piety; and our attachment to those principles of civil and religious liberty, which they encountered the dangers of the ocean, the storms of heaven, the violence of savages, disease, exile, and famine, to enjoy and to establish. And we would leave here, also, for the generations which are rising up rapidly to fill our places, some proof that we have endeavored to transmit the great inheritance unimpaired; that in our estimate of public principles and private virtue, in our veneration of religion and piety, in our devotion to civil and religious liberty, in our regard for whatever advances human knowledge or improves human happiness, we are not altogether unworthy of our origin.

There is a local feeling connected with this occasion, too strong to be resisted; a sort of _genius of the place_, which inspires and awes us. We feel that we are on the spot where the first scene of our history was laid; where the hearths and altars of New England were first placed; where Christianity, and civilization, and letters made their first lodgement, in a vast extent of country, covered with a wilderness, and peopled by roving barbarians. We are here, at the season of the year at which the event took place. The imagination irresistibly and rapidly draws around us the principal features and the leading characters in the original scene. We cast our eyes abroad on the ocean, and we see where the little bark, with the interesting group upon its deck, made its slow

progress to the shore. We look around us, and behold the hills and promontories where the anxious eyes of our fathers first saw the places of habitation and of rest. We feel the cold which benumbed, and listen to the winds which pierced them. Beneath us is the Rock, on which New England received the feet of the Pilgrims. We seem even to behold them, as they struggle with the elements, and, with toilsome efforts, gain the shore. We listen to the chiefs in council; we see the unexampled exhibition of female fortitude and resignation; we hear the whisperings of youthful impatience, and we see, what a painter of our own has also represented by his pencil [1], chilled and shivering childhood, houseless, but for a mother's arms, couchless, but for a mother's breast, till our own blood almost freezes. The mild dignity of Carver and of Bradford; the decisive and soldier-like air and manner of Standish; the devout Brewster; the enterprising Allerton; [2] the general firmness and thoughtfulness of the whole band; their conscious joy for dangers escaped; their deep solicitude about dangers to come; their trust in Heaven; their high religious faith, full of confidence and anticipation; all of these seem to belong to this place, and to be present upon this occasion, to fill us with reverence and admiration.

The settlement of New England by the colony which landed here on the twenty-second [3] of December, sixteen hundred and twenty, although not the first European establishment in what now constitutes the United States, was yet so peculiar in its causes and character, and has been followed and must still be followed by such consequences, as to give it a high claim to lasting commemoration. On these causes and consequences, more than on its immediately attendant circumstances, its importance, as an historical event, depends. Great actions and striking occurrences, having excited a temporary admiration, often pass away and are forgotten, because they leave no lasting results, affecting the prosperity and happiness of communities. Such is frequently the fortune of the most brilliant military achievements. Of the ten thousand battles which have been fought, of all the fields fertilized with carnage, of the banners which have been bathed in blood, of the warriors who have hoped that they had risen from the field of conquest to a glory as bright and as durable as the stars, how few that continue long to interest mankind! The victory of yesterday is reversed by the defeat of to-day; the star of military glory, rising like a meteor, like a meteor has fallen; disgrace and disaster hang on the heels of conquest and renown; victor and vanquished presently pass away to oblivion, and the world goes on in its course, with the loss only of so many lives and so much treasure.

But if this be frequently, or generally, the fortune of military achievements, it is not always so. There are enterprises, military as well as civil, which sometimes check the current of events, give a new turn to human affairs, and transmit their consequences through ages. We see their importance in their results, and call them great, because great things follow. There have been battles which have fixed the fate of nations. These come down to us in history with a solid and permanent interest, not created by a display of glittering armor, the rush of adverse battalions, the sinking and rising of pennons, the flight, the pursuit, and the victory; but by their effect in advancing or retarding human knowledge, in overthrowing or establishing despotism, in extending or destroying human

happiness. When the traveller pauses on the plain of Marathon, what are the emotions which most strongly agitate his breast? What is that glorious recollection, which thrills through his frame, and suffuses his eyes? Not, I imagine, that Grecian skill and Grecian valor were here most signally displayed; but that Greece herself was saved. It is because to this spot, and to the event which has rendered it immortal, he refers all the succeeding glories of the republic. It is because, if that day had gone otherwise, Greece had perished. It is because he perceives that her philosophers and orators, her poets and painters, her sculptors and architects, her governments and free institutions, point backward to Marathon, and that their future existence seems to have been suspended on the contingency, whether the Persian or the Grecian banner should wave victorious in the beams of that day's setting sun. And, as his imagination kindles at the retrospect, he is transported back to the interesting moment; he counts the fearful odds of the contending hosts; his interest for the result overwhelms him; he trembles, as if it were still uncertain, and seems to doubt whether he may consider Socrates and Plato, Demosthenes, Sophocles, and Phidias, as secure, yet, to himself and to the world.

"If we conquer," said the Athenian commander on the approach of that decisive day, "if we conquer, we shall make Athens the greatest city of Greece." [4] A prophecy how well fulfilled! "If God prosper us," might have been the more appropriate language of our fathers, when they landed upon this Rock, "if God prosper us, we shall here begin a work which shall last for ages; we shall plant here a new society, in the principles of the fullest liberty and the purest religion; we shall subdue this wilderness which is before us; we shall fill this region of the great continent, which stretches almost from pole to pole, with civilization and Christianity; the temples of the true God shall rise, where now ascends the smoke of idolatrous sacrifice; fields and gardens, the flowers of summer, and the waving and golden harvest of autumn, shall spread over a thousand hills, and stretch along a thousand valleys, never yet, since the creation, reclaimed to the use of civilized man. We shall whiten this coast with the canvas of a prosperous commerce; we shall stud the long and winding shore with a hundred cities. That which we sow in weakness shall be raised in strength. From our sincere, but houseless worship, there shall spring splendid temples to record God's goodness; from the simplicity of our social union, there shall arise wise and politic constitutions of government, full of the liberty which we ourselves bring and breathe; from our zeal for learning, institutions shall spring which shall scatter the light of knowledge throughout the land, and, in time, paying back where they have borrowed, shall contribute their part to the great aggregate of human knowledge; and our descendants, through all generations, shall look back to this spot, and to this hour, with unabated affection and regard."

A brief remembrance of the causes which led to the settlement of this place; some account of the peculiarities and characteristic qualities of that settlement, as distinguished from other instances of colonization; a short notice of the progress of New England in the great interests of society, during the century which is now elapsed; with a few observations on the principles upon which society and government are established in

this country: comprise all that can be attempted, and much more than can be satisfactorily performed, on the present occasion.

Of the motives which influenced the first settlers to a voluntary exile, induced them to relinquish their native country, and to seek an asylum in this then unexplored wilderness, the first and principal, no doubt, were connected with religion. They sought to enjoy a higher degree of religious freedom, and what they esteemed a purer form of religious worship, than was allowed to their choice, or presented to their imitation, in the Old World. The love of religious liberty is a stronger sentiment, when fully excited, than an attachment to civil or political freedom. That freedom which the conscience demands, and which men feel bound by their hope of salvation to contend for, can hardly fail to be attained. Conscience, in the cause of religion and the worship of the Deity, prepares the mind to act and to suffer beyond almost all other causes. It sometimes gives an impulse so irresistible, that no fetters of power or of opinion can withstand it. History instructs us that this love of religious liberty, a compound sentiment in the breast of man, made up of the clearest sense of right and the highest conviction of duty, is able to look the sternest despotism in the face, and, with means apparently most inadequate, to shake principalities and powers. There is a boldness, a spirit of daring, in religious reformers, not to be measured by the general rules which control men's purposes and actions. If the hand of power be laid upon it, this only seems to augment its force and its elasticity, and to cause its action to be more formidable and violent. Human invention has devised nothing, human power has compassed nothing, that can forcibly restrain it, when it breaks forth. Nothing can stop it, but to give way to it; nothing can check it, but indulgence. It loses its power only when it has gained its object. The principle of toleration, to which the world has come so slowly, is at once the most just and the most wise of all principles. Even when religious feeling takes a character of extravagance and enthusiasm, and seems to threaten the order of society and shake the columns of the social edifice, its principal danger is in its restraint. If it be allowed indulgence and expansion, like the elemental fires, it only agitates, and perhaps purifies, the atmosphere; while its efforts to throw off restraint would burst the world asunder.

It is certain, that, although many of them were republicans in principle, we have no evidence that our New England ancestors would have emigrated, as they did, from their own native country, would have become wanderers in Europe, and finally would have undertaken the establishment of a colony here, merely from their dislike of the political systems of Europe. They fled not so much from the civil government, as from the hierarchy, and the laws which enforced conformity to the church establishment. Mr. Robinson had left England as early as 1608, on account of the persecutions for non-conformity, and had retired to Holland. He left England from no disappointed ambition in affairs of state, from no regrets at the want of preferment in the church, nor from any motive of distinction or of gain. Uniformity in matters of religion was pressed with such extreme rigor, that a voluntary exile seemed the most eligible mode of escaping from the penalties of non-compliance. The accession of Elizabeth had, it is true, quenched the fires of Smithfield, and put an end to the easy acquisition of the crown of martyrdom. Her long reign had established the Reformation,

but toleration was a virtue beyond her conception, and beyond the age. She left no example of it to her successor; and he was not of a character which rendered it probable that a sentiment either so wise or so liberal would originate with him. At the present period it seems incredible that the learned, accomplished, unassuming, and inoffensive Robinson should neither be tolerated in his peaceable mode of worship in his own country, nor suffered quietly to depart from it. Yet such was the fact. He left his country by stealth, that he might elsewhere enjoy those rights which ought to belong to men in all countries. The departure of the Pilgrims for Holland is deeply interesting, from its circumstances, and also as it marks the character of the times, independently of its connection with names now incorporated with the history of empire. [5] The embarkation was intended to be made in such a manner that it might escape the notice of the officers of government. Great pains had been taken to secure boats, which should come undiscovered to the shore, and receive the fugitives; and frequent disappointments had been experienced in this respect.

At length the appointed time came, bringing with it unusual severity of cold and rain. An unfrequented and barren heath, on the shores of Lincolnshire, was the selected spot, where the feet of the Pilgrims were to tread, for the last time, the land of their fathers. The vessel which was to receive them did not come until the next day, and in the meantime the little band was collected, and men and women and children and baggage were crowded together, in melancholy and distressed confusion. The sea was rough, and the women and children were already sick, from their passage down the river to the place of embarkation on the sea. At length the wished-for boat silently and fearfully approaches the shore, and men and women and children, shaking with fear and with cold, as many as the small vessel could bear, venture off on a dangerous sea. Immediately the advance of horses is heard from behind, armed men appear, and those not yet embarked are seized and taken into custody. In the hurry of the moment, the first parties had been sent on board without any attempt to keep members of the same family together, and on account of the appearance of the horsemen, the boat never returned for the residue. Those who had got away, and those who had not, were in equal distress. A storm, of great violence and long duration, arose at sea, which not only protracted the voyage, rendered distressing by the want of all those accommodations which the interruption of the embarkation had occasioned, but also forced the vessel out of her course, and menaced immediate shipwreck; while those on shore, when they were dismissed from the custody of the officers of justice, having no longer homes or houses to retire to, and their friends and protectors being already gone, became objects of necessary charity, as well as of deep commiseration.

As this scene passes before us, we can hardly forbear asking whether this be a band of malefactors and felons flying from justice. What are their crimes, that they hide themselves in darkness? To what punishment are they exposed, that, to avoid it, men, and women, and children, thus encounter the surf of the North Sea and the terrors of a night storm? What induces this armed pursuit, and this arrest of fugitives, of all ages and both sexes? Truth does not allow us to answer these inquiries in a manner that does credit to the wisdom or the justice of the times. This was not the flight of guilt, but of virtue. It was an humble and peaceable religion,

flying from causeless oppression. It was conscience, attempting to escape from the arbitrary rule of the Stuarts. It was Robinson and Brewster, leading off their little band from their native soil, at first to find shelter on the shore of the neighboring continent, but ultimately to come hither; and having surmounted all difficulties and braved a thousand dangers, to find here a place of refuge and of rest. Thanks be to God, that this spot was honored as the asylum of religious liberty! May its standard, reared here, remain for ever! May it rise up as high as heaven, till its banner shall fan the air of both continents, and wave as a glorious ensign of peace and security to the nations!

The peculiar character, condition, and circumstances of the colonies which introduced civilization and an English race into New England, afford a most interesting and extensive topic of discussion. On these, much of our subsequent character and fortune has depended. Their influence has essentially affected our whole history, through the two centuries which have elapsed; and as they have become intimately connected with government, laws, and property, as well as with our opinions on the subjects of religion and civil liberty, that influence is likely to continue to be felt through the centuries which shall succeed. Emigration from one region to another, and the emission of colonies to people countries more or less distant from the residence of the parent stock, are common incidents in the history of mankind; but it has not often, perhaps never, happened, that the establishment of colonies should be attempted under circumstances, however beset with present difficulties and dangers, yet so favorable to ultimate success, and so conducive to magnificent results, as those which attended the first settlements on this part of the American continent. In other instances, emigration has proceeded from a less exalted purpose, in periods of less general intelligence, or more without plan and by accident; or under circumstances, physical and moral, less favorable to the expectation of laying a foundation for great public prosperity and future empire.

A great resemblance exists, obviously, between all the English colonies established within the present limits of the United States; but the occasion attracts our attention more immediately to those which took possession of New England, and the peculiarities of these furnish a strong contrast with most other instances of colonization.

Among the ancient nations, the Greeks, no doubt, sent forth from their territories the greatest number of colonies. So numerous, indeed, were they, and so great the extent of space over which they were spread, that the parent country fondly and naturally persuaded herself, that by means of them she had laid a sure foundation for the universal civilization of the world. These establishments, from obvious causes, were most numerous in places most contiguous; yet they were found on the coasts of France, on the shores of the Euxine Sea, in Africa, and even, as is alleged, on the borders of India. These emigrations appear to have been sometimes voluntary and sometimes compulsory; arising from the spontaneous enterprise of individuals, or the order and regulation of government. It was a common opinion with ancient writers, that they were undertaken in religious obedience to the commands of oracles, and it is probable that impressions of this sort might have had more or less influence; but it is

probable, also, that on these occasions the oracles did not speak a language dissonant from the views and purposes of the state.

Political science among the Greeks seems never to have extended to the comprehension of a system, which should be adequate to the government of a great nation upon principles of liberty. They were accustomed only to the contemplation of small republics, and were led to consider an augmented population as incompatible with free institutions. The desire of a remedy for this supposed evil, and the wish to establish marts for trade, led the governments often to undertake the establishment of colonies as an affair of state expediency. Colonization and commerce, indeed, would naturally become objects of interest to an ingenious and enterprising people, inhabiting a territory closely circumscribed in its limits, and in no small part mountainous and sterile; while the islands of the adjacent seas, and the promontories and coasts of the neighboring continents, by their mere proximity, strongly solicited the excited spirit of emigration. Such was this proximity, in many instances, that the new settlements appeared rather to be the mere extension of population over contiguous territory, than the establishment of distant colonies. In proportion as they were near to the parent state, they would be under its authority, and partake of its fortunes. The colony at Marseilles might perceive lightly, or not at all, the sway of Phocis; while the islands in the Aegean Sea could hardly attain to independence of their Athenian origin. Many of these establishments took place at an early age; and if there were defects in the governments of the parent states, the colonists did not possess philosophy or experience sufficient to correct such evils in their own institutions, even if they had not been, by other causes, deprived of the power. An immediate necessity, connected with the support of life, was the main and direct inducement to these undertakings, and there could hardly exist more than the hope of a successful imitation of institutions with which they were already acquainted, and of holding an equality with their neighbors in the course of improvement. The laws and customs, both political and municipal, as well as the religious worship of the parent city, were transferred to the colony; and the parent city herself, with all such of her colonies as were not too far remote for frequent intercourse and common sentiments, would appear like a family of cities, more or less dependent, and more or less connected. We know how imperfect this system was, as a system of general politics, and what scope it gave to those mutual dissensions and conflicts which proved so fatal to Greece.

But it is more pertinent to our present purpose to observe, that nothing existed in the character of Grecian emigrations, or in the spirit and intelligence of the emigrants, likely to give a new and important direction to human affairs, or a new impulse to the human mind. Their motives were not high enough, their views were not sufficiently large and prospective. They went not forth, like our ancestors, to erect systems of more perfect civil liberty, or to enjoy a higher degree of religious freedom. Above all, there was nothing in the religion and learning of the age, that could either inspire high purposes, or give the ability to execute them. Whatever restraints on civil liberty, or whatever abuses in religious worship, existed at the time of our fathers' emigration, yet even then all was light in the moral and mental world, in comparison with its condition in most periods of the ancient states. The settlement of a

new continent, in an age of progressive knowledge and improvement, could not but do more than merely enlarge the natural boundaries of the habitable world. It could not but do much more even than extend commerce and increase wealth among the human race. We see how this event has acted, how it must have acted, and wonder only why it did not act sooner, in the production of moral effects, on the state of human knowledge, the general tone of human sentiments, and the prospects of human happiness. It gave to civilized man not only a new continent to be inhabited and cultivated, and new seas to be explored; but it gave him also a new range for his thoughts, new objects for curiosity, and new excitements to knowledge and improvement.

Roman colonization resembled, far less than that of the Greeks, the original settlements of this country. Power and dominion were the objects of Rome, even in her colonial establishments. Her whole exterior aspect was for centuries hostile and terrific. She grasped at dominion, from India to Britain, and her measures of colonization partook of the character of her general system. Her policy was military, because her objects were power, ascendency, and subjugation. Detachments of emigrants from Rome incorporated themselves with, and governed, the original inhabitants of conquered countries. She sent citizens where she had first sent soldiers; her law followed her sword. Her colonies were a sort of military establishment; so many advanced posts in the career of her dominion. A governor from Rome ruled the new colony with absolute sway, and often with unbounded rapacity. In Sicily, in Gaul, in Spain, and in Asia, the power of Rome prevailed, not nominally only, but really and effectually. Those who immediately exercised it were Roman; the tone and tendency of its administration, Roman. Rome herself continued to be the heart and centre of the great system which she had established. [6] Extortion and rapacity, finding a wide and often rich field of action in the provinces, looked nevertheless to the banks of the Tiber, as the scene in which their ill-gotten treasures should be displayed; or, if a spirit of more honest acquisition prevailed, the object, nevertheless, was ultimate enjoyment in Rome itself. If our own history and our own times did not sufficiently expose the inherent and incurable evils of provincial government, we might see them portrayed, to our amazement, in the desolated and ruined provinces of the Roman empire. We might hear them, in a voice that terrifies us, in those strains of complaint and accusation, which the advocates of the provinces poured forth in the Roman Forum:-- "Quas res luxuries in flagitiis, crudelitas in suppliciis, avaritia in rapinis, superbia in contumeliis, efficere potuisset, eas omnes sese pertulisse."

As was to be expected, the Roman Provinces partook of the fortunes, as well as of the sentiments and general character, of the seat of empire. They lived together with her, they flourished with her, and fell with her. The branches were lopped away even before the vast and venerable trunk itself fell prostrate to the earth. Nothing had proceeded from her which could support itself, and bear up the name of its origin, when her own sustaining arm should be enfeebled or withdrawn. It was not given to Rome to see, either at her zenith or in her decline, a child of her own, distant, indeed, and independent of her control, yet speaking her language and inheriting her blood, springing forward to a competition with her own

power, and a comparison with her own great renown. She saw not a vast region of the earth peopled from her stock, full of states and political communities, improving upon the models of her institutions, and breathing in fuller measure the spirit which she had breathed in the best periods of her existence; enjoying and extending her arts and her literature; rising rapidly from political childhood to manly strength and independence; her offspring, yet now her equal; unconnected with the causes which might affect the duration of her own power and greatness; of common origin, but not linked to a common fate; giving ample pledge, that her name should not be forgotten, that her language should not cease to be used among men; that whatsoever she had done for human knowledge and human happiness should be treasured up and preserved; that the record of her existence and her achievements should not be obscured, although, in the inscrutable purposes of Providence, it might be her destiny to fall from opulence and splendor; although the time might come, when darkness should settle on all her hills; when foreign or domestic violence should overturn her altars and her temples; when ignorance and despotism should fill the places where Laws, and Arts, and Liberty had flourished; when the feet of barbarism should trample on the tombs of her consuls, and the walls of her senate-house and forum echo only to the voice of savage triumph. She saw not this glorious vision, to inspire and fortify her against the possible decay or downfall of her power. Happy are they who in our day may behold it, if they shall contemplate it with the sentiments which it ought to inspire!

The New England Colonies differ quite as widely from the Asiatic establishments of the modern European nations, as from the models of the ancient states. The sole object of those establishments was originally trade; although we have seen, in one of them, the anomaly of a mere trading company attaining a political character, disbursing revenues, and maintaining armies and fortresses, until it has extended its control over seventy millions of people. Differing from these, and still more from the New England and North American Colonies, are the European settlements in the West India Islands. It is not strange, that, when men's minds were turned to the settlement of America, different objects should be proposed by those who emigrated to the different regions of so vast a country. Climate, soil, and condition were not equally favorable to all pursuits. In the West Indies, the purpose of those who went thither was to engage in that species of agriculture, suited to the soil and climate, which seems to bear more resemblance to commerce than to the hard and plain tillage of New England. The great staples of these countries, being partly an agricultural and partly a manufactured product, and not being of the necessaries of life, become the object of calculation, with respect to a profitable investment of capital, like any other enterprise of trade or manufacture. The more especially, as, requiring, by necessity or habit, slave labor for their production, the capital necessary to carry on the work of this production is very considerable. The West Indies are resorted to, therefore, rather for the investment of capital than for the purpose of sustaining life by personal labor. Such as possess a considerable amount of capital, or such as choose to adventure in commercial speculations without capital, can alone be fitted to be emigrants to the islands. The agriculture of these regions, as before observed, is a sort of commerce; and it is a species of employment in which labor seems to form an inconsiderable ingredient in the productive causes, since the

portion of white labor is exceedingly small, and slave labor is rather more like profit on stock or capital than _labor_ properly so called. The individual who undertakes an establishment of this kind takes into the account the cost of the necessary number of slaves, in the same manner as he calculates the cost of the land. The uncertainty, too, of this species of employment, affords another ground of resemblance to commerce. Although gainful on the whole, and in a series of years, it is often very disastrous for a single year, and, as the capital is not readily invested in other pursuits, bad crops or bad markets not only affect the profits, but the capital itself. Hence the sudden depressions which take place in the value of such estates.

But the great and leading observation, relative to these establishments, remains to be made. It is, that the owners of the soil and of the capital seldom consider themselves _at home_ in the colony. A very great portion of the soil itself is usually owned in the mother country; a still greater is mortgaged for capital obtained there; and, in general, those who are to derive an interest from the products look to the parent country as the place for enjoyment of their wealth. The population is therefore constantly fluctuating. Nobody comes but to return. A constant succession of owners, agents, and factors takes place. Whatsoever the soil, forced by the unmitigated toil of slavery, can yield, is sent home to defray rents, and interest, and agencies, or to give the means of living in a better society. In such a state, it is evident that no spirit of permanent improvement is likely to spring up. Profits will not be invested with a distant view of benefiting posterity. Roads and canals will hardly be built; schools will not be founded; colleges will not be endowed. There will be few fixtures in society; no principles of utility or of elegance, planted now, with the hope of being developed and expanded hereafter. Profit, immediate profit, must be the principal active spring in the social system. There may be many particular exceptions to these general remarks, but the outline of the whole is such as is here drawn.[7]

Another most important consequence of such a state of things is, that no idea of independence of the parent country is likely to arise; unless, indeed, it should spring up in a form that would threaten universal desolation. The inhabitants have no strong attachment to the place which they inhabit. The hope of a great portion of them is to leave it; and their great desire, to leave it soon. However useful they may be to the parent state, how much soever they may add to the conveniences and luxuries of life, these colonies are not favored spots for the expansion of the human mind, for the progress of permanent improvement, or for sowing the seeds of future independent empire.

Different, indeed, most widely different, from all these instances, of emigration and plantation, were the condition, the purposes, and the prospects of our fathers, when they established their infant colony upon this spot. They came hither to a land from which they were never to return. Hither they had brought, and here they were to fix, their hopes, their attachments, and their objects in life. Some natural tears they shed, as they left the pleasant abodes of their fathers, and some emotions they suppressed, when the white cliffs of their native country, now seen for the last time, grew dim to their sight. They were acting, however,

upon a resolution not to be daunted. With whatever stifled regrets, with whatever occasional hesitation, with whatever appalling apprehensions, which might sometimes arise with force to shake the firmest purpose, they had yet committed themselves to Heaven and the elements; and a thousand leagues of water soon interposed to separate them for ever from the region which gave them birth. A new existence awaited them here; and when they saw these shores, rough, cold, barbarous, and barren, as then they were, they beheld their country. That mixed and strong feeling, which we call love of country, and which is, in general, never extinguished in the heart of man, grasped and embraced its proper object here. Whatever constitutes _country_, except the earth and the sun, all the moral causes of affection and attachment which operate upon the heart, they had brought with them to their new abode. Here were now their families and friends, their homes, and their property. Before they reached the shore, they had established the elements of a social system,[8] and at a much earlier period had settled their forms of religious worship. At the moment of their landing, therefore, they possessed institutions of government, and institutions of religion: and friends and families, and social and religious institutions, framed by consent, founded on choice and preference, how nearly do these fill up our whole idea of country! The morning that beamed on the first night of their repose saw the Pilgrims already _at home_ in their country. There were political institutions, and civil liberty, and religious worship. Poetry has fancied nothing, in the wanderings of heroes, so distinct and characteristic. Here was man, indeed, unprotected, and unprovided for, on the shore of a rude and fearful wilderness; but it was politic, intelligent, and educated man. Every thing was civilized but the physical world. Institutions, containing in substance all that ages had done for human government, were organized in a forest.[9] Cultivated mind was to act on uncultivated nature; and, more than all, a government and a country were to commence, with the very first foundations laid under the divine light of the Christian religion. Happy auspices of a happy futurity! Who would wish that his country's existence had otherwise begun? Who would desire the power of going back to the ages of fable? Who would wish for an origin obscured in the darkness of antiquity? Who would wish for other emblazoning of his country's heraldry, or other ornaments of her genealogy, than to be able to say, that her first existence was with intelligence, her first breath the inspiration of liberty, her first principle the truth of divine religion?

Local attachments and sympathies would ere long spring up in the breasts of our ancestors, endearing to them the place of their refuge. Whatever natural objects are associated with interesting scenes and high efforts obtain a hold on human feeling, and demand from the heart a sort of recognition and regard. This Rock soon became hallowed in the esteem of the Pilgrims, and these hills grateful to their sight. Neither they nor their children were again to till the soil of England, nor again to traverse the seas which surround her. But here was a new sea, now open to their enterprise, and a new soil, which had not failed to respond gratefully to their laborious industry, and which was already assuming a robe of verdure. Hardly had they provided shelter for the living, ere they were summoned to erect sepulchres for the dead. The ground had become sacred, by enclosing the remains of some of their companions and connections. A parent, a child, a husband, or a wife, had gone the way of

all flesh, and mingled with the dust of New England. We naturally look with strong emotions to the spot, though it be a wilderness, where the ashes of those we have loved repose. Where the heart has laid down what it loved most, there it is desirous of laying itself down. No sculptured marble, no enduring monument, no honorable inscription, no ever-burning taper that would drive away the darkness of the tomb, can soften our sense of the reality of death, and hallow to our feelings the ground which is to cover us, like the consciousness that we shall sleep, dust to dust, with the objects of our affections.

In a short time other causes sprung up to bind the Pilgrims with new cords to their chosen land. Children were born, and the hopes of future generations arose, in the spot of their new habitation. The second generation found this the land of their nativity, and saw that they were bound to its fortunes. They beheld their fathers' graves around them, and while they read the memorials of their toils and labors, they rejoiced in the inheritance which they found bequeathed to them.

Under the influence of these causes, it was to be expected that an interest and a feeling should arise here, entirely different from the interest and feeling of mere Englishmen; and all the subsequent history of the Colonies proves this to have actually and gradually taken place. With a general acknowledgment of the supremacy of the British crown, there was, from the first, a repugnance to an entire submission to the control of British legislation. The Colonies stood upon their charters, which, as they contended, exempted them from the ordinary power of the British Parliament, and authorized them to conduct their own concerns by their own counsels. They utterly resisted the notion that they were to be ruled by the mere authority of the government at home, and would not endure even that their own charter governments should be established on the other side of the Atlantic. It was not a controlling or protecting board in England, but a government of their own, and existing immediately within their limits, which could satisfy their wishes. It was easy to foresee, what we know also to have happened, that the first great cause of collision and jealousy would be, under the notion of political economy then and still prevalent in Europe, an attempt on the part of the mother country to monopolize the trade of the Colonies. Whoever has looked deeply into the causes which produced our Revolution has found, if I mistake not, the original principle far back in this claim, on the part of England, to monopolize our trade, and a continued effort on the part of the Colonies to resist or evade that monopoly; if, indeed, it be not still more just and philosophical to go farther back, and to consider it decided, that an independent government must arise here, the moment it was ascertained that an English colony, such as landed in this place, could sustain itself against the dangers which surrounded it, and, with other similar establishments, overspread the land with an English population. Accidental causes retarded at times, and at times accelerated, the progress of the controversy. The Colonies wanted strength, and time gave it to them. They required measures of strong and palpable injustice, on the part of the mother country, to justify resistance; the early part of the late king's reign furnished them. They needed spirits of high order, of great daring, of long foresight, and of commanding power, to seize the favoring occasion to strike a blow, which should sever, for all time, the tie of colonial

dependence; and these spirits were found, in all the extent which that or any crisis could demand, in Otis, Adams, Hancock, and the other immediate authors of our independence.

Still, it is true that, for a century, causes had been in operation tending to prepare things for this great result. In the year 1660 the English Act of Navigation was passed; the first and grand object of which seems to have been, to secure to England the whole trade with her plantations. It was provided by that act, that none but English ships should transport American produce over the ocean, and that the principal articles of that produce should be allowed to be sold only in the markets of the mother country. Three years afterwards another law was passed, which enacted, that such commodities as the Colonies might wish to purchase should be bought only in the markets of the mother country. Severe rules were prescribed to enforce the provisions of these laws, and heavy penalties imposed on all who should violate them. In the subsequent years of the same reign, other statutes were enacted to re-enforce these statutes, and other rules prescribed to secure a compliance with these rules. In this manner was the trade to and from the Colonies restricted, almost to the exclusive advantage of the parent country. But laws, which rendered the interest of a whole people subordinate to that of another people, were not likely to execute themselves; nor was it easy to find many on the spot, who could be depended upon for carrying them into execution. In fact, these laws were more or less evaded or resisted, in all the Colonies. To enforce them was the constant endeavor of the government at home; to prevent or elude their operation, the perpetual object here. "The laws of navigation," says a living British writer, "were nowhere so openly disobeyed and contemned as in New England." "The people of Massachusetts Bay," he adds, "were from the first disposed to act as if independent of the mother country, and having a governor and magistrates of their own choice, it was difficult to enforce any regulation which came from the English Parliament, adverse to their interests." To provide more effectually for the execution of these laws, we know that courts of admiralty were afterwards established by the crown, with power to try revenue causes, as questions of admiralty, upon the construction given by the crown lawyers to an act of Parliament; a great departure from the ordinary principles of English jurisprudence, but which has been maintained, nevertheless, by the force of habit and precedent, and is adopted in our own existing systems of government.

"There lie," says another English writer, whose connection with the Board of Trade has enabled him to ascertain many facts connected with Colonial history, "There lie among the documents in the board of trade and state-paper office, the most satisfactory proofs, from the epoch of the English Revolution in 1688, throughout every reign, and during every administration, of the settled purpose of the Colonies to acquire direct independence and positive sovereignty." Perhaps this may be stated somewhat too strongly; but it cannot be denied, that, from the very nature of the establishments here, and from the general character of the measures respecting their concerns early adopted and steadily pursued by the English government, a division of the empire was the natural and necessary result to which every thing tended.

I have dwelt on this topic, because it seems to me, that the peculiar original character of the New England Colonies, and certain causes coeval with their existence, have had a strong and decided influence on all their subsequent history, and especially on the great event of the Revolution. Whoever would write our history, and would understand and explain early transactions, should comprehend the nature and force of the feeling which I have endeavored to describe. As a son, leaving the house of his father for his own, finds, by the order of nature, and the very law of his being, nearer and dearer objects around which his affections circle, while his attachment to the parental roof becomes moderated, by degrees, to a composed regard and an affectionate remembrance; so our ancestors, leaving their native land, not without some violence to the feelings of nature and affection, yet, in time, found here a new circle of engagements, interests, and affections; a feeling, which more and more encroached upon the old, till an undivided sentiment, _that this was their country_, occupied the heart; and patriotism, shutting out from its embraces the parent realm, became _local_ to America. Some retrospect of the century which has now elapsed is among the duties of the occasion. It must, however, necessarily be imperfect, to be compressed within the limits of a single discourse. I shall content myself, therefore, with taking notice of a few of the leading and most important occurrences which have distinguished the period.

When the first century closed, the progress of the country appeared to have been considerable; notwithstanding that, in comparison with its subsequent advancement, it now seems otherwise. A broad and lasting foundation had been laid; excellent institutions had been established; many of the prejudices of former times had been removed; a more liberal and catholic spirit on subjects of religious concern had begun to extend itself, and many things conspired to give promise of increasing future prosperity. Great men had arisen in public life, and the liberal professions. The Mathers, father and son, were then sinking low in the western horizon; Leverett, the learned, the accomplished, the excellent Leverett, was about to withdraw his brilliant and useful light. In Pemberton great hopes had been suddenly extinguished, but Prince and Colman were in our sky; and along the east had begun to flash the crepuscular light of a great luminary which was about to appear, and which was to stamp the age with his own name, as the age of Franklin.

The bloody Indian wars, which harassed the people for a part of the first century; the restrictions on the trade of the Colonies, added to the discouragements inherently belonging to all forms of colonial government; the distance from Europe, and the small hope of immediate profit to adventurers, are among the causes which had contributed to retard the progress of population. Perhaps it may be added, also, that during the period of the civil wars in England, and the reign of Cromwell, many persons, whose religious opinions and religious temper might, under other circumstances, have induced them to join the New England colonists, found reasons to remain in England; either on account of active occupation in the scenes which were passing, or of an anticipation of the enjoyment, in their own country, of a form of government, civil and religious, accommodated to their views and principles. The violent measures, too, pursued against the Colonies in the reign of Charles the Second, the

mockery of a trial, and the forfeiture of the charters, were serious evils. And during the open violences of the short reign of James the Second, and the tyranny of Andros, as the venerable historian of Connecticut observes, "All the motives to great actions, to industry, economy, enterprise, wealth, and population, were in a manner annihilated. A general inactivity and languishment pervaded the public body. Liberty, property, and every thing which ought to be dear to men, every day grew more and more insecure." With the Revolution in England, a better prospect had opened on this country, as well as on that. The joy had been as great at that event, and far more universal, in New than in Old England. A new charter had been granted to Massachusetts, which, although it did not confirm to her inhabitants all their former privileges, yet relieved them from great evils and embarrassments, and promised future security. More than all, perhaps, the Revolution in England had done good to the general cause of liberty and justice. A blow had been struck in favor of the rights and liberties, not of England alone, but of descendants and kinsmen of England all over the world. Great political truths had been established the champions of liberty had been successful in a fearful and perilous conflict. Somers, and Cavendish, and Jekyl, and Howard, had triumphed in one of the most noble causes ever undertaken by men. A revolution had been made upon principle. A monarch had been dethroned for violating the original compact between king and people. The rights of the people to partake in the government, and to limit the monarch by fundamental rules of government, had been maintained; and however unjust the government of England might afterwards be towards other governments or towards her colonies, she had ceased to be governed herself by the arbitrary maxims of the Stuarts.

New England had submitted to the violence of James the Second not longer than Old England. Not only was it reserved to Massachusetts, that on her soil should be acted the first scene of that great revolutionary drama, which was to take place near a century afterwards, but the English Revolution itself, as far as the Colonies were concerned, commenced in Boston. The seizure and imprisonment of Andros, in April, 1689, were acts of direct and forcible resistance to the authority of James the Second. The pulse of liberty beat as high in the extremities as at the heart. The vigorous feeling of the Colony burst out before it was known how the parent country would finally conduct herself. The king's representative, Sir Edmund Andros, was a prisoner in the castle at Boston, before it was or could be known that the king himself had ceased to exercise his full dominion on the English throne.

Before it was known here whether the invasion of the Prince of Orange would or could prove successful, as soon as it was known that it had been undertaken, the people of Massachusetts, at the imminent hazard of their lives and fortunes, had accomplished the Revolution as far as respected themselves. It is probable that, reasoning on general principles and the known attachment of the English people to their constitution and liberties, and their deep and fixed dislike of the king's religion and politics, the people of New England expected a catastrophe fatal to the power of the reigning prince. Yet it was neither certain enough, nor near enough, to come to their aid against the authority of the crown, in that crisis which had arrived, and in which they trusted to put themselves,

relying on God and their own courage. There were spirits in Massachusetts congenial with the spirits of the distinguished friends of the Revolution in England. There were those who were fit to associate with the boldest asserters of civil liberty; and Mather himself, then in England, was not unworthy to be ranked with those sons of the Church, whose firmness and spirit in resisting kingly encroachments in matters of religion, entitled them to the gratitude of their own and succeeding ages.

The second century opened upon New England under circumstances which evinced that much had already been accomplished, and that still better prospects and brighter hopes were before her. She had laid, deep and strong, the foundations of her society. Her religious principles were firm, and her moral habits exemplary. Her public schools had begun to diffuse widely the elements of knowledge; and the College, under the excellent and acceptable administration of Leverett, had been raised to a high degree of credit and usefulness.

The commercial character of the country, notwithstanding all discouragements, had begun to display itself, and _five hundred vessels_, then belonging to Massachusetts, placed her, in relation to commerce, thus early at the head of the Colonies. An author who wrote very near the close of the first century says:--"New England is almost deserving that _noble name_, so mightily hath it increased; and from a small settlement at first, is now become a very _populous_ and _flourishing_ government. The _capital city_, Boston, is a place of _great wealth and trade_; and by much the largest of any in the English empire of America; and not exceeded but by few cities, perhaps two or three, in all the American world." But if our ancestors at the close of the first century could look back with joy and even admiration, at the progress of the country, what emotions must we not feel, when, from the point on which we stand, we also look back and run along the events of the century which has now closed! The country which then, as we have seen, was thought deserving of a "noble name,"--which then had "mightily increased," and become "very populous,"--what was it, in comparison with what our eyes behold it? At that period, a very great proportion of its inhabitants lived in the eastern section of Massachusetts proper, and in Plymouth Colony. In Connecticut, there were towns along the coast, some of them respectable, but in the interior all was a wilderness beyond Hartford. On Connecticut River, settlements had proceeded as far up as Deerfield, and Fort Dummer had been built near where is now the south line of New Hampshire. In New Hampshire no settlement was then begun thirty miles from the mouth of Piscataqua River, and in what is now Maine the inhabitants were confined to the coast. The aggregate of the whole population of New England did not exceed one hundred and sixty thousand. Its present amount (1820) is probably one million seven hundred thousand. Instead of being confined to its former limits, her population has rolled backward, and filled up the spaces included within her actual local boundaries. Not this only, but it has overflowed those boundaries, and the waves of emigration have pressed farther and farther toward the West. The Alleghany has not checked it; the banks of the Ohio have been covered with it. New England farms, houses, villages, and churches spread over and adorn the immense extent from the Ohio to Lake Erie, and stretch along from the Alleghany onwards, beyond the Miamis, and towards the Falls of St. Anthony. Two

thousand miles westward from the rock where their fathers landed, may now be found the sons of the Pilgrims, cultivating smiling fields, rearing towns and villages, and cherishing, we trust, the patrimonial blessings of wise institutions, of liberty, and religion. The world has seen nothing like this. Regions large enough to be empires, and which, half a century ago, were known only as remote and unexplored wildernesses, are now teeming with population, and prosperous in all the great concerns of life; in good governments, the means of subsistence, and social happiness. It may be safely asserted, that there are now more than a million of people, descendants of New England ancestry, living, free and happy, in regions which scarce sixty years ago were tracts of unpenetrated forest. Nor do rivers, or mountains, or seas resist the progress of industry and enterprise. Erelong, the sons of the Pilgrims will be on the shores of the Pacific. The imagination hardly keeps pace with the progress of population, improvement, and civilization.

It is now five-and-forty years since the growth and rising glory of America were portrayed in the English Parliament, with inimitable beauty, by the most consummate orator of modern times. Going back somewhat more than half a century, and describing our progress as foreseen from that point by his amiable friend Lord Bathurst, then living, he spoke of the wonderful progress which America had made during the period of a single human life. There is no American heart, I imagine, that does not glow, both with conscious, patriotic pride, and admiration for one of the happiest efforts of eloquence, so often as the vision of "that little speck, scarce visible in the mass of national interest, a small seminal principle, rather than a formed body," and the progress of its astonishing development and growth, are recalled to the recollection. But a stronger feeling might be produced, if we were able to take up this prophetic description where he left it, and, placing ourselves at the point of time in which he was speaking, to set forth with equal felicity the subsequent progress of the country. There is yet among the living a most distinguished and venerable name, a descendant of the Pilgrims; one who has been attended through life by a great and fortunate genius; a man illustrious by his own great merits, and favored of Heaven in the long continuation of his years. The time when the English orator was thus speaking of America preceded but by a few days the actual opening of the revolutionary drama at Lexington. He to whom I have alluded, then at the age of forty, was among the most zealous and able defenders of the violated rights of his country. He seemed already to have filled a full measure of public service, and attained an honorable fame. The moment was full of difficulty and danger, and big with events of immeasurable importance. The country was on the very brink of a civil war, of which no man could foretell the duration or the result. Something more than a courageous hope, or characteristic ardor, would have been necessary to impress the glorious prospect on his belief, if, at that moment, before the sound of the first shock of actual war had reached his ears, some attendant spirit had opened to him the vision of the future;--if it had said to him, "The blow is struck, and America is severed from England for ever!"--if it had informed him, that he himself, during the next annual revolution of the sun, should put his own hand to the great instrument of independence, and write his name where all nations should behold it and all time should not efface it; that erelong he himself should maintain the

interests and represent the sovereignty of his new-born country in the proudest courts of Europe; that he should one day exercise her supreme magistracy; that he should yet live to behold ten millions of fellow-citizens paying him the homage of their deepest gratitude and kindest affections; that he should see distinguished talent and high public trust resting where his name rested; that he should even see with his own unclouded eyes the close of the second century of New England, who had begun life almost with its commencement, and lived through nearly half the whole history of his country; and that on the morning of this auspicious day he should be found in the political councils of his native State, revising, by the light of experience, that system of government which forty years before he had assisted to frame and establish; and, great and happy as he should then behold his country, there should be nothing in prospect to cloud the scene, nothing to check the ardor of that confident and patriotic hope which should glow in his bosom to the end of his long protracted and happy life.

It would far exceed the limits of this discourse even to mention the principal events in the civil and political history of New England during the century; the more so, as for the last half of the period that history has, most happily, been closely interwoven with the general history of the United States. New England bore an honorable part in the wars which took place between England and France. The capture of Louisburg gave her a character for military achievement; and in the war which terminated with the peace of 1763, her exertions on the frontiers were of most essential service, as well to the mother country as to all the Colonies.

In New England the war of the Revolution commenced. I address those who remember the memorable 19th of April, 1775; who shortly after saw the burning spires of Charlestown; who beheld the deeds of Prescott, and heard the voice of Putnam amidst the storm of war, and saw the generous Warren fall, the first distinguished victim in the cause of liberty. It would be superfluous to say, that no portion of the country did more than the States of New England to bring the Revolutionary struggle to a successful issue. It is scarcely less to her credit, that she saw early the necessity of a closer union of the States, and gave an efficient and indispensable aid to the establishment and organization of the Federal government.

Perhaps we might safely say, that a new spirit and a new excitement began to exist here about the middle of the last century. To whatever causes it may be imputed, there seems then to have commenced a more rapid improvement. The Colonies had attracted more of the attention of the mother country, and some renown in arms had been acquired. Lord Chatham was the first English minister who attached high importance to these possessions of the crown, and who foresaw any thing of their future growth and extension. His opinion was, that the great rival of England was chiefly to be feared as a maritime and commercial power, and to drive her out of North America and deprive her of her West Indian possessions was a leading object in his policy. He dwelt often on the fisheries, as nurseries for British seamen, and the colonial trade, as furnishing them employment. The war, conducted by him with so much vigor, terminated in a peace, by which Canada was ceded to England. The effect of this was immediately visible in the New England Colonies; for, the fear of Indian

hostilities on the frontiers being now happily removed, settlements went on with an activity before that time altogether unprecedented, and public affairs wore a new and encouraging aspect. Shortly after this fortunate termination of the French war, the interesting topics connected with the taxation of America by the British Parliament began to be discussed, and the attention and all the faculties of the people drawn towards them. There is perhaps no portion of our history more full of interest than the period from 1760 to the actual commencement of the war. The progress of opinion in this period, though less known, is not less important than the progress of arms afterwards. Nothing deserves more consideration than those events and discussions which affected the public sentiment and settled the Revolution in men's minds, before hostilities openly broke out.

Internal improvement followed the establishment and prosperous commencement of the present government. More has been done for roads, canals, and other public works, within the last thirty years, than in all our former history. In the first of these particulars, few countries excel the New England States. The astonishing increase of their navigation and trade is known to every one, and now belongs to the history of our national wealth.

We may flatter ourselves, too, that literature and taste have not been stationary, and that some advancement has been made in the elegant, as well as in the useful arts.

The nature and constitution of society and government in this country are interesting topics, to which I would devote what remains of the time allowed to this occasion. Of our system of government the first thing to be said is, that it is really and practically a free system. It originates entirely with the people, and rests on no other foundation than their assent. To judge of its actual operation, it is not enough to look merely at the form of its construction. The practical character of government depends often on a variety of considerations, besides the abstract frame of its constitutional organization. Among these are the condition and tenure of property; the laws regulating its alienation and descent; the presence or absence of a military power; an armed or unarmed yeomanry; the spirit of the age, and the degree of general intelligence. In these respects it cannot be denied that the circumstances of this country are most favorable to the hope of maintaining the government of a great nation on principles entirely popular. In the absence of military power, the nature of government must essentially depend on the manner in which property is holden and distributed. There is a natural influence belonging to property, whether it exists in many hands or few; and it is on the rights of property that both despotism and unrestrained popular violence ordinarily commence their attacks. Our ancestors began their system of government here under a condition of comparative equality in regard to wealth, and their early laws were of a nature to favor and continue this equality.

A republican form of government rests not more on political constitutions, than on those laws which regulate the descent and transmission of property. Governments like ours could not have been maintained, where

property was holden according to the principles of the feudal system; nor, on the other hand, could the feudal constitution possibly exist with us. Our New England ancestors brought hither no great capitals from Europe; and if they had, there was nothing productive in which they could have been invested. They left behind them the whole feudal policy of the other continent. They broke away at once from the system of military service established in the Dark Ages, and which continues, down even to the present time, more or less to affect the condition of property all over Europe. They came to a new country. There were, as yet, no lands yielding rent, and no tenants rendering service. The whole soil was unreclaimed from barbarism. They were themselves, either from their original condition, or from the necessity of their common interest, nearly on a general level in respect to property. Their situation demanded a parcelling out and division of the lands, and it may be fairly said, that this necessary act _fixed the future frame and form of their government_. The character of their political institutions was determined by the fundamental laws respecting property. The laws rendered estates divisible among sons and daughters. The right of primogeniture, at first limited and curtailed, was afterwards abolished. The property was all freehold. The entailment of estates, long trusts, and the other processes for fettering and tying up inheritances, were not applicable to the condition of society, and seldom made use of. On the contrary, alienation of the land was every way facilitated, even to the subjecting of it to every species of debt. The establishment of public registries, and the simplicity of our forms of conveyance, have greatly facilitated the change of real estate from one proprietor to another. The consequence of all these causes has been a great subdivision of the soil, and a great equality of condition; the true basis, most certainly, of a popular government. "If the people," says Harrington, "hold three parts in four of the territory, it is plain there can neither be any single person nor nobility able to dispute the government with them; in this case, therefore, _except force be interposed_, they govern themselves."

The history of other nations may teach us how favorable to public liberty are the division of the soil into small freeholds, and a system of laws, of which the tendency is, without violence or injustice, to produce and to preserve a degree of equality of property. It has been estimated, if I mistake not, that about the time of Henry the Seventh four fifths of the land in England was holden by the great barons and ecclesiastics. The effects of a growing commerce soon afterwards began to break in on this state of things, and before the Revolution, in 1688, a vast change had been wrought. It may be thought probable, that, for the last half-century, the process of subdivision in England has been retarded, if not reversed; that the great weight of taxation has compelled many of the lesser freeholders to dispose of their estates, and to seek employment in the army and navy, in the professions of civil life, in commerce, or in the colonies. The effect of this on the British constitution cannot but be most unfavorable. A few large estates grow larger; but the number of those who have no estates also increases; and there may be danger, lest the inequality of property become so great, that those who possess it may be dispossessed by force; in other words, that the government may be overturned.

A most interesting experiment of the effect of a subdivision of property on government is now making in France. It is understood, that the law regulating the transmission of property in that country, now divides it, real and personal, among all the children equally, both sons and daughters; and that there is, also, a very great restraint on the power of making dispositions of property by will. It has been supposed, that the effects of this might probably be, in time, to break up the soil into such small subdivisions, that the proprietors would be too poor to resist the encroachments of executive power. I think far otherwise. What is lost in individual wealth will be more than gained in numbers, in intelligence, and in a sympathy of sentiment. If, indeed, only one or a few landholders were to resist the crown, like the barons of England, they must, of course, be great and powerful landholders, with multitudes of retainers, to promise success. But if the proprietors of a given extent of territory are summoned to resistance, there is no reason to believe that such resistance would be less forcible, or less successful, because the number of such proprietors happened to be great. Each would perceive his own importance, and his own interest, and would feel that natural elevation of character which the consciousness of property inspires. A common sentiment would unite all, and numbers would not only add strength, but excite enthusiasm. It is true, that France possesses a vast military force, under the direction of an hereditary executive government; and military power, it is possible, may overthrow any government. It is in vain, however, in this period of the world, to look for security against military power to the arm of the great landholders. That notion is derived from a state of things long since past; a state in which a feudal baron, with his retainers, might stand against the sovereign and his retainers, himself but the greatest baron. But at present, what could the richest landholder do, against one regiment of disciplined troops? Other securities, therefore, against the prevalence of military power must be provided. Happily for us, we are not so situated as that any purpose of national defence requires, ordinarily and constantly, such a military force as might seriously endanger our liberties.

In respect, however, to the recent law of succession in France, to which I have alluded, I would, presumptuously perhaps, hazard a conjecture, that, if the government do not change the law, the law in half a century will change the government; and that this change will be, not in favor of the power of the crown, as some European writers have supposed, but against it. Those writers only reason upon what they think correct general principles, in relation to this subject. They acknowledge a want of experience. Here we have had that experience; and we know that a multitude of small proprietors, acting with intelligence, and that enthusiasm which a common cause inspires, constitute not only a formidable, but an invincible power.

The true principle of a free and popular government would seem to be, so to construct it as to give to all, or at least to a very great majority, an interest in its preservation; to found it, as other things are founded, on men’s interest. The stability of government demands that those who desire its continuance should be more powerful than those who desire its dissolution. This power, of course, is not always to be measured by mere numbers. Education, wealth, talents, are all parts and elements of the

general aggregate of power; but numbers, nevertheless, constitute ordinarily the most important consideration, unless, indeed, there be _a military force_ in the hands of the few, by which they can control the many. In this country we have actually existing systems of government, in the maintenance of which, it should seem, a great majority, both in numbers and in other means of power and influence, must see their interest. But this state of things is not brought about solely by written political constitutions, or the mere manner of organizing the government; but also by the laws which regulate the descent and transmission of property. The freest government, if it could exist, would not be long acceptable, if the tendency of the laws were to create a rapid accumulation of property in few hands, and to render the great mass of the population dependent and penniless. In such a case, the popular power would be likely to break in upon the rights of property, or else the influence of property to limit and control the exercise of popular power. Universal suffrage, for example, could not long exist in a community where there was great inequality of property. The holders of estates would be obliged, in such case, in some way to restrain the right of suffrage, or else such right of suffrage would, before long, divide the property. In the nature of things, those who have not property, and see their neighbors possess much more than they think them to need, cannot be favorable to laws made for the protection of property. When this class becomes numerous, it grows clamorous. It looks on property as its prey and plunder, and is naturally ready, at all times, for violence and revolution.

It would seem, then, to be the part of political wisdom to found government on property; and to establish such distribution of property, by the laws which regulate its transmission and alienation, as to interest the great majority of society in the support of the government. This is, I imagine, the true theory and the actual practice of our republican institutions. With property divided as we have it, no other government than that of a republic could be maintained, even were we foolish enough to desire it. There is reason, therefore, to expect a long continuance of our system. Party and passion, doubtless, may prevail at times, and much temporary mischief be done. Even modes and forms may be changed, and perhaps for the worse. But a great revolution in regard to property must take place, before our governments can be moved from their republican basis, unless they be violently struck off by military power. The people possess the property, more emphatically than it could ever be said of the people of any other country, and they can have no interest to overturn a government which protects that property by equal laws.

Let it not be supposed, that this state of things possesses too strong tendencies towards the production of a dead and uninteresting level in society. Such tendencies are sufficiently counteracted by the infinite diversities in the characters and fortunes of individuals. Talent, activity, industry, and enterprise tend at all times to produce inequality and distinction; and there is room still for the accumulation of wealth, with its great advantages, to all reasonable and useful extent. It has been often urged against the state of society in America, that it furnishes no class of men of fortune and leisure. This may be partly true, but it is not entirely so, and the evil, if it be one, would affect rather

the progress of taste and literature, than the general prosperity of the people. But the promotion of taste and literature cannot be primary objects of political institutions; and if they could, it might be doubted whether, in the long course of things, as much is not gained by a wide diffusion of general knowledge, as is lost by diminishing the number of those who are enabled by fortune and leisure to devote themselves exclusively to scientific and literary pursuits. However this may be, it is to be considered that it is the spirit of our system to be equal and general, and if there be particular disadvantages incident to this, they are far more than counterbalanced by the benefits which weigh against them. The important concerns of society are generally conducted, in all countries, by the men of business and practical ability; and even in matters of taste and literature, the advantages of mere leisure are liable to be overrated. If there exist adequate means of education and a love of letters be excited, that love will find its way to the object of its desire, through the crowd and pressure of the most busy society.

Connected with this division of property, and the consequent participation of the great mass of people in its possession and enjoyments, is the system of representation, which is admirably accommodated to our condition, better understood among us, and more familiarly and extensively practised, in the higher and in the lower departments of government, than it has been by any other people. Great facility has been given to this in New England by the early division of the country into townships or small districts, in which all concerns of local police are regulated, and in which representatives to the legislature are elected. Nothing can exceed the utility of these little bodies. They are so many councils or parliaments, in which common interests are discussed, and useful knowledge acquired and communicated. The division of governments into departments, and the division, again, of the legislative department into two chambers, are essential provisions in our system. This last, although not new in itself, yet seems to be new in its application to governments wholly popular. The Grecian republics, it is plain, knew nothing of it; and in Rome, the check and balance of legislative power, such as it was, lay between the people and the senate. Indeed, few things are more difficult than to ascertain accurately the true nature and construction of the Roman commonwealth. The relative power of the senate and the people, of the consuls and the tribunes, appears not to have been at all times the same, nor at any time accurately defined or strictly observed. Cicero, indeed, describes to us an admirable arrangement of political power, and a balance of the constitution, in that beautiful passage, in which he compares the democracies of Greece with the Roman commonwealth. "O morem preclarum, disciplinamque, quam a majoribus, accepimus, si quidem teneremus! sed nescio quo pacto jam de manibus elabitur. Nullam enim illi nostri sapientissimi et sanctissimi viri vim concionis esse voluerunt, quae scisseret plebs, aut quae populus juberet; summota concione, distributis partibus, tributim et centuriatim descriptis ordinibus, classibus, aetatibus, auditis auctoribus, re multos dies promulgata et cognita, juberi vetarique voluerunt. Graecorum autem totae respublicae sedentis concionis temeritate administrantur." [10]

But at what time this wise system existed in this perfection at Rome, no proofs remain to show. Her constitution, originally framed for a monarchy,

never seemed to be adjusted in its several parts after the expulsion of the kings. Liberty there was, but it was a disputatious, an uncertain, an ill-secured liberty. The patrician and plebeian orders, instead of being matched and joined, each in its just place and proportion, to sustain the fabric of the state, were rather like hostile powers, in perpetual conflict. With us, an attempt has been made, and so far not without success, to divide representation into chambers, and, by difference of age, character, qualification, or mode of election, to establish salutary checks, in governments altogether elective.

Having detained you so long with these observations, I must yet advert to another most interesting topic,--the Free Schools. In this particular, New England may be allowed to claim, I think, a merit of a peculiar character. She early adopted, and has constantly maintained the principle, that it is the undoubted right and the bounden duty of government to provide for the instruction of all youth. That which is elsewhere left to chance or to charity, we secure by law. [11] For the purpose of public instruction, we hold every man subject to taxation in proportion to his property, and we look not to the question, whether he himself have, or have not, children to be benefited by the education for which he pays. We regard it as a wise and liberal system of police, by which property, and life, and the peace of society are secured. We seek to prevent in some measure the extension of the penal code, by inspiring a salutary and conservative principle of virtue and of knowledge in an early age. We strive to excite a feeling of respectability, and a sense of character, by enlarging the capacity and increasing the sphere of intellectual enjoyment. By general instruction, we seek, as far as possible, to purify the whole moral atmosphere; to keep good sentiments uppermost, and to turn the strong current of feeling and opinion, as well as the censures of the law and the denunciations of religion, against immorality and crime. We hope for a security beyond the law, and above the law, in the prevalence of an enlightened and well-principled moral sentiment. We hope to continue and prolong the time, when, in the villages and farm-houses of New England, there may be undisturbed sleep within unbarred doors. And knowing that our government rests directly on the public will, in order that we may preserve it we endeavor to give a safe and proper direction to that public will. We do not, indeed, expect all men to be philosophers or statesmen; but we confidently trust, and our expectation of the duration of our system of government rests on that trust, that, by the diffusion of general knowledge and good and virtuous sentiments, the political fabric may be secure, as well against open violence and overthrow, as against the slow, but sure, undermining of licentiousness.

We know that, at the present time, an attempt is making in the English Parliament to provide by law for the education of the poor, and that a gentleman of distinguished character (Mr. Brougham) has taken the lead in presenting a plan to government for carrying that purpose into effect. And yet, although the representatives of the three kingdoms listened to him with astonishment as well as delight, we hear no principles with which we ourselves have not been familiar from youth; we see nothing in the plan but an approach towards that system which has been established in New England for more than a century and a half. It is said that in England not more than _one child in fifteen_ possesses the means of being taught

to read and write; in Wales, _one in twenty_; in France, until lately, when some improvement was made, not more than _one in thirty-five_. Now, it is hardly too strong to say, that in New England _every child possesses_ such means. It would be difficult to find an instance to the contrary, unless where it should be owing to the negligence of the parent; and, in truth, the means are actually used and enjoyed by nearly every one. A youth of fifteen, of either sex, who cannot both read and write, is very seldom to be found. Who can make this comparison, or contemplate this spectacle, without delight and a feeling of just pride? Does any history show property more beneficently applied? Did any government ever subject the property of those who have estates to a burden, for a purpose more favorable to the poor, or more useful to the whole community?

A conviction of the importance of public instruction was one of the earliest sentiments of our ancestors. No lawgiver of ancient or modern times has expressed more just opinions, or adopted wiser measures, than the early records of the Colony of Plymouth show to have prevailed here. Assembled on this very spot, a hundred and fifty-three years ago, the legislature of this Colony declared, "Forasmuch as the maintenance of good literature doth much tend to the advancement of the weal and flourishing state of societies and republics, this Court doth therefore order, that in whatever township in this government, consisting of fifty families or upwards, any meet man shall be obtained to teach a grammar school, such township shall allow at least twelve pounds, to be raised by rate on all the inhabitants."

Having provided that all youth should be instructed in the elements of learning by the institution of free schools, our ancestors had yet another duty to perform. Men were to be educated for the professions and the public. For this purpose they founded the University, and with incredible zeal and perseverance they cherished and supported it, through all trials and discouragements.[12] On the subject of the University, it is not possible for a son of New England to think without pleasure, or to speak without emotion. Nothing confers more honor on the State where it is established, or more utility on the country at large. A respectable university is an establishment which must be the work of time. If pecuniary means were not wanting, no new institution could possess character and respectability at once. We owe deep obligation to our ancestors, who began, almost on the moment of their arrival, the work of building up this institution.

Although established in a different government, the Colony of Plymouth manifested warm friendship for Harvard College. At an early period, its government took measures to promote a general subscription throughout all the towns in this Colony, in aid of its small funds. Other colleges were subsequently founded and endowed, in other places, as the ability of the people allowed; and we may flatter ourselves, that the means of education at present enjoyed in New England are not only adequate to the diffusion of the elements of knowledge among all classes, but sufficient also for respectable attainments in literature and the sciences.

Lastly, our ancestors established their system of government on morality

and religious sentiment. Moral habits, they believed, cannot safely be trusted on any other foundation than religious principle, nor any government be secure which is not supported by moral habits. Living under the heavenly light of revelation, they hoped to find all the social dispositions, all the duties which men owe to each other and to society, enforced and performed. Whatever makes men good Christians, makes them good citizens. Our fathers came here to enjoy their religion free and unmolested; and, at the end of two centuries, there is nothing upon which we can pronounce more confidently, nothing of which we can express a more deep and earnest conviction, than of the inestimable importance of that religion to man, both in regard to this life and that which is to come.

If the blessings of our political and social condition have not been too highly estimated, we cannot well overrate the responsibility and duty which they impose upon us. We hold these institutions of government, religion, and learning, to be transmitted, as well as enjoyed. We are in the line of conveyance, through which whatever has been obtained by the spirit and efforts of our ancestors is to be communicated to our children.

We are bound to maintain public liberty, and, by the example of our own systems, to convince the world that order and law, religion and morality, the rights of conscience, the rights of persons, and the rights of property, may all be preserved and secured, in the most perfect manner, by a government entirely and purely elective. If we fail in this, our disaster will be signal, and will furnish an argument, stronger than has yet been found, in support of those opinions which maintain that government can rest safely on nothing but power and coercion. As far as experience may show errors in our establishments, we are bound to correct them; and if any practices exist contrary to the principles of justice and humanity within the reach of our laws or our influence, we are inexcusable if we do not exert ourselves to restrain and abolish them.

I deem it my duty on this occasion to suggest, that the land is not yet wholly free from the contamination of a traffic, at which every feeling of humanity must forever revolt,--I mean the African slave-trade. Neither public sentiment, nor the law, has hitherto been able entirely to put an end to this odious and abominable trade. At the moment when God in his mercy has blessed the Christian world with a universal peace, there is reason to fear, that, to the disgrace of the Christian name and character, new efforts are making for the extension of this trade by subjects and citizens of Christian states, in whose hearts there dwell no sentiments of humanity or of justice, and over whom neither the fear of God nor the fear of man exercises a control. In the sight of our law, the African slave-trader is a pirate and a felon; and in the sight of Heaven, an offender far beyond the ordinary depth of human guilt. There is no brighter page of our history, than that which records the measures which have been adopted by the government at an early day, and at different times since, for the suppression of this traffic; and I would call on all the true sons of New England to cooperate with the laws of man, and the justice of Heaven. If there be, within the extent of our knowledge or influence, any participation in this traffic, let us pledge ourselves here, upon the rock of Plymouth, to extirpate and destroy it. It is not fit that the land of the Pilgrims should bear the shame longer. I hear the sound of the hammer,

I see the smoke of the furnaces where manacles and fetters are still forged for human limbs. I see the visages of those who by stealth and at midnight labor in this work of hell, foul and dark, as may become the artificers of such instruments of misery and torture. Let that spot be purified, or let it cease to be of New England. Let it be purified or let it be set aside from the Christian world; let it be put out of the circle of human sympathies and human regards, and let civilized man henceforth have no communion with it.

I would invoke those who fill the seats of justice, and all who minister at her altar, that they execute the wholesome and necessary severity of the law. I invoke the ministers of our religion, that they proclaim its denunciation of these crimes, and add its solemn sanctions to the authority of human laws. If the pulpit be silent whenever or wherever there may be a sinner bloody with this guilt within the hearing of its voice, the pulpit is false to its trust. I call on the fair merchant, who has reaped his harvest upon the seas, that he assist in scourging from those seas the worst pirates that ever infested them. That ocean, which seems to wave with a gentle magnificence to waft the burden of an honest commerce, and to roll along its treasures with a conscious pride,--that ocean, which hardy industry regards, even when the winds have ruffled its surface, as a field of grateful toil,--what is it to the victim of this oppression, when he is brought to its shores, and looks forth upon it, for the first time, loaded with chains, and bleeding with stripes? What is it to him but a wide-spread prospect of suffering, anguish, and death? Nor do the skies smile longer, nor is the air longer fragrant to him. The sun is cast down from heaven. An inhuman and accursed traffic has cut him off in his manhood, or in his youth, from every enjoyment belonging to his being, and every blessing which his Creator intended for him.

The Christian communities send forth their emissaries of religion and letters, who stop, here and there, along the coast of the vast continent of Africa, and with painful and tedious efforts make some almost imperceptible progress in the communication of knowledge, and in the general improvement of the natives who are immediately about them. Not thus slow and imperceptible is the transmission of the vices and bad passions which the subjects of Christian states carry to the land. The slave-trade having touched the coast, its influence and its evils spread, like a pestilence, over the whole continent, making savage wars more savage and more frequent, and adding new and fierce passions to the contests of barbarians.

I pursue this topic no further, except again to say, that all Christendom, being now blessed with peace, is bound by everything which belongs to its character, and to the character of the present age, to put a stop to this inhuman and disgraceful traffic.

We are bound, not only to maintain the general principles of public liberty, but to support also those existing forms of government which have so well secured its enjoyment, and so highly promoted the public prosperity. It is now more than thirty years that these States have been united under the Federal Constitution, and whatever fortune may await them hereafter, it is impossible that this period of their history should not

be regarded as distinguished by signal prosperity and success. They must be sanguine indeed, who can hope for benefit from change. Whatever division of the public judgment may have existed in relation to particular measures of the government, all must agree, one should think, in the opinion, that in its general course it has been eminently productive of public happiness. Its most ardent friends could not well have hoped from it more than it has accomplished; and those who disbelieved or doubted ought to feel less concern about predictions which the event has not verified, than pleasure in the good which has been obtained. Whoever shall hereafter write this part of our history, although he may see occasional errors or defects, will be able to record no great failure in the ends and objects of government. Still less will he be able to record any series of lawless and despotic acts, or any successful usurpation. His page will contain no exhibition of provinces depopulated, of civil authority habitually trampled down by military power, or of a community crushed by the burden of taxation. He will speak, rather, of public liberty protected, and public happiness advanced; of increased revenue, and population augmented beyond all example; of the growth of commerce, manufactures, and the arts; and of that happy condition, in which the restraint and coercion of government are almost invisible and imperceptible, and its influence felt only in the benefits which it confers. We can entertain no better wish for our country, than that this government may be preserved; nor have a clearer duty than to maintain and support it in the full exercise of all its just constitutional powers.

The cause of science and literature also imposes upon us an important and delicate trust. The wealth and population of the country are now so far advanced, as to authorize the expectation of a correct literature and a well formed taste, as well as respectable progress in the abstruse sciences. The country has risen from a state of colonial subjection; it has established an independent government, and is now in the undisturbed enjoyment of peace and political security. The elements of knowledge are universally diffused, and the reading portion of the community is large. Let us hope that the present may be an auspicious era of literature. If, almost on the day of their landing, our ancestors founded schools and endowed colleges, what obligations do not rest upon us, living under circumstances so much more favorable both for providing and for using the means of education? Literature becomes free institutions. It is the graceful ornament of civil liberty, and a happy restraint on the asperities which political controversies sometimes occasion. Just taste is not only an embellishment of society, but it rises almost to the rank of the virtues, and diffuses positive good throughout the whole extent of its influence. There is a connection between right feeling and right principles, and truth in taste is allied with truth in morality. With nothing in our past history to discourage us, and with something in our present condition and prospects to animate us, let us hope, that, as it is our fortune to live in an age when we may behold a wonderful advancement of the country in all its other great interests, we may see also equal progress and success attend the cause of letters.

Finally, let us not forget the religious character of our origin. Our fathers were brought hither by their high veneration for the Christian religion. They journeyed by its light, and labored in its hope. They

sought to incorporate its principles with the elements of their society, and to diffuse its influence through all their institutions, civil, political, or literary. Let us cherish these sentiments, and extend this influence still more widely; in the full conviction, that that is the happiest society which partakes in the highest degree of the mild and peaceful spirit of Christianity.

The hours of this day are rapidly flying, and this occasion will soon be passed. Neither we nor our children can expect to behold its return. They are in the distant regions of futurity, they exist only in the all-creating power of God, who shall stand here a hundred years hence, to trace, through us, their descent from the Pilgrims, and to survey, as we have now surveyed, the progress of their country, during the lapse of a century. We would anticipate their concurrence with us in our sentiments of deep regard for our common ancestors. We would anticipate and partake the pleasure with which they will then recount the steps of New England's advancement. On the morning of that day, although it will not disturb us in our repose, the voice of acclamation and gratitude, commencing on the Rock of Plymouth, shall be transmitted through millions of the sons of the Pilgrims, till it lose itself in the murmurs of the Pacific seas.

We would leave for the consideration of those who shall then occupy our places, some proof that we hold the blessings transmitted from our fathers in just estimation; some proof of our attachment to the cause of good government, and of civil and religious liberty; some proof of a sincere and ardent desire to promote every thing which may enlarge the understandings and improve the hearts of men. And when, from the long distance of a hundred years, they shall look back upon us, they shall know, at least, that we possessed affections, which, running backward and warming with gratitude for what our ancestors have done for our happiness, run forward also to our posterity, and meet them with cordial salutation, ere yet they have arrived on the shore of being.

Advance, then, ye future generations! We would hail you, as you rise in your long succession, to fill the places which we now fill, and to taste the blessings of existence where we are passing, and soon shall have passed, our own human duration. We bid you welcome to this pleasant land of the fathers. We bid you welcome to the healthful skies and the verdant fields of New England. We greet your accession to the great inheritance which we have enjoyed. We welcome you to the blessings of good government and religious liberty. We welcome you to the treasures of science and the delights of learning. We welcome you to the transcendent sweets of domestic life, to the happiness of kindred, and parents, and children. We welcome you to the immeasurable blessings of rational existence, the immortal hope of Christianity, and the light of everlasting truth!

THE BUNKER HILL MONUMENT.

This uncounted multitude before me and around me proves the feeling which the occasion has excited. These thousands of human faces, glowing with sympathy and joy, and from the impulses of a common gratitude turned reverently to heaven in this spacious temple of the firmament, proclaim that the day, the place, and the purpose of our assembling have made a

deep impression on our hearts.

If, indeed, there be anything in local association fit to affect the mind of man, we need not strive to repress the emotions which agitate us here. We are among the sepulchres of our fathers. We are on ground, distinguished by their valor, their constancy, and the shedding of their blood. We are here, not to fix an uncertain date in our annals, nor to draw into notice an obscure and unknown spot. If our humble purpose had never been conceived, if we ourselves had never been born, the 17th of June, 1775, would have been a day on which all subsequent history would have poured its light, and the eminence where we stand a point of attraction to the eyes of successive generations. But we are Americans. We live in what may be called the early age of this great continent; and we know that our posterity, through all time, are here to enjoy and suffer the allotments of humanity. We see before us a probable train of great events; we know that our own fortunes have been happily cast; and it is natural, therefore, that we should be moved by the contemplation of occurrences which have guided our destiny before many of us were born, and settled the condition in which we should pass that portion of our existence which God allows to men on earth.

We do not read even of the discovery of this continent, without feeling something of a personal interest in the event; without being reminded how much it has affected our own fortunes and our own existence. It would be still more unnatural for us, therefore, than for others, to contemplate with unaffected minds that interesting, I may say that most touching and pathetic scene, when the great discoverer of America stood on the deck of his shattered bark, the shades of night falling on the sea, yet no man sleeping; tossed on the billows of an unknown ocean, yet the stronger billows of alternate hope and despair tossing his own troubled thoughts; extending forward his harassed frame, straining westward his anxious and eager eyes, till Heaven at last granted him a moment of rapture and ecstasy, in blessing his vision with the sight of the unknown world.

Nearer to our times, more closely connected with our fates, and therefore still more interesting to our feelings and affections, is the settlement of our own country by colonists from England. We cherish every memorial of these worthy ancestors; we celebrate their patience and fortitude; we admire their daring enterprise; we teach our children to venerate their piety; and we are justly proud of being descended from men who have set the world an example of founding civil institutions on the great and united principles of human freedom and human knowledge. To us, their children, the story of their labors and sufferings can never be without its interest. We shall not stand unmoved on the shore of Plymouth, while the sea continues to wash it; nor will our brethren in another early and ancient Colony forget the place of its first establishment, till their river shall cease to flow by it. [1] No vigor of youth, no maturity of manhood, will lead the nation to forget the spots where its infancy was cradled and defended.

But the great event in the history of the continent, which we are now met here to commemorate, that prodigy of modern times, at once the wonder and the blessing of the world, is the American Revolution. In a day of

extraordinary prosperity and happiness, of high national honor, distinction, and power, we are brought together, in this place, by our love of country, by our admiration of exalted character, by our gratitude for signal services and patriotic devotion.

The Society whose organ I am [2] was formed for the purpose of rearing some honorable and durable monument to the memory of the early friends of American Independence. They have thought, that for this object no time could be more propitious than the present prosperous and peaceful period; that no place could claim preference over this memorable spot; and that no day could be more auspicious to the undertaking than the anniversary of the battle which was here fought. The foundation of that monument we have now laid. With solemnities suited to the occasion, with prayers to Almighty God for his blessing, and in the midst of this cloud of witnesses, we have begun the work. We trust it will be prosecuted, and that, springing from a broad foundation, rising high in massive solidity and unadorned grandeur, it may remain as long as Heaven permits the works of men to last, a fit emblem, both of the events in memory of which it is raised, and of the gratitude of those who have reared it.

We know, indeed, that the record of illustrious actions is most safely deposited in the universal remembrance of mankind. We know, that if we could cause this structure to ascend, not only till it reached the skies, but till it pierced them, its broad surfaces could still contain but part of that which, in an age of knowledge, hath already been spread over the earth, and which history charges itself with making known to all future times. We know that no inscription on entablatures less broad than the earth itself can carry information of the events we commemorate where it has not already gone; and that no structure, which shall not outlive the duration of letters and knowledge among men, can prolong the memorial. But our object is, by this edifice, to show our own deep sense of the value and importance of the achievements of our ancestors; and, by presenting this work of gratitude to the eye, to keep alive similar sentiments, and to foster a constant regard for the principles of the Revolution. Human beings are composed, not of reason only, but of imagination also, and sentiment; and that is neither wasted nor misapplied which is appropriated to the purpose of giving right direction to sentiments, and opening proper springs of feeling in the heart. Let it not be supposed that our object is to perpetuate national hostility, or even to cherish a mere military spirit. It is higher, purer, nobler. We consecrate our work to the spirit of national independence, and we wish that the light of peace may rest upon it forever. We rear a memorial of our conviction of that unmeasured benefit which has been conferred on our own land, and of the happy influences which have been produced, by the same events, on the general interests of mankind. We come, as Americans, to mark a spot which must forever be dear to us and our posterity. We wish that whosoever, in all coming time, shall turn his eye hither, may behold that the place is not undistinguished where the first great battle of the Revolution was fought. We wish that this structure may proclaim the magnitude and importance of that event to every class and every age. We wish that infancy may learn the purpose of its erection from maternal lips, and that weary and withered age may behold it, and be solaced by the recollections which it suggests. We wish that labor may look up here, and be proud, in the midst

of its toil. We wish that, in those days of disaster, which, as they come upon all nations, must be expected to come upon us also, desponding patriotism may turn its eyes hitherward, and be assured that the foundations of our national power are still strong. We wish that this column, rising towards heaven among the pointed spires of so many temples dedicated to God, may contribute also to produce, in all minds, a pious feeling of dependence and gratitude. We wish, finally, that the last object to the sight of him who leaves his native shore, and the first to gladden his who revisits it, may be something which shall remind him of the liberty and the glory of his country. Let it rise! let it rise, till it meet the sun in his coming; let the earliest light of the morning gild it, and parting day linger and play on its summit.

We live in a most extraordinary age. Events so various and so important that they might crowd and distinguish centuries are, in our times, compressed within the compass of a single life. When has it happened that history has had so much to record in the same term of years, as since the 17th of June, 1775? Our own Revolution, which, under other circumstances, might itself have been expected to occasion a war of half a century, has been achieved; twenty-four sovereign and independent States erected; and a general government established over them, so safe, so wise, so free, so practical, that we might well wonder its establishment should have been accomplished so soon, were it not far the greater wonder that it should have been established at all. Two or three millions of people have been augmented to twelve, [3] the great forests of the West prostrated beneath the arm of successful industry, and the dwellers on the banks of the Ohio and the Mississippi become the fellow-citizens and neighbors of those who cultivate the hills of New England. [4] We have a commerce, that leaves no sea unexplored; navies, which take no law from superior force; revenues, adequate to all the exigencies of government, almost without taxation; and peace with all nations, founded on equal rights and mutual respect.

Europe, within the same period, has been agitated by a mighty revolution, which, while it has been felt in the individual condition and happiness of almost every man, has shaken to the centre her political fabric, and dashed against one another thrones which had stood tranquil for ages. On this, our continent, our own example has been followed, and colonies have sprung up to be nations. Unaccustomed sounds of liberty and free government have reached us from beyond the track of the sun; and at this moment the dominion of European power in this continent, from the place where we stand to the south pole, is annihilated forever.

In the mean time, both in Europe and America, such has been the general progress of knowledge, such the improvement in legislation, in commerce, in the arts, in letters, and, above all, in liberal ideas and the general spirit of the age, that the whole world seems changed.

Yet, notwithstanding that this is but a faint abstract of the things which have happened since the day of the battle of Bunker Hill, we are but fifty years removed from it; and we now stand here to enjoy all the blessings of our own condition, and to look abroad on the brightened prospects of the world, while we still have among us some of those who were active agents in the scenes of 1775, and who are now here, from every quarter of New

England, to visit once more, and under circumstances so affecting, I had almost said so overwhelming, this renowned theatre of their courage and patriotism.

VENERABLE MEN! you have come down to us from a former generation. Heaven has bounteously lengthened out your lives, that you might behold this joyous day. You are now where you stood fifty years ago, this very hour, with your brothers and your neighbors, shoulder to shoulder, in the strife for your country. Behold, how altered! The same heavens are indeed over your heads; the same ocean rolls at your feet; but all else, how changed! You hear now no roar of hostile cannon, you see no mixed volumes of smoke and flame rising from burning Charlestown. The ground strewed with the dead and the dying; the impetuous charge; the steady and successful repulse; the loud call to repeated assault; the summoning of all that is manly to repeated resistance; a thousand bosoms freely and fearlessly bared in an instant to whatever of terror there may be in war and death;-- all these you have witnessed, but you witness them no more. All is peace. The heights of yonder metropolis, its towers and roofs, which you then saw filled with wives and children and countrymen in distress and terror, and looking with unutterable emotions for the issue of the combat, have presented you to-day with the sight of its whole happy population, come out to welcome and greet you with a universal jubilee. Yonder proud ships, by a felicity of position appropriately lying at the foot of this mount, and seeming fondly to cling around it, are not means of annoyance to you, but your country's own means of distinction and defence.[5] All is peace; and God has granted you the sight of your country's happiness, ere you slumber in the grave. He has allowed you to behold and to partake the reward of your patriotic toils; and he has allowed us, your sons and countrymen, to meet you here, and in the name of the present generation, in the name of your country, in the name of liberty, to thank you! [6]

But, alas! you are not all here! Time and the sword have thinned your ranks. Prescott, Putnam, Stark, Brooks, Read, Pomeroy, Bridge! our eyes seek for you in vain amid this broken band. You are gathered to your fathers, and live only to your country in her grateful remembrance and your own bright example. But let us not too much grieve, that you have met the common fate of men. You lived at least long enough to know that your work had been nobly and successfully accomplished. You lived to see your country's independence established, and to sheathe your swords from war. On the light of Liberty you saw arise the light of Peace, like

> "another morn,
> Risen on mid-noon"; [7]

and the sky on which you closed your eyes was cloudless.

But ah! Him! the first great martyr in this great cause! Him! the premature victim of his own self-devoting heart! Him! the head of our civil councils, and the destined leader of our military bands, whom nothing brought hither but the unquenchable fire of his own spirit! Him! cut off by Providence in the hour of overwhelming anxiety and thick gloom; falling ere he saw the star of his country rise; pouring out his generous blood like water, before he knew whether it would fertilize a land of

freedom or of bondage!--how shall I struggle with the emotions that stifle the utterance of thy name! Our poor work may perish; but thine shall endure! [8]

This monument may moulder away; the solid ground it rests upon may sink down to a level with the sea; but thy memory shall not fail! Wheresoever among men a heart shall be found that beats to the transports of patriotism and liberty, its aspirations shall be to claim kindred with thy spirit!

But the scene amidst which we stand does not permit us to confine our thoughts or our sympathies to those fearless spirits who hazarded or lost their lives on this consecrated spot. We have the happiness to rejoice here in the presence of a most worthy representation of the survivors of the whole Revolutionary army.

Veterans! you are the remnant of many a well-fought field. You bring with you marks of honor from Trenton and Monmouth, from Yorktown, Camden, Bennington, and Saratoga. VETERANS OF HALF A CENTURY! when in your youthful days you put everything at hazard in your country's cause, good as that cause was, and sanguine as youth is, still your fondest hopes did not stretch onward to an hour like this! At a period to which you could not reasonably have expected to arrive, at a moment of national prosperity such as you could never have foreseen, you are now met here to enjoy the fellowship of old soldiers, and to receive the overflowings of a universal gratitude.

But your agitated countenances and your heaving breasts inform me that even this is not an unmixed joy. I perceive that a tumult of contending feeling rushes upon you. The images of the dead, as well as the persons of the living, present themselves before you. The scene overwhelms you and I turn from it. May the Father of all mercies smile upon your declining years, and bless them! And when you shall here have exchanged your embraces, when you shall once more have pressed the hands which have been so often extended to give succor in adversity, or grasped in the exultation of victory, then look abroad upon this lovely land which your young valor defended, and mark the happiness with which it is filled; yea, look abroad upon the whole earth, and see what a name you have contributed to give to your country, and what a praise you have added to freedom, and then rejoice in the sympathy and gratitude which beam upon your last days from the improved condition of mankind!

The occasion does not require of me any particular account of the battle of the 17th of June, 1775, nor any detailed narrative of the events which immediately preceded it. These are familiarly known to all. In the progress of the great and interesting controversy, Massachusetts and the town of Boston had become early and marked objects of the displeasure of the British Parliament. This had been manifested in the act for altering the government of the Province, and in that for shutting up the port of Boston. Nothing sheds more honor on our early history, and nothing better shows how little the feelings and sentiments of the Colonies were known or regarded in England, than the impression which these measures everywhere produced in America. [9] It had been anticipated, that, while the Colonies

in general would be terrified by the severity of the punishment inflicted on Massachusetts, the other seaports would be governed by a mere spirit of gain; and that, as Boston was now cut off from all commerce, the unexpected advantage which this blow on her was calculated to confer on other towns would be greedily enjoyed. How miserably such reasoners deceived themselves! How little they knew of the depth, and the strength, and the intenseness of that feeling of resistance to illegal acts of power, which possessed the whole American people! Everywhere the unworthy boon was rejected with scorn. The fortunate occasion was seized everywhere, to show to the whole world that the Colonies were swayed by no local interest, no partial interest, no selfish interest. The temptation to profit by the punishment of Boston was strongest to our neighbors of Salem. Yet Salem was precisely the place where this miserable proffer was spurned, in a tone of the most lofty self-respect and the most indignant patriotism. "We are deeply affected," said its inhabitants, "with the sense of our public calamities; but the miseries that are now rapidly hastening on our brethren in the capital of the Province greatly excite our commiseration. By shutting up the port of Boston, some imagine that the course of trade might be turned hither and to our benefit; but we must be dead to every idea of justice, lost to all feelings of humanity, could we indulge a thought to seize on wealth and raise our fortunes on the ruin of our suffering neighbors." These noble sentiments were not confined to our immediate vicinity. In that day of general affection and brotherhood, the blow given to Boston smote on every patriotic heart from one end of the country to the other. Virginia and the Carolinas, as well as Connecticut and New Hampshire, felt and proclaimed the cause to be their own. The Continental Congress, then holding its first session in Philadelphia, expressed its sympathy for the suffering inhabitants of Boston, and addresses were received from all quarters, assuring them that the cause was a common one, and should be met by common efforts and common sacrifices. The Congress of Massachusetts responded to these assurances; and in an address to the Congress at Philadelphia, bearing the official signature, perhaps among the last, of the immortal Warren, notwithstanding the severity of its suffering and the magnitude of the dangers which threatened it, it was declared, that this Colony "is ready, at all times, to spend and to be spent in the cause of America."

But the hour drew nigh which was to put professions to the proof, and to determine whether the authors of these mutual pledges were ready to seal them in blood. The tidings of Lexington and Concord had no sooner spread, than it was universally felt that the time was at last come for action. A spirit pervaded all ranks, not transient, not boisterous, but deep, solemn, determined,

"totamque infusa per artus
Mens agitat molem, et magno se corpore miscet." [10]

War, on their own soil and at their own doors, was, indeed, a strange work to the yeomanry of New England; but their consciences were convinced of its necessity, their country called them to it, and they did not withhold themselves from the perilous trial. The ordinary occupations of life were abandoned; the plough was staid in the unfinished furrow; wives gave up their husbands, and mothers gave up their sons, to the battles of a civil

war. Death might come, in honor, on the field; it might come, in disgrace, on the scaffold. For either and for both they were prepared. The sentiment of Quincy was full in their hearts. "Blandishments," said that distinguished son of genius and patriotism, "will not fascinate us, nor will threats of a halter intimidate; for, under God, we are determined that, wheresoever, whensoever, or howsoever we shall be called to make our exit, we will die free men."

The 17th of June saw the four New England Colonies standing here, side by side, to triumph or to fall together; and there was with them from that moment to the end of the war, what I hope will remain with them forever: one cause, one country, one heart.

The battle of Bunker Hill was attended with the most important effects beyond its immediate results as a military engagement. It created at once a state of open, public war. There could now be no longer a question of proceeding against individuals, as guilty of treason or rebellion. That fearful crisis was past. The appeal lay to the sword, and the only question was, whether the spirit and the resources of the people would hold out, till the object should be accomplished. Nor were its general consequences confined to our own country. The previous proceedings of the Colonies, their appeals, resolutions, and addresses, had made their cause known to Europe. Without boasting, we may say, that in no age or country has the public cause been maintained with more force of argument, more power of illustration, or more of that persuasion which excited feeling and elevated principle can alone bestow, than the Revolutionary state papers exhibit. These papers will forever deserve to be studied, not only for the spirit which they breathe, but for the ability with which they were written. [11]

To this able vindication of their cause, the Colonies had now added a practical and severe proof of their own true devotion to it, and given evidence also of the power which they could bring to its support. All now saw, that if America fell, she would not fall without a struggle. Men felt sympathy and regard, as well as surprise, when they beheld these infant states, remote, unknown, unaided, encounter the power of England, and, in the first considerable battle, leave more of their enemies dead on the field, in proportion to the number of combatants, than had been recently known to fall in the wars of Europe.

Information of these events, circulating throughout the world, at length reached the ears of one who now hears me.[12]

He has not forgotten the emotion which the fame of Bunker Hill, and the name of Warren, excited in his youthful breast.

Sir, we are assembled to commemorate the establishment of great public principles of liberty, and to do honor to the distinguished dead. The occasion is too severe for eulogy of the living. But, Sir, your interesting relation to this country, the peculiar circumstances which surround you and surround us, call on me to express the happiness which we derive from your presence and aid in this solemn commemoration.

Fortunate, fortunate man! with what measure of devotion will you not thank God for the circumstances of your extraordinary life! You are connected with both hemispheres and with two generations. Heaven saw fit to ordain, that the electric spark of liberty should be conducted, through you, from the New World to the Old; and we, who are now here to perform this duty of patriotism, have all of us long ago received it in charge from our fathers to cherish your name and your virtues. You will account it an instance of your good fortune, Sir, that you crossed the seas to visit us at a time which enables you to be present at this solemnity. You now behold the field, the renown of which reached you in the heart of France, and caused a thrill in your ardent bosom. You see the lines of the little redoubt thrown up by the incredible diligence of Prescott; defended, to the last extremity, by his lion-hearted valor; and within which the corner-stone of our monument has now taken its position. You see where Warren fell, and where Parker, Gardner, McCleary, Moore, and other early patriots, fell with him. Those who survived that day, and whose lives have been prolonged to the present hour, are now around you. Some of them you have known in the trying scenes of the war. Behold! they now stretch forth their feeble arms to embrace you. Behold! they raise their trembling voices to invoke the blessing of God on you and yours forever!

Sir, you have assisted us in laying the foundation of this structure. You have heard us rehearse, with our feeble commendation, the names of departed patriots. Monuments and eulogy belong to the dead. We give them this day to Warren and his associates. On other occasions they have been given to your more immediate companions in arms, to Washington, to Greene, to Gates, to Sullivan, and to Lincoln. We have become reluctant to grant these, our highest and last honors, further. We would gladly hold them yet back from the little remnant of that immortal band. _Serus in coelum redeas_. Illustrious as are your merits, yet far, O very far distant be the day, when any inscription shall bear your name, or any tongue pronounce its eulogy!

The leading reflection to which this occasion seems to invite us, respects the great changes which have happened in the fifty years since the battle of Bunker Hill was fought. And it peculiarly marks the character of the present age, that, in looking at these changes, and in estimating their effect on our condition, we are obliged to consider, not what has been done in our own country only, but in others also. In these interesting times, while nations are making separate and individual advances in improvement, they make, too, a common progress; like vessels on a common tide, propelled by the gales at different rates, according to their several structure and management, but all moved forward by one mighty current, strong enough to bear onward whatever does not sink beneath it.

A chief distinction of the present day is a community of opinions and knowledge amongst men in different nations, existing in a degree heretofore unknown. Knowledge has, in our time, triumphed, and is triumphing, over distance, over difference of languages, over diversity of habits, over prejudice, and over bigotry. The civilized and Christian world is fast learning the great lesson, that difference of nation does not imply necessary hostility, and that all contact need not be war. The whole world is becoming a common field for intellect to act in. Energy of

mind, genius, power, wheresoever it exists, may speak out in any tongue, and the _world_ will hear it. A great cord of sentiment and feeling runs through two continents, and vibrates over both. Every breeze wafts intelligence from country to country; every wave rolls it; all give it forth, and all in turn receive it. There is a vast commerce of ideas; there are marts and exchanges for intellectual discoveries, and a wonderful fellowship of those individual intelligences which make up the mind and opinion of the age. Mind is the great lever of all things; human thought is the process by which human ends are ultimately answered; and the diffusion of knowledge, so astonishing in the last half-century, has rendered innumerable minds, variously gifted by nature, competent to be competitors or fellow-workers on the theatre of intellectual operation.

From these causes important improvements have taken place in the personal condition of individuals. Generally speaking, mankind are not only better fed and better clothed, but they are able also to enjoy more leisure; they possess more refinement and more self-respect. A superior tone of education, manners, and habits prevails. This remark, most true in its application to our own country, is also partly true when applied elsewhere. It is proved by the vastly augmented consumption of those articles of manufacture and of commerce which contribute to the comforts and the decencies of life; an augmentation which has far outrun the progress of population. And while the unexampled and almost incredible use of machinery would seem to supply the place of labor, labor still finds its occupation and its reward; so wisely has Providence adjusted men's wants and desires to their condition and their capacity.

Any adequate survey, however, of the progress made during the last half-century in the polite and the mechanic arts, in machinery and manufactures, in commerce and agriculture, in letters and in science, would require volumes. I must abstain wholly from these subjects, and turn for a moment to the contemplation of what has been done on the great question of politics and government. This is the master topic of the age; and during the whole fifty years it has intensely occupied the thoughts of men. The nature of civil government, its ends and uses, have been canvassed and investigated; ancient opinions attacked and defended; new ideas recommended and resisted, by whatever power the mind of man could bring to the controversy. From the closet and the public halls the debate has been transferred to the field; and the world has been shaken by wars of unexampled magnitude, and the greatest variety of fortune. A day of peace has at length succeeded; and now that the strife has subsided, and the smoke cleared away, we may begin to see what has actually been done, permanently changing the state and condition of human society. And, without dwelling on particular circumstances, it is most apparent, that, from the before-mentioned causes of augmented knowledge and improved individual condition, a real, substantial, and important change has taken place, and is taking place, highly favorable, on the whole, to human liberty and human happiness.

The great wheel of political revolution began to move in America. Here its rotation was guarded, regular, and safe. Transferred to the other continent, from unfortunate but natural causes, it received an irregular and violent impulse; it whirled along with a fearful celerity; till at

length, like the chariot-wheels in the races of antiquity, it took fire from the rapidity of its own motion, and blazed onward, spreading conflagration and terror around.

We learn from the result of this experiment, how fortunate was our own condition, and how admirably the character of our people was calculated for setting the great example of popular governments. The possession of power did not turn the heads of the American people, for they had long been in the habit of exercising a great degree of self-control. Although the paramount authority of the parent state existed over them, yet a large field of legislation had always been open to our Colonial assemblies. They were accustomed to representative bodies and the forms of free government; they understood the doctrine of the division of power among different branches, and the necessity of checks on each. The character of our countrymen, moreover, was sober, moral, and religious; and there was little in the change to shock their feelings of justice and humanity, or even to disturb an honest prejudice. We had no domestic throne to overturn, no privileged orders to cast down, no violent changes of property to encounter. In the American Revolution, no man sought or wished for more than to defend and enjoy his own. None hoped for plunder or for spoil. Rapacity was unknown to it; the axe was not among the instruments of its accomplishment; and we all know that it could not have lived a single day under any well-founded imputation of possessing a tendency adverse to the Christian religion.

It need not surprise us, that, under circumstances less auspicious, political revolutions elsewhere, even when well intended, have terminated differently. It is, indeed, a great achievement, it is the master-work of the world, to establish governments entirely popular on lasting foundations; nor is it easy, indeed, to introduce the popular principle at all into governments to which it has been altogether a stranger. It cannot be doubted, however, that Europe has come out of the contest, in which she has been so long engaged, with greatly superior knowledge, and, in many respects, in a highly improved condition. Whatever benefit has been acquired is likely to be retained, for it consists mainly in the acquisition of more enlightened ideas. And although kingdoms and provinces may be wrested from the hands that hold them, in the same manner they were obtained; although ordinary and vulgar power may, in human affairs, be lost as it has been won; yet it is the glorious prerogative of the empire of knowledge, that what it gains it never loses. On the contrary, it increases by the multiple of its own power; all its ends become means; all its attainments, helps to new conquests. Its whole abundant harvest is but so much seed wheat, and nothing has limited, and nothing can limit, the amount of ultimate product.

Under the influence of this rapidly increasing knowledge, the people have begun, in forms of government, to think and to reason, on affairs of state. Regarding government as an institution for the public good, they demand a knowledge of its operations, and a participation in its exercise. A call for the representative system, wherever it is not enjoyed, and where there is already intelligence enough to estimate its value, is perseveringly made. Where men may speak out, they demand it; where the bayonet is at their throats, they pray for it.

When Louis the Fourteenth said: "I am the state," he expressed the essence of the doctrine of unlimited power. By the rules of that system, the people are disconnected from the state; they are its subjects; it is their lord. These ideas, founded in the love of power, and long supported by the excess and the abuse of it, are yielding, in our age, to other opinions; and the civilized world seems at last to be proceeding to the conviction of that fundamental and manifest truth, that the powers of government are but a trust, and that they cannot be lawfully exercised but for the good of the community. As knowledge is more and more extended, this conviction becomes more and more general. Knowledge, in truth, is the great sun in the firmament. Life and power are scattered with all its beams. The prayer of the Grecian champion, when enveloped in unnatural clouds and darkness, is the appropriate political supplication for the people of every country not yet blessed with free institutions:--

"Dispel this cloud, the light of heaven restore,
Give me TO SEE,--and Ajax asks no more." [13]

We may hope that the glowing influence of enlightened sentiment will promote the permanent peace of the world. Wars to maintain family alliances, to uphold or to cast down dynasties, and to regulate successions to thrones, which have occupied so much room in the history of modern times, if not less likely to happen at all, will be less likely to become general and involve many nations, as the great principle shall be more and more established, that the interest of the world is peace, and its first great statute, that every nation possesses the power of establishing a government for itself. But public opinion has attained also an influence over governments which do not admit the popular principle into their organization. A necessary respect for the judgment of the world operates, in some measure, as a control over the most unlimited forms of authority. It is owing, perhaps, to this truth, that the interesting struggle of the Greeks has been suffered to go on so long, without a direct interference, either to wrest that country from its present masters, or to execute the system of pacification by force, and, with united strength, lay the neck of Christian and civilized Greek at the foot of the barbarian Turk. [14] Let us thank God that we live in an age when something has influence besides the bayonet, and when the sternest authority does not venture to encounter the scorching power of public reproach. Any attempt of the kind I have mentioned should be met by one universal burst of indignation; the air of the civilized world ought to be made too warm to be comfortably breathed by any one who would hazard it.

It is, indeed, a touching reflection, that, while, in the fulness of our country’s happiness, we rear this monument to her honor, we look for instruction in our undertaking to a country which is now in fearful contest, not for works of art or memorials of glory, but for her own existence. Let her be assured that she is not forgotten in the world; that her efforts are applauded, and that constant prayers ascend for her success. And let us cherish a confident hope for her final triumph. If the true spark of religious and civil liberty be kindled, it will burn. Human agency cannot extinguish it. Like the earth’s central fire, it may be smothered for a time; the ocean may overwhelm it; mountains may press it

down; but its inherent and unconquerable force will heave both the ocean and the land, and at some time or other, in some place or other, the volcano will break out and flame up to heaven.

Among the great events of the half-century, we must reckon, certainly, the revolution of South America; and we are not likely to overrate the importance of that revolution, either to the people of the country itself or to the rest of the world. The late Spanish colonies, now independent states, under circumstances less favorable, doubtless, than attended our own revolution, have yet successfully commenced their national existence. They have accomplished the great object of establishing their independence; they are known and acknowledged in the world; and although in regard to their systems of government, their sentiments on religious toleration, and their provisions for public instruction, they may have yet much to learn, it must be admitted that they have risen to the condition of settled and established states more rapidly than could have been reasonably anticipated. They already furnish an exhilarating example of the difference between free governments and despotic misrule. Their commerce, at this moment, creates a new activity in all the great marts of the world. They show themselves able, by an exchange of commodities, to bear a useful part in the intercourse of nations.

A new spirit of enterprise and industry begins to prevail; all the great interests of society receive a salutary impulse; and the progress of information not only testifies to an improved condition, but itself constitutes the highest and most essential improvement.

When the Battle of Bunker Hill was fought, the existence of South America was scarcely felt in the civilized world. The thirteen little Colonies of North America habitually called themselves the "Continent." Borne down by colonial subjugation, monopoly, and bigotry, these vast regions of the South were hardly visible above the horizon. But in our day there has been, as it were, a new creation. The southern hemisphere emerges from the sea. Its lofty mountains begin to lift themselves into the light of heaven; its broad and fertile plains stretch out, in beauty, to the eye of civilized man, and at the mighty bidding of the voice of political liberty the waters of darkness retire.

And now, let us indulge an honest exultation in the conviction of the benefit which the example of our country has produced, and is likely to produce, on human freedom and human happiness. Let us endeavor to comprehend in all its magnitude, and to feel in all its importance, the part assigned to us in the great drama of human affairs. We are placed at the head of the system of representative and popular governments. Thus far our example shows that such governments are compatible, not only with respectability and power, but with repose, with peace, with security of personal rights, with good laws, and a just administration.

We are not propagandists. Wherever other systems are preferred, either as being thought better in themselves, or as better suited to existing condition, we leave the preference to be enjoyed. Our history hitherto proves, however, that the popular form is practicable, and that with wisdom and knowledge men may govern themselves; and the duty incumbent on

us is, to preserve the consistency of this cheering example, and take care that nothing may weaken its authority with the world. If, in our case, the representative system ultimately fail, popular governments must be pronounced impossible. No combination of circumstances more favorable to the experiment can ever be expected to occur. The last hopes of mankind, therefore, rest with us; and if it should be proclaimed, that our example had become an argument against the experiment, the knell of popular liberty would be sounded throughout the earth.

These are excitements to duty; but they are not suggestions of doubt. Our history and our condition, all that is gone before us, and all that surrounds us, authorize the belief, that popular governments, though subject to occasional variations, in form perhaps not always for the better, may yet, in their general character, be as durable and permanent as other systems. We know, indeed, that in our country any other is impossible. The _principle_ of free governments adheres to the American soil. It is bedded in it, immovable as its mountains.

And let the sacred obligations which have devolved on this generation, and on us, sink deep into our hearts. Those who established our liberty and our government are daily dropping from among us. The great trust now descends to new hands. Let us apply ourselves to that which is presented to us, as our appropriate object. We can win no laurels in a war for independence. Earlier and worthier hands have gathered them all. Nor are there places for us by the side of Solon, and Alfred, and other founders of states. Our fathers have filled them. But there remains to us a great duty of defence and preservation; and there is opened to us, also, a noble pursuit, to which the spirit of the times strongly invites us. Our proper business is improvement. Let our age be the age of improvement. In a day of peace, let us advance the arts of peace and the works of peace. Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also, in our day and generation, may not perform something worthy to be remembered. Let us cultivate a true spirit of union and harmony. In pursuing the great objects which our condition points out to us, let us act under a settled conviction, and an habitual feeling, that these twenty-four States are one country. Let our conceptions be enlarged to the circle of our duties. Let us extend our ideas over the whole of the vast field in which we are called to act. Let our object be, OUR COUNTRY, OUR WHOLE COUNTRY, AND NOTHING BUT OUR COUNTRY. And, by the blessing of God, may that country itself become a vast and splendid monument, not of oppression and terror, but of Wisdom, of Peace, and of Liberty, upon which the world may gaze with admiration forever!

The Reply to Hayne.

Mr. President,--When the mariner has been tossed for many days in thick weather, and on an unknown sea, he naturally avails himself of the first

pause in the storm, the earliest glance of the sun, to take his latitude, and ascertain how far the elements have driven him from his true course. Let us imitate this prudence, and, before we float farther on the waves of this debate, refer to the point from which we departed, that we may at least be able to conjecture where we now are. I ask for the reading of the resolution before the Senate. [1]

The Secretary read the resolution, as follows:--

"Resolved, That the Committee on Public Lands be instructed to inquire and report the quantity of public lands remaining unsold within each State and Territory, and whether it be expedient to limit for a certain period the sales of the public lands to such lands only as have heretofore been offered for sale, and are now subject to entry at the minimum price. And, also, whether the office of Surveyor-General, and some of the land offices, may not be abolished without detriment to the public interest; or whether it be expedient to adopt measures to hasten the sales and extend more rapidly the surveys of the public lands."

We have thus heard, Sir, what the resolution is which is actually before us for consideration; and it will readily occur to every one, that it is almost the only subject about which something has not been said in the speech, running through two days, by which the Senate has been entertained by the gentleman from South Carolina. Every topic in the wide range of our public affairs, whether past or present,--every thing, general or local, whether belonging to national politics or party politics,--seems to have attracted more or less of the honorable member's attention, save only the resolution before the Senate. He has spoken of every thing but the public lands; they have escaped his notice. To that subject, in all his excursions, he has not paid even the cold respect of a passing glance.

When this debate, Sir, was to be resumed, on Thursday morning, it so happened that it would have been convenient for me to be elsewhere. The honorable member, however, did not incline to put off the discussion to another day. He had a shot, he said, to return, and he wished to discharge it. That shot, Sir, which he thus kindly informed us was coming, that we might stand out of the way, or prepare ourselves to fall by it and die with decency, has now been received. Under all advantages, and with expectation awakened by the tone which preceded it, it has been discharged, and has spent its force. It may become me to say no more of its effect, than that, if nobody is found, after all, either killed or wounded, it is not the first time, in the history of human affairs, that the vigor and success of the war have not quite come up to the lofty and sounding phrase of the manifesto. [2]

The gentleman, Sir, in declining to postpone the debate, told the Senate, with the emphasis of his hand upon his heart, that there was something rankling _here_, which he wished to relieve. [Mr. Hayne rose, and disclaimed having used the word _rankling_.] It would not, Mr. President, be safe for the honorable member to appeal to those around him, upon the question whether he did in fact make use of that word. But he may have been unconscious of it. At any rate, it is enough that he disclaims it. But still, with or without the use of that particular word, he had yet

something _here_, he said, of which he wished to rid himself by an immediate reply. In this respect, Sir, I have a great advantage over the honorable gentleman. There is nothing _here_, Sir, which gives me the slightest uneasiness; neither fear, nor anger, nor that which is sometimes more troublesome than either, the consciousness of having been in the wrong. There is nothing, either originating _here_, or now received _here_ by the gentleman's shot. Nothing originating here, for I had not the slightest feeling of unkindness towards the honorable member. Some passages, it is true, had occurred since our acquaintance in this body, which I could have wished might have been otherwise; but I had used philosophy and forgotten them. I paid the honorable member the attention of listening with respect to his first speech; and when he sat down, though surprised, and I must even say astonished, at some of his opinions, nothing was farther from my intention than to commence any personal warfare. Through the whole of the few remarks I made in answer, I avoided, studiously and carefully, every thing which I thought possible to be construed into disrespect. And, Sir, while there is thus nothing originating _here_ which I have wished at any time, or now wish, to discharge, I must repeat, also, that nothing has been received _here_ which _rankles_, or in any way gives me annoyance. I will not accuse the honorable member of violating the rules of civilized war; I will not say, that he poisoned his arrows. But whether his shafts were, or were not, dipped in that which would have caused rankling if they had reached their destination, there was not, as it happened, quite strength enough in the bow to bring them to their mark. If he wishes now to gather up those shafts, he must look for them elsewhere; they will not be found fixed and quivering in the object at which they were aimed. [3]

The honorable member complained that I had slept on his speech. I must have slept on it, or not slept at all. The moment the honorable member sat down, his friend from Missouri rose, [4] and, with much honeyed commendation of the speech, suggested that the impressions which it had produced were too charming and delightful to be disturbed by other sentiments or other sounds, and proposed that the Senate should adjourn. Would it have been quite amiable in me, Sir, to interrupt this excellent good feeling? Must I not have been absolutely malicious, is; I could have thrust myself forward, to destroy sensations thus pleasing? Was it not much better and kinder, both to sleep upon them myself, and to allow others also the pleasure of sleeping upon them? But if it be meant, by sleeping upon his speech, that I took time to prepare a reply to it, it is quite a mistake. Owing to other engagements, I could not employ even the interval between the adjournment of the Senate and its meeting the next morning, in attention to the subject of this debate. [5] Nevertheless, Sir, the mere matter of fact is undoubtedly true. I did sleep on the gentleman's speech, and slept soundly. And I slept equally well on his speech of yesterday, to which I am now replying. It is quite possible that in this respect, also, I possess some advantage over the honorable member, attributable, doubtless, to a cooler temperament on my part; for, in truth, I slept upon his speeches remarkably well.

But the gentleman inquires why _he_ was made the object of such a reply. Why was _he_ singled out? If an attack has been made on the East, he, he assures us, did not begin it; it was made by the gentleman

from Missouri. Sir, I answered the gentleman's speech because I happened to hear it; and because, also, I chose to give an answer to that speech, which, if unanswered, I thought most likely to produce injurious impressions. I did not stop to inquire who was the original drawer of the bill. I found a responsible indorser before me, and it was my purpose to hold him liable, and to bring him to his just responsibility, without delay. But, Sir, this interrogatory of the honorable member was only introductory to another. He proceeded to ask me whether I had turned upon him, in this debate, from the consciousness that I should find an overmatch, if I ventured on a contest with his friend from Missouri. If, Sir, the honorable member, _modestiae gratia_, had chosen thus to defer to his friend, and to pay him a compliment, without intentional disparagement to others, it would have been quite according to the friendly courtesies of debate, and not at all ungrateful to my own feelings. I am not one of those, Sir, who esteem any tribute of regard, whether light and occasional, or more serious and deliberate, which may be bestowed on others, as so much unjustly withholden from themselves. But the tone and manner of the gentleman's question forbid me thus to interpret it. I am not at liberty to consider it as nothing more than a civility to his friend. It had an air of taunt and disparagement, something of the loftiness of asserted superiority, which does not allow me to pass it over without notice. It was put as a question for me to answer, and so put as if it were difficult for me to answer, whether I deemed the member from Missouri an overmatch for myself in debate here. It seems to me, Sir, that this is extraordinary language, and an extraordinary tone, for the discussions of this body.

Matches and overmatches! Those terms are more applicable elsewhere than here, and fitter for other assemblies than this. Sir, the gentleman seems to forget where and what we are. This is a Senate, a Senate of equals, of men of individual honor and personal character, and of absolute independence. We know no masters, we acknowledge no dictators. This is a hall for mutual consultation and discussion; not an arena for the exhibition of champions. I offer myself, Sir, as a match for no man; I throw the challenge of debate at no man's feet. But then, Sir, since the honorable member has put the question in a manner that calls for an answer, I will give him an answer; and I tell him, that, holding myself to be the humblest of the members here, I yet know nothing in the arm of his friend from Missouri, either alone or when aided by the arm of _his_ friend from South Carolina, that need deter even me from espousing whatever opinions I may choose to espouse, from debating whenever I may choose to debate, or from speaking whatever I may see fit to say, on the floor of the Senate. Sir, when uttered as matter of commendation or compliment, I should dissent from nothing which the honorable member might say of his friend. Still less do I put forth any pretensions of my own. But when put to me as matter of taunt, I throw it back, and say to the gentleman, that he could possibly say nothing less [6] likely than such a comparison to wound my pride of personal character. The anger of its tone rescued the remark from intentional irony, which otherwise, probably, would have been its general acceptation. But, Sir, if it be imagined that by this mutual quotation and commendation; if it be supposed that, by casting the characters of the drama, assigning to each his part, to one the attack, to another the cry of onset; or if it be thought that, by a

loud and empty vaunt of anticipated victory, any laurels are to be won here; if it be imagined, especially, that any or all these things will shake any purpose of mine,--I can tell the honorable member, once for all, that he is greatly mistaken, and that he is dealing with one of whose temper and character he has yet much to learn. Sir, I shall not allow myself, on this occasion, I hope on no occasion, to be betrayed into any loss of temper; but if provoked, as I trust I never shall be, into crimination and recrimination, the honorable member may perhaps find, that, in that contest, there will be blows to take as well as blows to give; that others can state comparisons as significant, at least, as his own, and that his impunity may possibly demand of him whatever powers of taunt and sarcasm he may possess. I commend him to a prudent husbandry of his resources.

But, Sir, the Coalition! [7] The Coalition! Ay, "the murdered Coalition!" The gentleman asks, if I were led or frighted into this debate by the spectre of the Coalition. "Was it the ghost of the murdered Coalition," he exclaims, "which haunted the member from Massachusetts; and which, like the ghost of Banquo, would never down?"

"The murdered Coalition!" Sir, this charge of a coalition, in reference to the late administration, is not original with the honorable member. It did not spring up in the Senate. Whether as a fact, as an argument, or as an embellishment, it is all borrowed. He adopts it, indeed, from a very low origin, and a still lower present condition. It is one of the thousand calumnies with which the press teemed, during an excited political canvass. It was a charge, of which there was not only no proof or probability, but which was in itself wholly impossible to be true. No man of common information ever believed a syllable of it. Yet it was of that class of falsehoods, which, by continued repetition, through all the organs of detraction and abuse, are capable of misleading those who are already far misled, and of further fanning passion already kindling into flame. Doubtless it served in its day, and in greater or less degree, the end designed by it. Having done that, it has sunk into the general mass of stale and loathed calumnies. It is the very cast-off slough of a polluted and shameless press. Incapable of further mischief, it lies in the sewer, lifeless and despised. It is not now, Sir, in the power of the honorable member to give it dignity or decency, by attempting to elevate it, and to introduce it into the Senate. He cannot change it from what it is, an object of general disgust and scorn. On the contrary, the contact, if he choose to touch it, is more likely to drag him down, down, to the place where it lies itself.

But, Sir, the honorable member was not, for other reasons, entirely happy in his allusion to the story of Banquo’s murder and Banquo’s ghost. It was not, I think, the friends, but the enemies of the murdered Banquo, at whose bidding his spirit would not _down_. The honorable gentleman is fresh in his reading of the English classics, and can put me right if I am wrong; but, according to my poor recollection, it was at those who had begun with caresses and ended with foul and treacherous murder that the gory locks were shaken. The ghost of Banquo, like that of Hamlet, was an honest ghost. It disturbed no innocent man. It knew where its appearance would strike terror, and who would cry out, A ghost! It made itself

visible in the right quarter, and compelled the guilty and the conscience-smitten, and none others, to start, with,

"Pr'ythee, see there! behold!--look! lo,
If I stand here, I saw him!"

Their eyeballs were seared (was it not so, Sir?) who had thought to shield themselves by concealing their own hand, and laying the imputation of the crime on a low and hireling agency in wickedness; who had vainly attempted to stifle the workings of their own coward consciences by ejaculating through white lips and chattering teeth, "Thou canst not say I did it!" I have misread the great poet if those who had no way partaken in the deed of the death, either found that they were, or _feared that they should be_, pushed from their stools by the ghost of the slain, or exclaimed to a spectre created by their own fears and their own remorse, "Avaunt! and quit our sight!"

There is another particular, Sir, in which the honorable member's quick perception of resemblances might, I should think, have seen something in the story of Banquo, making it not altogether a subject of the most pleasant contemplation. Those who murdered Banquo, what did they win by it? Substantial good? Permanent power? Or disappointment, rather, and sore mortification,--dust and ashes, the common fate of vaulting ambition overleaping itself? Did not even-handed justice erelong commend the poisoned chalice to their own lips? Did they not soon find that for another they had "filed their mind"? that their ambition, though apparently for the moment successful, had but put a barren sceptre in their grasp? [8] Ay, Sir,

"a barren sceptre in their gripe,
_Thence to be wrenched with an unlineal hand,
No son of theirs succeeding_."

Sir, I need pursue the allusion no farther. I leave the honorable gentleman to run it out at his leisure, and to derive from it all the gratification it is calculated to administer. If he finds himself pleased with the associations, and prepared to be quite satisfied, though the parallel should be entirely completed, I had almost said, I am satisfied also; but that I shall think of. Yes, Sir, I will think of that.

In the course of my observations the other day, Mr. President, I paid a passing tribute of respect to a very worthy man, Mr. Dane of Massachusetts. It so happened that he drew the Ordinance of 1787, for the government of the Northwestern Territory. A man of so much ability, and so little pretence; of so great a capacity to do good, and so unmixed a disposition to do it for its own sake; a gentleman who had acted an important part, forty years ago, in a measure the influence of which is still deeply felt in the very matter which was the subject of debate,--might, I thought, receive from me a commendatory recognition. But the honorable member was inclined to be facetious on the subject. He was rather disposed to make it matter of ridicule, that I had introduced into the debate the name of one Nathan Dane, of whom he assures us he had never before heard. Sir, if the honorable member had never before heard of Mr.

Dane, I am sorry for it. It shows him less acquainted with the public men of the country than I had supposed. Let me tell him, however, that a sneer from him at the mention of the name of Mr. Dane is in bad taste. It may well be a high mark of ambition, Sir, either with the honorable gentleman or myself, to accomplish as much to make our names known to advantage, and remembered with gratitude, as Mr. Dane has accomplished. But the truth is, Sir, I suspect, that Mr. Dane lives a little too far north. He is of Massachusetts, and too near the north star to be reached by the honorable gentleman's telescope. If his sphere had happened to range south of Mason and Dixon's line, he might, probably, have come within the scope of his vision.

I spoke, Sir, of the Ordinance of 1787, which prohibits slavery, in all future times, northwest of the Ohio, as a measure of great wisdom and foresight, and one which had been attended with highly beneficial and permanent consequences. I supposed that, on this point, no two gentlemen in the Senate could entertain different opinions. But the simple expression of this sentiment has led the gentleman, not only into a labored defence of slavery, in the abstract, and on principle, but also into a warm accusation against me, as having attacked the system of domestic slavery now existing in the Southern States. For all this, there was not the slightest foundation, in anything said or intimated by me. I did not utter a single word which any ingenuity could torture into an attack on the slavery of the South. I said, only, that it was highly wise and useful, in legislating for the Northwestern country while it was yet a wilderness, to prohibit the introduction of slaves; and I added, that I presumed there was no reflecting and intelligent person, in the neighboring State of Kentucky, who would doubt that, if the same prohibition had been extended, at the same early period, over that commonwealth, her strength and population would, at this day, have been far greater than they are. If these opinions be thought doubtful, they are nevertheless, I trust, neither extraordinary nor disrespectful. They attack nobody and menace nobody. And yet, Sir, the gentleman's optics have discovered, even in the mere expression of this sentiment, what he calls the very spirit of the Missouri question! [9] He represents me as making an onset on the whole South, and manifesting a spirit which would interfere with, and disturb, their domestic condition!

Sir, this injustice no otherwise surprises me, than as it is committed here, and committed without the slightest pretence of ground for it. I say it only surprises me as being done here; for I know full well, that it is, and has been, the settled policy of some persons in the South, for years, to represent the people of the North as disposed to interfere with them in their own exclusive and peculiar concerns. This is a delicate and sensitive point in Southern feeling; and of late years it has always been touched, and generally with effect, whenever the object has been to unite the whole South against Northern men or Northern measures. This feeling, always carefully kept alive, and maintained at too intense a heat to admit discrimination or reflection, is a lever of great power in our political machine. It moves vast bodies, and gives to them one and the same direction. But it is without adequate cause, and the suspicion which exists is wholly groundless. There is not, and never has been, a disposition in the North to interfere with these interests of the South.

Such interference has never been supposed to be within the power of government; nor has it been in any way attempted. The slavery of the South has always been regarded as a matter of domestic policy, left with the States themselves, and with which the Federal government had nothing to do. Certainly, Sir, I am, and ever have been, of that opinion. The gentleman, indeed, argues that slavery, in the abstract, is no evil. Most assuredly I need not say I differ with him, altogether and most widely, on that point. I regard domestic slavery as one of the greatest evils, both moral and political. But whether it be a malady, and whether it be curable, and if so, by what means; or, on the other hand, whether it be the _vulnus immedicabile_ of the social system, I leave it to those whose right and duty it is to inquire and to decide. And this I believe, Sir, is, and uniformly has been, the sentiment of the North.

When it became necessary, or was thought so, by some political persons, to find an unvarying ground for the exclusion of Northern men from confidence and from lead in the affairs of the republic, then, and not till then, the cry was raised, and the feeling industriously excited, that the influence of Northern men in the public counsels would endanger the relation of master and slave. For myself, I claim no other merit than that this gross and enormous injustice towards the whole North has not wrought upon me to change my opinions or my political conduct. I hope I am above violating my principles, even under the smart of injury and false imputations. Unjust suspicions and undeserved reproach, whatever pain I may experience from them, will not induce me, I trust, to overstep the limits of constitutional duty, or to encroach on the rights of others. The domestic slavery of the Southern States I leave where I find it,--in the hands of their own governments. It is their affair, not mine. Nor do I complain of the peculiar effect which the magnitude of that population has had in the distribution of power under this Federal government. We know, Sir, that the representation of the States in the other house is not equal. We know that great advantage in that respect is enjoyed by the slave-holding States; and we know, too, that the intended equivalent for that advantage, that is to say, the imposition of direct taxes in the same ratio, has become merely nominal, the habit of the government being almost invariably to collect its revenue from other sources and in other modes. Nevertheless, I do not complain; nor would I countenance any movement to alter this arrangement of representation. It is the original bargain, the compact; let it stand; let the advantage of it be fully enjoyed. The Union itself is too full of benefit to be hazarded in propositions for changing its original basis. I go for the Constitution as it is, and for the Union as it is. But I am resolved not to submit in silence to accusations, either against myself individually or against the North, wholly unfounded and unjust,--accusations which impute to us a disposition to evade the constitutional compact, and to extend the power of the government over the internal laws and domestic condition of the States. All such accusations, wherever and whenever made, all insinuations of the existence of any such purposes, I know and feel to be groundless and injurious. And we must confide in Southern gentlemen themselves; we must trust to those whose integrity of heart and magnanimity of feeling will lead them to a desire to maintain and disseminate truth, and who possess the means of its diffusion with the Southern public; we must leave it to them to disabuse that public of its prejudices. But in the mean time, for my own part, I

shall continue to act justly, whether those towards whom justice is exercised receive it with candor or with contumely.

Having had occasion to recur to the Ordinance of 1787, in order to defend myself against the inferences which the honorable member has chosen to draw from my former observations on that subject, I am not willing now entirely to take leave of it without another remark. It need hardly be said, that that paper expresses just sentiments on the great subject of civil and religious liberty. Such sentiments were common, and abound in all our state papers of that day. But this Ordinance did that which was not so common, and which is not even now universal; that is, it set forth and declared it to be a high and binding duty of government itself to support schools and advance the means of education, on the plain reason that religion, morality, and knowledge are necessary to good government, and to the happiness of mankind. One observation further. The important provision incorporated into the Constitution of the United States, and into several of those of the States, and recently, as we have seen, adopted into the reformed constitution of Virginia, restraining legislative power in questions of private right, and from impairing the obligation of contracts, is first introduced and established, as far as I am informed, as matter of express written constitutional law, in this Ordinance of 1787. And I must add, also, in regard to the author of the Ordinance, who has not had the happiness to attract the gentleman’s notice heretofore, nor to avoid his sarcasm now, that he was chairman of that select committee of the old Congress, whose report first expressed the strong sense of that body, that the old Confederation was not adequate to the exigencies of the country, and recommended to the States to send delegates to the convention which formed the present Constitution.

An attempt has been made to transfer from the North to the South the honor of this exclusion of slavery from the Northwestern Territory. The journal, without argument or comment, refutes such attempts. The cession by Virginia was made in March, 1784. On the 19th of April following, a committee, consisting of Messrs. Jefferson, Chase, and Howell, reported a plan for a temporary government of the territory, in which was this article: "That, after the year 1800, there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in punishment of crimes, whereof the party shall have been convicted." Mr. Spaight of North Carolina moved to strike out this paragraph. The question was put, according to the form then practised, "Shall these words stand as a part of the plan?" New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, seven States, voted in the affirmative; Maryland, Virginia, and South Carolina, in the negative. North Carolina was divided. As the consent of nine States was necessary, the words could not stand, and were struck out accordingly. Mr. Jefferson voted for the clause, but was overruled by his colleagues.

In March of the next year (1785), Mr. King of Massachusetts, seconded by Mr. Ellery of Rhode Island, proposed the formerly rejected article, with this addition: "And that this regulation shall be an article of compact, and remain a fundamental principle of the constitutions between the thirteen original States, and each of the States described in the resolve." On this clause, which provided the adequate and thorough

security, the eight Northern States at that time voted affirmatively, and the four Southern States negatively. The votes of nine States were not yet obtained, and thus the provision was again rejected by the Southern States. The perseverance of the North held out, and two years afterwards the object was attained. It is no derogation from the credit, whatever that may be, of drawing the Ordinance, that its principles had before been prepared and discussed, in the form of resolutions. If one should reason in that way, what would become of the distinguished honor of the author of the Declaration of Independence? There is not a sentiment in that paper which had not been voted and resolved in the assemblies, and other popular bodies in the country, over and over again.

But the honorable member has now found out that this gentleman, Mr. Dane, was a member of the Hartford Convention. [10] However uninformed the honorable member may be of characters and occurrences at the North, it would seem that he has at his elbow, on this occasion, some highminded and lofty spirit, some magnanimous and true-hearted monitor, possessing the means of local knowledge, and ready to supply the honorable member with every thing, down even to forgotten and moth-eaten two-penny pamphlets, which may be used to the disadvantage of his own country. But as to the Hartford Convention, Sir, allow me to say, that the proceedings of that body seem now to be less read and studied in New England than farther South. They appear to be looked to, not in New England, but elsewhere, for the purpose of seeing how far they may serve as a precedent. But they will not answer the purpose, they are quite too tame. The latitude in which they originated was too cold. Other conventions, of more recent existence, have gone a whole bar's length beyond it. The learned doctors of Colleton and Abbeville have pushed their commentaries on the Hartford collect so far, that the original text-writers are thrown entirely into the shade. I have nothing to do, Sir, with the Hartford Convention. Its journal, which the gentleman has quoted, I never read. So far as the honorable member may discover in its proceedings a spirit in any degree resembling that which was avowed and justified in those other conventions to which I have alluded, or so far as those proceedings can be shown to be disloyal to the Constitution, or tending to disunion, as far I shall be as ready as any one to bestow on them reprehension and censure.

Having dwelt long on this convention, and other occurrences of that day, in the hope, probably, (which will not be gratified), that I should leave the course of this debate to follow him at length in those excursions, the honorable member returned, and attempted another object. He referred to a speech of mine in the other house, the same which I had occasion to allude to myself, the other day; and has quoted a passage or two from it, with a bold, though uneasy and laboring, air of confidence, as if he had detected in me an inconsistency. Judging from the gentleman's manner, a stranger to the course of the debate and to the point in discussion would have imagined, from so triumphant a tone, that the honorable member was about to overwhelm me with a manifest contradiction. Any one who heard him, and who had not heard what I had, in fact, previously said, must have thought me routed and discomfited, as the gentleman had promised. Sir, a breath blows all this triumph away. There is not the slightest difference in the purport of my remarks on the two occasions. What I said here on Wednesday is in exact accordance with the opinion expressed by me in the other house

in 1825. Though the gentleman had the metaphysics of Hudibras, though he were able

"to sever and divide
A hair 'twixt north and northwest side,"

he could yet not insert his metaphysical scissors between the fair reading of my remarks in 1825, and what I said here last week. There is not only no contradiction, no difference, but, in truth, too exact a similarity, both in thought and language, to be entirely in just taste. I had myself quoted the same speech; had recurred to it, and spoke with it open before me; and much of what I said was little more than a repetition from it.

I need not repeat at large the general topics of the honorable gentleman's speech. When he said yesterday that he did not attack the Eastern States, he certainly must have forgotten, not only particular remarks, but the whole drift and tenor of his speech; unless he means by not attacking, that he did not commence hostilities, but that another had preceded him in the attack. He, in the first place, disapproved of the whole course of the government, for forty years, in regard to its disposition of the public lands; and then, turning northward and eastward, and fancying he had found a cause for alleged narrowness and niggardliness in the "accursed policy" of the tariff, to which he represented the people of New England as wedded, he went on for a full hour with remarks, the whole scope of which was to exhibit the results of this policy, in feelings and in measures unfavorable to the West. I thought his opinions unfounded and erroneous, as to the general course of the government, and ventured to reply to them.

The gentleman had remarked on the analogy of other cases, and quoted the conduct of European governments towards their own subjects settling on this continent, as in point, to show that we had been harsh and rigid in selling, when we should have given the public lands to settlers without price. I thought the honorable member had suffered his judgment to be betrayed by a false analogy; that he was struck with an appearance of resemblance where there was no real similitude. I think so still. The first settlers of North America were enterprising spirits, engaged in private adventure, or fleeing from tyranny at home. When arrived here, they were forgotten by the mother country, or remembered only to be oppressed. Carried away again by the appearance of anology, or struck with the eloquence of the passage, the honorable member yesterday observed, that the conduct of government towards the Western emigrants, or my representation of it, brought to his mind a celebrated speech in the British Parliament. It was, Sir, the speech of Colonel Barre. On the question of the stamp act, or tea tax, I forget which, Colonel Barre had heard a member on the treasury bench argue, that the people of the United States, being British colonists, planted by the maternal care, nourished by the indulgence, and protected by the arms of England, would not grudge their mite to relieve the mother country from the heavy burden under which she groaned. The language of Colonel Barre, in reply to this, was: "They planted by your care? Your oppression planted them in America. They fled from your tyranny, and grew by your neglect of them. So soon as you began to care for them, you showed your care by sending persons to spy out their liberties, misrepresent their character, prey upon them, and eat out their

substance."

And how does the honorable gentleman mean to maintain, that language like this is applicable to the conduct of the government of the United States towards the Western emigrants, or to any representation given by me of that conduct? Were the settlers in the West driven thither by our oppression? Have they flourished only by our neglect of them? Has the government done nothing but prey upon them, and eat out their substance? Sir, this fervid eloquence of the British speaker, just when and where it was uttered, and fit to remain an exercise for the schools, is not a little out of place, when it is brought thence to be applied here to the conduct of our own country towards her own citizens. From America to England, it may be true; from Americans to their own government, it would be strange language. Let us leave it, to be recited and declaimed by our boys against a foreign nation; not introduce it here, to recite and declaim ourselves against our own.

But I come to the point of the alleged contradiction. In my remarks on Wednesday, I contended that we could not give away gratuitously all the public lands; that we held them in trust; that the government had solemnly pledged itself to dispose of them as a common fund for the common benefit, and to sell and settle them as its discretion should dictate. Now, Sir, what contradiction does the gentleman find to this sentiment in the speech of 1825? He quotes me as having then said, that we ought not to hug these lands as a very great treasure. Very well, Sir, supposing me to be accurately reported in that expression, what is the contradiction? I have not now said, that we should hug these lands as a favorite source of pecuniary income. No such thing. It is not my view. What I have said, and what I do say, is, that they are a common fund, to be disposed of for the common benefit, to be sold at low prices for the accommodation of settlers, keeping the object of settling the lands as much in view as that of raising money from them. This I say now, and this I have always said. Is this hugging them as a favorite treasure? Is there no difference between hugging and hoarding this fund, on the one hand, as a great treasure, and, on the other, of disposing of it at low prices, placing the proceeds in the general treasury of the Union? My opinion is, that as much is to be made of the land as fairly and reasonably may be, selling it all the while at such rates as to give the fullest effect to settlement. This is not giving it all away to the States, as the gentleman would propose; nor is it hugging the fund closely and tenaciously, as a favorite treasure; but it is, in my judgment, a just and wise policy, perfectly according with all the various duties which rest on government. So much for my contradiction. And what is it? Where is the ground of the gentleman’s triumph? What inconsistency in word or doctrine has he been able to detect? Sir, if this be a sample of that discomfiture with which the honorable gentleman threatened me, commend me to the word _discomfiture_ for the rest of my life.

We approach, at length, Sir, to a more important part of the honorable gentleman’s observations. Since it does not accord with my views of justice and policy to give away the public lands altogether, as a mere matter of gratuity, I am asked by the honorable gentleman on what ground it is that I consent to vote them away in particular instances. How, he

inquires, do I reconcile with these professed sentiments, my support of measures appropriating portions of the lands to particular roads, particular canals, particular rivers, and particular institutions of education in the West? This leads, Sir, to the real and wide difference in political opinion between the honorable gentleman and myself. On my part, I look upon all these objects as connected with the common good, fairly embraced in its object and its terms; he, on the contrary, deems them all, if good at all, only local good. This is our difference. The interrogatory which he proceeded to put at once explains this difference. "What interest," asks he, "has South Carolina in a canal in Ohio?" Sir, this very question is full of significance. It develops the gentleman's whole political system; and its answer expounds mine. Here we differ. I look upon a road over the Alleghenies, a canal round the falls of the Ohio, or a canal or railway from the Atlantic to the Western waters, as being an object large and extensive enough to be fairly said to be for the common benefit. The gentleman thinks otherwise, and this is the key to his construction of the powers of the government. He may well ask what interest has South Carolina in a canal in Ohio. On his system, it is true, she has no interest. On that system, Ohio and Carolina are different governments, and different countries; connected here, it is true, by some slight and ill-defined bond of union, but in all main respects separate and diverse. On that system, Carolina has no more interest in a canal in Ohio than in Mexico. The gentleman, therefore, only follows out his own principles; he does no more than arrive at the natural conclusions of his own doctrines; he only announces the true results of that creed which he has adopted himself, and would persuade others to adopt, when he thus declares that South Carolina has no interest in a public work in Ohio.

Sir, we narrow-minded people of New England do not reason thus. Our _notion_ of things is entirely different. We look upon the States, not as separated, but as united. We love to dwell on that union, and on the mutual happiness which it has so much promoted, and the common renown which it has so greatly contributed to acquire. In our contemplation, Carolina and Ohio are parts of the same country; States, united under the same general government, having interests, common, associated, intermingled. In whatever is within the proper sphere of the constitutional power of this government, we look upon the States as one. We do not impose geographical limits to our patriotic feeling or regard; we do not follow rivers and mountains, and lines of latitude, to find boundaries, beyond which public improvements do not benefit us. We who come here, as agents and representatives of these narrow-minded and selfish men of New England, consider ourselves as bound to regard with an equal eye the good of the whole, in whatever is within our powers of legislation. Sir, if a railroad or canal beginning in South Carolina and ending in South Carolina, appeared to me to be of national importance and national magnitude, believing, as I do, that the power of government extends to the encouragement of works of that description, if I were to stand up here and ask, What interest has Massachusetts in a railroad in South Carolina? I should not be willing to face my constituents. [11] These same narrow-minded men would tell me, that they had sent me to act for the whole country, and that one who possessed too little comprehension, either of intellect or feeling, one one who was not large enough, both in mind and in heart, to embrace the whole, was not fit to be

intrusted with the interest of any part.

Sir, I do not desire to enlarge the powers of the government by unjustifiable construction, nor to exercise any not within a fair interpretation. But when it is believed that a power does exist, then it is, in my judgment, to be exercised for the general benefit of the whole. So far as respects the exercise of such a. power, the States are one. It was the very object of the Constitution to create unity of interests to the extent of the powers of the general government. In war and peace we are one; in commerce, one; because the authority of the general government reaches to war and peace, and to the regulation of commerce. I have never seen any more difficulty in erecting light-houses on the lakes, than on the ocean; in improving the harbors of inland seas, than if they were within the ebb and flow of the tide; or in removing obstructions in the vast streams of the West, more than in any work to facilitate commerce on the Atlantic coast. If there be any power for one, there is power also for the other; and they are all and equally for the common good of the country.

There are other objects, apparently more local, or the benefit of which is less general, towards which, nevertheless, I have concurred with others, to give aid by donations of land. It is proposed to construct a road, in or through one of the new States, in which this government possesses large quantities of land. Have the United States no right, or, as a great and untaxed proprietor, are they under no obligation to contribute to an object thus calculated to promote the common good of all the proprietors, themselves included? And even with respect to education, which is the extreme case, let the question be considered. In the first place, as we have seen, it was made matter of compact with these States, that they should do their part to promote education. In the next place, our whole system of land laws proceeds on the idea that education is for the common good; because, in every division, a certain portion is uniformly reserved and appropriated for the use of schools. And, finally, have not these new States singularly strong claims, founded on the ground already stated, that the government is a great untaxed proprietor, in the ownership of the soil? It is a consideration of great importance, that probably there is in no part of the country, or of the world, so great call for the means of education, as in these new States, owing to the vast number’s of persons within those ages in which education and instruction are usually received, if received at all. This is the natural consequence of recency of settlement and rapid increase. The census of these States shows how great a proportion of the whole population occupies the classes between infancy and manhood. These are the wide fields, and here is the deep and quick soil for the seeds of knowledge and virtue; and this is the favored season, the very spring-time for sowing them. Let them be disseminated without stint. Let them be scattered with a bountiful hand, broadcast. Whatever the government can fairly do towards these objects, in my opinion, ought to be done.

These, Sir, are the grounds, succinctly stated, on which my votes for grants of lands for particular objects rest; while I maintain, at the same time, that it is all a common fund, for the common benefit. And reasons like these, I presume, have influenced the votes of other gentlemen from

New England. Those who have a different view of the powers of the government, of course, come to different conclusions, on these, as on other questions. I observed, when speaking on this subject before, that if we looked to any measure, whether for a road, a canal, or any thing else, intended for the improvement of the West, it would be found that, if the New England _ayes_ were struck out of the lists of votes, the Southern _noes_ would always have rejected the measure. The truth of this has not been denied, and cannot be denied. In stating this, I thought it just to ascribe it to the constitutional scruples of the South, rather than to any other less favorable or less charitable cause. But no sooner had I done this, than the honorable gentleman asks if I reproach him and his friends with their constitutional scruples. Sir, I reproach nobody. I stated a fact, and gave the most respectful reason for it that occurred to me. The gentleman cannot deny the fact; he may, if he choose, disclaim the reason. It is not long since I had occasion, in presenting a petition from his own State, to account for its being intrusted to my hands, by saying, that the constitutional opinions of the gentleman and his worthy colleague prevented them from supporting it. Sir, did I state this as matter of reproach? Far from it. Did I attempt to find any other cause than an honest one for these scruples? Sir, I did not. It did not become me to doubt or to insinuate that the gentleman had either changed his sentiments, or that he had made up a set of constitutional opinions accommodated to any particular combination of political occurrences. Had I done so, I should have felt, that, while I was entitled to little credit in thus questioning other people's motives, I justified the whole world in suspecting my own. But how has the gentleman returned this respect for others' opinions? His own candor and justice, how have they been exhibited towards the motives of others, while he has been at so much pains to maintain, what nobody has disputed, the purity of his own? Why, Sir, he has asked _when_, and _how_, and _why_ New England votes were found going for measures favorable to the West. He has demanded to be informed whether all this did not begin in 1825, and while the election of President was still pending.

Sir, to these questions retort would be justified; and it is both cogent and at hand. Nevertheless, I will answer the inquiry, not by retort, but by facts. I will tell the gentleman when, and how, and why New England has supported measures favorable to the West. I have already referred to the early history of the government, to the first acquisition of the lands, to the original laws for disposing of them, and for governing the territories where they lie; and have shown the influence of New England men and New England principles in all these leading measures. I should not be pardoned were I to go over that ground again. Coming to more recent times, and to measures of a less general character, I have endeavored to prove that every thing of this kind, designed for Western improvement, has depended on the votes of New England; all this is true beyond the power of contradiction. And now, Sir, there are two measures to which I will refer, not so ancient as to belong to the early history of the public lands, and not so recent as to be on this side of the period when the gentleman charitably imagines a new direction may have been given to New England feeling and New England votes. These measures, and the New England votes in support of them, may be taken as samples and specimens of all the rest.

In 1820 (observe, Mr. President, in 1820) the people of the West besought Congress for a reduction in the price of lands. In favor of that reduction, New England, with a delegation of forty members in the other house, gave thirty-three votes, and one only against it. The four Southern States, with more than fifty members, gave thirty-two votes for it, and seven against it. Again, in 1821, (observe again, Sir, the time,) the law passed for the relief of the purchasers of the public lands. This was a measure of vital importance to the West, and more especially to the Southwest. It authorized the relinquishment of contracts for lands which had been entered into at high prices, and a reduction in other cases of not less than thirty-seven and a half per cent on the purchase-money. Many millions of dollars, six or seven, I believe, probably much more, were relinquished by this law. On this bill, New England, with her forty members, gave more affirmative votes than the four Southern States, with their fifty-two or fifty-three members. These two are far the most important general measures respecting the public lands which have been adopted within the last twenty years. They took place in 1820 and 1821. That is the time _when_.

As to the manner _how_, the gentleman already sees that it was by voting in solid column for the required relief; and, lastly, as to the cause _why_, I tell the gentleman it was because the members from New England thought the measures just and salutary; because they entertained towards the West neither envy, hatred, nor malice; because they deemed it becoming them, as just and enlightened public men, to meet the exigency which had arisen in the West with the appropriate measure of relief; because they felt it due to their own characters, and the characters of their New England predecessors in this government, to act towards the new States in the spirit of a liberal, patronizing, magnanimous policy. So much, Sir, for the cause _why_; and I hope that by this time, Sir, the honorable gentleman is satisfied; if not, I do not know _when_, or _how_, or _why_ he ever will be. Having recurred to these two important measures, in answer to the gentleman’s inquiries, I must now beg permission to go back to a period somewhat earlier, for the purpose of still further showing how much, or rather how little, reason there is for the gentleman’s insinuation that political hopes or fears, or party associations, were the grounds of these New England votes. And after what has been said, I hope it may be forgiven me if I allude to some political opinions and votes of my own, of very little public importance certainly, but which, from the time at which they were given and expressed, may pass for good witnesses on this occasion.

This government, Mr. President, from its origin to the peace of 1815, had been too much engrossed with various other important concerns to be able to turn its thoughts inward, and look to the development of its vast internal resources. In the early part of President Washington’s administration, it was fully occupied with completing its own organization, providing for the public debt, defending the frontiers, and maintaining domestic peace. Before the termination of that administration, the fires of the French Revolution blazed forth, as from a new-opened volcano, and the whole breadth of the ocean did not secure us from its effects. The smoke and the cinders reached us, though not the burning lava. Difficult and agitating questions, embarrassing to government and

dividing public opinion, sprung out of the new state of our foreign relations, and were succeeded by others, and yet again by others, equally embarrassing and equally exciting division and discord, through the long series of twenty years, till they finally issued in the war with England. Down to the close of that war, no distinct, marked, and deliberate attention had been given, or could have been given, to the internal condition of the country, its capacities of improvement, or the constitutional power of the government in regard to objects connected with such improvement.

The peace, Mr. President, brought about an entirely new and a most interesting state of things; it opened to us other prospects and suggested other duties. We ourselves were changed, and the whole world was changed. The pacification of Europe, after June, 1815, assumed a firm and permanent aspect. The nations evidently manifested that they were disposed for peace. Some agitation of the waves might be expected, even after the storm had subsided; but the tendency was, strongly and rapidly, towards settled repose.

It so happened, Sir, that I was at that time a member of Congress, and, like others, naturally turned my thoughts to the contemplation of the recently altered condition of the country and of the world. It appeared plainly enough to me, as well as to wiser and more experienced men, that the policy of the government would naturally take a start in a new direction; because new directions would necessarily be given to the pursuits and occupations of the people. We had pushed our commerce far and fast, under the advantage of a neutral flag. But there were now no longer flags, either neutral or belligerent. The harvest of neutrality had been great, but we had gathered it all. With the peace of Europe, it was obvious there would spring up in her circle of nations a revived and invigorated spirit of trade, and a new activity in all the business and objects of civilized life. Hereafter, our commercial gains were to be earned only by success in a close and intense competition. Other nations would produce for themselves, and carry for themselves, and manufacture for themselves, to the full extent of their abilities. The crops of our plains would no longer sustain European armies, nor our ships longer supply those whom war had rendered unable to supply themselves. It was obvious, that, under these circumstances, the country would begin to survey itself, and to estimate its own capacity of improvement.

And this improvement,--how was it to be accomplished, and who was to accomplish it? We were ten or twelve millions of people, spread over almost half a world. We were more than twenty States, some stretching along the same seaboard, some along the same line of inland frontier, and others on opposite banks of the same vast rivers. Two considerations at once presented themselves with great force, in looking at this state of things. One was, that that great branch of improvement which consisted in furnishing new facilities of intercourse necessarily ran into different States in every leading instance, and would benefit the citizens of all such States. No one State, therefore, in such cases, would assume the whole expense, nor was the co-operation of several States to be expected. Take the instance of the Delaware breakwater. It will cost several millions of money. Would Pennsylvania alone ever have constructed it?

Certainly never, while this Union lasts, because it is not for her sole benefit. Would Pennsylvania, New Jersey, and Delaware have united to accomplish it at their joint expense? Certainly not, for the same reason. It could not be done, therefore, but by the general government. The same may be said of the large inland undertakings, except that, in them, government, instead of bearing the whole expense, co-operates with others who bear a part. The other consideration is, that the United States have the means. They enjoy the revenues derived from commerce, and the States have no abundant and easy sources of public income. The custom-houses fill the general treasury, while the States have scanty resources, except by resort to heavy direct taxes.

Under this view of things, I thought it necessary to settle, at least for myself, some definite notions with respect to the powers of the government in regard to internal affairs. It may not savor too much of self-commendation to remark, that, with this object, I considered the Constitution, its judicial construction, its contemporaneous exposition, and the whole history of the legislation of Congress under it; and I arrived at the conclusion, that government had power to accomplish sundry objects, or aid in their accomplishment, which are now commonly spoken of as INTERNAL IMPROVEMENTS. That conclusion, Sir, may have been right, or it may have been wrong. I am not about to argue the grounds of it at large. I say only, that it was adopted and acted on even so early as in 1816. Yes, Mr. President, I made up my opinion, and determined on my intended course of political conduct, on these subjects, in the Fourteenth Congress, in 1816. And now, Mr. President, I have further to say, that I made up these opinions, and entered on this course of political conduct, _Teucro duce_. [12] Yes, Sir, I pursued in all this a South Carolina track on the doctrines of internal improvement. South Carolina, as she was then represented in the other house, set forth in 1816 under a fresh and leading breeze, and I was among the followers. But if my leader sees new lights and turns a sharp corner, unless I see new lights also, I keep straight on in the same path. I repeat, that leading gentlemen from South Carolina were first and foremost in behalf of the doctrines of internal improvements, when those doctrines came first to be considered and acted upon in Congress. The debate on the bank question, on the tariff of 1816, and on the direct tax, will show who was who, and what was what, at that time.

The tariff of 1816, (one of the plain cases of oppression and usurpation, from which, if the government does not recede, individual States may justly secede from the government,) is, Sir, in truth, a South Carolina tariff, supported by South Carolina votes. But for those votes, it could not have passed in the form in which it did pass; whereas, if it had depended on Massachusetts votes, it would have been lost. Does not the honorable gentleman well know all this? There are certainly those who do, full well, know it all. I do not say this to reproach South Carolina. I only state the fact; and I think it will appear to be true, that among the earliest and boldest advocates of the tariff, as a measure of protection, and on the express ground of protection, were leading gentlemen of South Carolina in Congress. I did not then, and cannot now, understand their language in any other sense. While this tariff of 1816 was under discussion in the House of Representatives, an honorable gentleman from

Georgia, [13] now of this house, moved to reduce the proposed duty on cotton. He failed, by four votes, South Carolina giving three votes (enough to have turned the scale) against his motion. The act, Sir, then passed, and received on its passage the support of a majority of the Representatives of South Carolina present and voting. This act is the first in the order of those now denounced as plain usurpations. We see it daily in the list, by the side of those of 1824 and 1828, as a case of manifest oppression, justifying disunion. I put it home to the honorable member from South Carolina, that his own State was not only "art and part" in this measure, but the _causa causans_. Without her aid, this seminal principle of mischief, this root of Upas, could not have been planted. I have already said, and it is true, that this act proceeded on the ground of protection. It interfered directly with existing interests of great value and amount. It cut up the Calcutta cotton trade by the roots; but it passed, nevertheless, and it passed on the principle of protecting manufactures, on the principle against free trade, on the principle opposed to that _which lets us alone_. [14]

Such, Mr. President, were the opinions of important and leading gentlemen from South Carolina, on the subject of internal improvement, in 1816. I went out of Congress the next year, and, returning again in 1823, thought I found South Carolina where I had left her. I really supposed that all things remained as they were, and that the South Carolina doctrine of internal improvements would be defended by the same eloquent voices, and the same strong arms, as formerly. In the lapse of these six years, it is true, political associations had assumed a new aspect and new divisions. A strong party had arisen in the South hostile to the doctrine of internal improvements. Anti-consolidation was the flag under which this party fought; and its supporters inveighed against internal improvements, much after the manner in which the honorable gentleman has now inveighed against them, as part and parcel of the system of consolidation. Whether this party arose in South Carolina itself, or in the neighborhood, is more than I know. I think the latter. However that may have been, there were those found in South Carolina ready to make war upon it, and who did make intrepid war upon it. Names being regarded as things in such controversies, they bestowed on the anti-improvement gentlemen the appellation of Radicals. Yes, Sir, the appellation of Radicals, as a term of distinction applicable and applied to those who denied the liberal doctrines of internal improvement, originated, according to the best of my recollection, somewhere between North Carolina and Georgia. Well, Sir, these mischievous Radicals were to be put down, and the strong arm of South Carolina was stretched out to put them down. About this time I returned to Congress. The battle with the Radicals had been fought, and our South Carolina champions of the doctrines of internal improvement had nobly maintained their ground, and were understood to have achieved a victory. We looked upon them as conquerors. They had driven back the enemy with discomfiture, a thing, by the way, Sir, which is not always performed when it is promised. A gentleman to whom I have already referred in this debate had come into Congress, during my absence from it, from South Carolina, and had brought with him a high reputation for ability. He came from a school with which we had been acquainted, _et noscitur a sociis_. I hold in my hand, Sir, a printed speech of this distinguished gentleman,[15] "ON INTERNAL IMPROVEMENTS," delivered about the period to

which I now refer, and printed with a few introductory remarks upon _consolidation_; in which, Sir, I think he quite consolidated the arguments of his opponents, the Radicals, if to _crush_ be to consolidate. I give you a short but significant quotation from these remarks. He is speaking of a pamphlet, then recently published, entitled "Consolidation"; and, having alluded to the question of renewing the charter of the former Bank of the United States, he says:--

"Moreover, in the early history of parties, and when Mr. Crawford advocated a renewal of the old charter, it was considered a Federal measure; which internal improvement never was, as this author erroneously states. This latter measure originated in the administration of Mr. Jefferson, with the appropriation for the Cumberland Road; and was first proposed, _as a system_, by Mr. Calhoun, and carried through the House of Representatives by a large majority of the Republicans, including almost every one of the leading men who carried us through the late war."

So, then, internal improvement is not one of the Federal heresies.

When I took my seat there as a member from Massachusetts in 1823, we had a bill before us, and passed it in that house, entitled, "An Act to procure the necessary surveys, plans, and estimates upon the subject of roads and canals." It authorized the President to cause surveys and estimates to be made of the routes of such roads and canals as he might deem of national importance in a commercial or military point of view, or for the transportation of the mail, and appropriated thirty thousand dollars out of the treasury to defray the expense. This act, though preliminary in its nature, covered the whole ground. It took for granted the complete power of internal improvement, as far as any of its advocates had ever contended for it. Having passed the other house, the bill came up to the Senate, and was here considered and debated in April, 1824. The honorable member from South Carolina was a member of the Senate at that time. While the bill was under consideration here, a motion was made to add the following proviso: "_Provided_, That nothing herein contained shall be construed to affirm _or admit_ a power in Congress, on their own authority, to make roads or canals within any of the States of the Union." The yeas and nays were taken on this proviso, and the honorable member voted _in the negative!_ The proviso failed.

A motion was then made to add this proviso, viz.: "_Provided_, That the faith of the United States is hereby pledged, that no money shall ever be expended for roads or canals, except it shall be among the several States, and in the same proportion as direct taxes are laid and assessed by the provisions of the Constitution." The honorable member voted _against this proviso_ also, and it failed. The bill was then put on its passage, and the honorable member voted _for it_, and it passed, and became a law.

Now, it strikes me, Sir, that there is no maintaining these votes, but upon the power of internal improvement, in its broadest sense. In truth, these bills for surveys and estimates have always been considered as test questions; they show who is for and who against internal improvement. This law itself went the whole length, and assumed the full and complete power.

The gentleman's votes sustained that power, in every form in which the various propositions to amend presented it. He went for the entire and unrestrained authority, without consulting the States, and without agreeing to any proportionate distribution. And now suffer me to remind you, Mr. President, that it is this very same power, thus sanctioned, in every form, by the gentleman's own opinion, which is so plain and manifest a usurpation, that the State of South Carolina is supposed to be justified in refusing submission to any laws carrying the power into effect. Truly, Sir, is not this a little too hard? May we not crave some mercy, under favor and protection of the gentleman's own authority? Admitting that a road, or a canal, must be written down flat usurpation as was ever committed, may we find no mitigation in our respect for his place, and his vote, as one that knows the law?

The tariff, which South Carolina had an efficient hand in establishing, in 1816, and this asserted power of internal improvement, advanced by her in the same year, and, as we have seen, approved and sanctioned by her Representatives in 1824,--these two measures are the great grounds on which she is now thought to be justified in breaking up the Union, if she sees fit to break it up!

I may now safely say, I think, that we have had the authority of leading and distinguished gentlemen from South Carolina in support of the doctrine of internal improvement. I repeat, that, up to 1824, I for one followed South Carolina; but when that star, in its ascension, veered off in an unexpected direction, I relied on its light no longer. I have thus, Sir, perhaps not without some tediousness of detail, shown, if I am in error on the subject of internal improvement, how, and in what company, I fell into that error. If I am wrong, it is apparent who misled me.

I go to other remarks of the honorable member; and I have to complain of an entire misapprehension of what I said on the subject of the national debt, though I can hardly perceive how any one could misunderstand me. What I said was, not that I wished to put off the payment of the debt, but, on the contrary, that I had always voted for every measure for its reduction, as uniformly as the gentleman himself. He seems to claim the exclusive merit of a disposition to reduce the public charge. I do not allow it to him. As a debt, I was, I am for paying it, because it is a charge on our finances, and on the industry of the country. But I observed, that I thought I perceived a morbid fervor on that subject, an excessive anxiety to pay off the debt, not so much because it is a debt simply, as because, while it lasts, it furnishes one objection to disunion. It is, while it continues, a tie of common interest. I did not impute such motives to the honorable member himself, but that there is such an opinion in existence I have not a particle of doubt. The most I said was, that, if one effect of the debt was to strengthen our Union, that effect itself was not regretted by me, however much others might regret it. The gentleman has not seen how to reply to this, otherwise than by supposing me to have advanced the doctrine that a national debt is a national blessing. Others, I must hope, will find much less difficulty in understanding me. I distinctly and pointedly cautioned the honorable member not to understand me as expressing an opinion favorable to the continuance of the debt. I repeated this caution, and repeated it more

than once; but it was thrown away.

On yet another point, I was still more unaccountably misunderstood. The gentleman had harangued against "consolidation." I told him, in reply, that there was one kind of consolidation to which I was attached, and that was the consolidation of our Union; that this was precisely that consolidation to which I feared others were not attached, and that such consolidation was the very end of the Constitution, the leading object, as they had informed us themselves, which its framers had kept in view. I turned to their communication,[16] and read their very words, "the consolidation of the Union," and expressed my devotion to this sort of consolidation. I said, in terms, that I wished not in the slightest degree to augment the powers of this government; that my object was to preserve, not to enlarge; and that by consolidating the Union I understood no more than the strengthening of the Union, and perpetuating it. Having been thus explicit, having thus read from the printed book the precise words which I adopted, as expressing my own sentiments, it passes comprehension how any man could understand me as contending for an extension of the powers of the government, or for consolidation in that odious sense in which it means an accumulation, in the federal government, of the powers properly belonging to the States.

I repeat, Sir, that, in adopting the sentiment of the framers of the Constitution, I read their language audibly, and word for word; and I pointed out the distinction, just as fully as I have now done, between the consolidation of the Union and that other obnoxious consolidation which I disclaimed. And yet the honorable member misunderstood me. The gentleman had said that he wished for no fixed revenue,--not a shilling. If by a word he could convert the Capitol into gold, he would not do it. Why all this fear of revenue? Why, Sir, because, as the gentleman told us, it tends to consolidation. Now this can mean neither more nor less than, that a common revenue is a common interest, and that all common interests tend to preserve the union of the States. I confess I like that tendency; if the gentleman dislikes it, he is right in deprecating a shilling of fixed revenue. So much, Sir, for consolidation.

As well as I recollect the course of his remarks, the honorable gentleman next recurred to the subject of the tariff. He did not doubt the word must be of unpleasant sound to me, and proceeded, with an effort neither new nor attended with new success, to involve me and my votes in inconsistency and contradiction. I am happy the honorable gentleman has furnished me an opportunity of a timely remark or two on that subject. I was glad he approached it, for it is a question I enter upon without fear from anybody. The strenuous toil of the gentleman has been to raise an inconsistency between my dissent to the tariff in 1824, and my vote in 1828. It is labor lost. He pays undeserved compliment to my speech in 1824; but this is to raise me high, that my fall, as he would have it, in 1828, may be more signal. Sir, there was no fall. Between the ground I stood on in 1824 and that I took in 1828, there was not only no precipice, but no declivity. It was a change of position to meet new circumstances, but on the same level. A plain tale explains the whole matter. In 1816 I had not acquiesced in the tariff, then supported by South Carolina. To some parts of it, especially, I felt and expressed great repugnance. I

held the same opinions in 1820, at the meeting in Faneuil Hall, to which the gentleman has alluded.

With a great majority of the Representatives of Massachusetts, I voted against the tariff of 1824.[17] My reasons were then given, and I will not now repeat them. But, notwithstanding our dissent, the great States of New York, Pennsylvania, Ohio, and Kentucky went for the bill, in almost unbroken column, and it passed. Congress and the President sanctioned it, and it became the law of the land. What, then, were we to do? Our only option was, either to fall in with this settled course of public policy, and accommodate ourselves to it as well as we could, or to embrace the South Carolina doctrine, and talk of nullifying the statute by State interference.

This last alternative did not suit our principles, and of course we adopted the former. In 1827, the subject came again before Congress, on a proposition to afford some relief to the branch of wool and woollens. We looked upon the system of protection as being fixed and settled. The law of 1824 remained. It had gone into full operation, and, in regard to some objects intended by it, perhaps most of them, had produced all its expected effects. No man proposed to repeal it; no man attempted to renew the general contest on its principle. But, owing to subsequent and unforeseen occurrences, the benefit intended by it to wool and woollen fabrics had not been realized. Events not known here when the law passed had taken place, which defeated its object in that particular respect. A measure was accordingly brought forward to meet this precise deficiency, to remedy this particular defect. It was limited to wool and woollens. Was ever anything more reasonable? If the policy of the tariff laws had become established in principle, as the permanent policy of the government, should they not be revised and amended, and made equal, like other laws, as exigencies should arise, or justice require? Because we had doubted about adopting the system, were we to refuse to cure its manifest defects, after it had been adopted, and when no one attempted its repeal? And this, Sir, is the inconsistency so much bruited. I had voted against the tariff of 1824, but it passed; and in 1827 and 1828 I voted to amend it, in a point essential to the interest of my constituents. Where is the inconsistency? Could I do otherwise? Sir, does political consistency consist in always giving negative votes? Does it require of a public man to refuse to concur in amending laws, because they passed against his consent? Having voted against the tariff originally, does consistency demand that I should do all in my power to maintain an unequal tariff, burdensome to my own constituents in many respects, favorable in none? To consistency of that sort, I lay no claim. And there is another sort to which I lay as little, and that is, a kind of consistency by which persons feel themselves as much bound to oppose a proposition after it has become a law of the land as before.

Sir, as to the general subject of the tariff, I have little now to say. Another opportunity may be presented. I remarked the other day, that this policy did not begin with us in New England; and yet, Sir, New England is charged with vehemence as being favorable, or charged with equal vehemence as being unfavorable, to the tariff policy, just as best suits the time, place, and occasion for making some charge against her. The credulity of

the public has been put to its extreme capacity of false impression relative to her conduct in this particular. Through all the South, during the late contest, it was New England policy and a New England administration that were afflicting the country with a tariff beyond all endurance; while on the other side of the Alleghanies even the act of 1828 itself, the very sublimated essence of oppression, according to Southern opinions, was pronounced to be one of those blessings for which the West was indebted to the "generous South."

With large investments in manufacturing establishments, and many and various interests connected with and dependent on them, it is not to be expected that New England, any more than other portions of the country, will now consent to any measure destructive or highly dangerous. The duty of the government, at the present moment, would seem to be to preserve, not to destroy; to maintain the position which it has assumed; and, for one, I shall feel it an indispensable obligation to hold it steady, as far as in my power, to that degree of protection which it has undertaken to bestow. No more of the tariff.

Professing to be provoked by what he chose to consider a charge made by me against South Carolina, the honorable member, Mr. President, has taken up a new crusade against New England. Leaving altogether the subject of the public lands, in which his success, perhaps, had been neither distinguished nor satisfactory, and letting go, also, of the topic of the tariff, he sallied forth in a general assault on the opinions, politics, and parties of New England, as they have been exhibited in the last thirty years. This is natural. The "narrow policy" of the public lands had proved a legal settlement in South Carolina, and was not to be removed. The "accursed policy" of the tariff, also, had established the fact of its birth and parentage in the same State. No wonder, therefore, the gentleman wished to carry the war, as he expressed it, into the enemy’s country. Prudently willing to quit these subjects, he was, doubtless, desirous of fastening on others, which could not be transferred south of Mason and Dixon’s line. The politics of New England became his theme; and it was in this part of his speech, I think, that he menaced me with such sore discomfiture. Discomfiture! Why, Sir, when he attacks anything which I maintain, and overthrows it, when he turns the right or left of any position which I take up, when he drives me from any ground I choose to occupy, he may then talk of discomfiture, but not till that distant day. What has he done? Has he maintained his own charges? Has he proved what he alleged? Has he sustained himself in his attack on the government, and on the history of the North, in the matter of the public lands? Has he disproved a fact, refuted a proposition, weakened an argument, maintained by me? Has he come within beat of drum of any position of mine? O, no; but he has "carried the war into the enemy’s country"! Carried the war into the enemy’s country! Yes, Sir, and what sort of a war has he made of it? Why, Sir, he has stretched a drag-net over the whole surface of perished pamphlets, indiscreet sermons, frothy paragraphs, and fuming popular addresses,--over whatever the pulpit in its moments of alarm, the press in its heats, and parties in their extravagance, have severally thrown off in times of general excitement and violence. He has thus swept together a mass of such things as, but that they are now old and cold, the public health would have required him rather to leave in their state of

dispersion. For a good long hour or two, we had the unbroken pleasure of listening to the honorable member, while he recited with his usual grace and spirit, and with evident high gusto, speeches, pamphlets, addresses, and all the _et caeteras_ of the political press, such as warm heads produce in warm times; and such as it would be "discomfiture" indeed for any one, whose taste did not delight in that sort of reading, to be obliged to peruse. This is his war. This it is to carry the war into the enemy's country. It is in an invasion of this sort, that he flatters himself with the expectation of gaining laurels fit to adorn a Senator's brow!

Mr. President, I shall not, it will not, I trust, be expected that I should, either now or at any time, separate this farrago into parts, and answer and examine its components. I shall barely bestow upon it all a general remark or two. In the run of forty years, Sir, under this Constitution, we have experienced sundry successive violent party contests. Party arose, indeed, with the Constitution itself, and, in some form or other, has attended it through the greater part of its history. Whether any other constitution than the old Articles of Confederation was desirable, was itself a question on which parties divided; if a new constitution were framed, what powers should be given to it was another question; and when it had been formed, what was, in fact, the just extent of the powers actually conferred was a third. Parties, as we know, existed under the first administration, as distinctly marked as those which have manifested themselves at any subsequent period. The contest immediately preceding the political change in 1801, and that, again, which existed at the commencement of the late war, are other instances of party excitement, of something more than usual strength and intensity. In all these conflicts there was, no doubt, much of violence on both and all sides. It would be impossible, if one had a fancy for such employment, to adjust the relative _quantum_ of violence between these contending parties. There was enough in each, as must always be expected in popular governments. With a great deal of popular and decorous discussion, there was mingled a great deal, also, of declamation, virulence, crimination, and abuse. In regard to any party, probably, at one of the leading epochs in the history of parties, enough may be found to make out another inflamed exhibition, not unlike that with which the honorable member has edified us. For myself, Sir, I shall not rake among the rubbish of bygone times, to see what I can find, or whether I cannot find something by which I can fix a blot on the escutcheon of any State, any party, or any part of the country. General Washington's administration was steadily and zealously maintained, as we all know, by New England. It was violently opposed elsewhere. We know in what quarter he had the most earnest, constant, and persevering support, in all his great and leading measures. We know where his private and personal character was held in the highest degree of attachment and veneration; and we know, too, where his measures were opposed, his services slighted, and his character vilified. We know, or we might know, if we turned to the journals, who expressed respect, gratitude, and regret, when he retired from the chief magistracy, and who refused to express either respect, gratitude, or regret. I shall not open those journals. Publications more abusive or scurrilous never saw the light, than were sent forth against Washington, and all his leading measures, from presses south of New England. But I shall not look them up.

I employ no scavengers, no one is in attendance on me, furnishing such means of retaliation; and if there were, with an ass's load of them, with a bulk as huge as that which the gentleman himself has produced, I would not touch one of them. I see enough of the violence of our own times, to be no way anxious to rescue from forgetfulness the extravagances of times past.

Besides, what is all this to the present purpose? It has nothing to do with the public lands, in regard to which the attack was begun; and it has nothing to do with those sentiments and opinions which, I have thought, tend to disunion and all of which the honorable member seems to have adopted himself, and undertaken to defend. New England has, at times, so argues the gentleman, held opinions as dangerous as those which he now holds. Suppose this were so; why should _he_ therefore abuse New England? If he finds himself countenanced by acts of hers, how is it that, while he relies on these acts, he covers, or seeks to cover, their authors with reproach? But, Sir, if, in the course of forty years, there have been undue effervescences of party in New England, has the same thing happened nowhere else? Party animosity and party outrage, not in New England, but elsewhere, denounced President Washington, not only as a Federalist, but as a Tory, a British agent, a man who, in his high office, sanctioned corruption. But does the honorable member suppose, if I had a tender here who should put such an effusion of wickedness and folly into my hand, that I would stand up and read it against the South? Parties ran into great heats again in 1799 and 1800. What was said, Sir, or rather what was not said, in those years, against John Adams, one of the committee that drafted the Declaration of Independence, and its admitted ablest defender on the floor of Congress? If the gentleman wishes to increase his stores of party abuse and frothy violence, if he has a determined proclivity to such pursuits, there are treasures of that sort south of the Potomac, much to his taste, yet untouched. I shall not touch them.

The parties which divided the country at the commencement of the late war were violent. But then there was violence on both sides, and violence in every State. Minorities and majorities were equally violent. There was no more violence against the war in New England, than in other States; nor any more appearance of violence, except that, owing to a dense population, greater facility of assembling, and more presses, there may have been more in quantity spoken and printed there than in some other places. In the article of sermons, too, New England is somewhat more abundant than South Carolina; and for that reason the chance of finding here and there an exceptionable one may be greater. I hope, too, there are more good ones. Opposition may have been more formidable in New England, as it embraced a larger portion of the whole population; but it was no more unrestrained in principle, or violent in manner. The minorities dealt quite as harshly with their own State governments as the majorities dealt with the administration here. There were presses on both sides, popular meetings on both sides, ay, and pulpits on both sides also. The gentleman's purveyors have only catered for him among the productions of one side. I certainly shall not supply the deficiency by furnishing samples of the other. I leave to him, and to them, the whole concern.

It is enough for me to say, that if, in any part of this their grateful

occupation, if, in all their researches, they find anything in the history of Massachusetts, or New England, or in the proceedings of any legislative or other public body, disloyal to the Union, speaking slightingly of its value, proposing to break it up, or recommending non-intercourse with neighboring States, on account of difference of political opinion, then, Sir, I give them all up to the honorable gentleman's unrestrained rebuke; expecting, however, that he will extend his buffetings in like manner _to all similar proceedings, wherever else found_.

The gentleman, Sir, has spoken at large of former parties, now no longer in being, by their received appellations, and has undertaken to instruct us, not only in the knowledge of their principles, but of their respective pedigrees also. He has ascended to their origin, and run out their genealogies. With most exemplary modesty, he speaks of the party to which he professes to have himself belonged, as the true Pure, the only honest, patriotic party, derived by regular descent, from father to son, from the time of the virtuous Romans! Spreading before us the _family tree_ of political parties, he takes especial care to show himself snugly perched on a popular bough! He is wakeful to the expediency of adopting such rules of descent as shall bring him in, to the exclusion of others, as an heir to the inheritance of all public virtue, and all true political principle. His party and his opinions are sure to be orthodox; heterodoxy is confined to his opponents. He spoke, Sir, of the Federalists, and I thought I saw some eyes begin to open and stare a little, when he ventured on that ground. I expected he would draw his sketches rather lightly, when he looked on the circle round him, and especially if he should cast his thoughts to the high places out of the Senate. [18] Nevertheless, he went back to Rome, _ad annum urbis condita_, and found the fathers of the Federalists in the primeval aristocrats of that renowned--city! He traced the flow of Federal blood down through successive ages and centuries, till he brought it into the veins of the American Tories, of whom, by the way, there were twenty in the Carolinas for one in Massachusetts. From the Tories he followed it to the Federalists; and, as the Federal party was broken up, and there was no possibility of transmitting it further on this side the Atlantic, he seems to have discovered that it has gone off collaterally, though against all the canons of descent, into the Ultras of France, and finally become extinguished, like exploded gas, among the adherents of Don Miguel! [19]

This, Sir, is an abstract of the gentleman's history of Federalism. I am not about to controvert it. It is not, at present, worth the pains of refutation; because, Sir, if at this day any one feels the sin of Federalism lying heavily on his conscience, he can easily procure remission. He may even obtain an indulgence, if he be desirous of repeating the same transgression. It is an affair of no difficulty to get into this same right line of patriotic descent. A man now-a-days is at liberty to choose his political parentage. He may elect his own father. Federalist or not, he may, if he choose, claim to belong to the favored stock, and his claim will be allowed. He may carry back his pretensions just as far as the honorable gentleman himself; nay, he may make himself out the honorable gentleman's cousin, and prove, satisfactorily, that he is descended from the same political great-grandfather. All this is allowable. We all know a process, Sir, by which the whole Essex Junto

[Footnote:20] could, in one hour, be all washed white from their ancient Federalism, and come out, every one of them, original Democrats, dyed in the wool! Some of them have actually undergone the operation, and they say it is quite easy. The only inconvenience it occasions, as they tell us, is a slight tendency of the blood to the face, a soft suffusion, which, however, is very transient, since nothing is said by those whom they join calculated to deepen the red on the cheek, but a prudent silence is observed in regard to all the past. Indeed, Sir, some smiles of approbation have been bestowed, and some crumbs of comfort have fallen, not a thousand miles from the door of the Hartford Convention itself. And if the author of the Ordinance of 1787 possessed the other requisite qualifications, there is no knowing, notwithstanding his Federalism, to what heights of favor he might not yet attain.

Mr. President, in carrying his warfare, such as it is, into New England, the honorable gentleman all along professes to be acting on the defensive. He chooses to consider me as having assailed South Carolina, and insists that he comes forth only as her champion, and in her defence. Sir, I do not admit that I made any attack whatever on South Carolina. Nothing like it. The honorable member, in his first speech, expressed opinions, in regard to revenue and some other topics, which I heard both with pain and with surprise. I told the gentleman I was aware that such sentiments were entertained _out_ of the government, but had not expected to find them advanced in it; that I knew there were persons in the South who speak of our Union with indifference or doubt, taking pains to magnify its evils, and to say nothing of its benefits; that the honorable member himself, I was sure, could never be one of these; and I regretted the expression of such opinions as he had avowed, because I thought their obvious tendency was to encourage feelings of disrespect to the Union, and to impair its strength. This, Sir, is the sum and substance of all I said on the subject. And this constitutes the attack which called on the chivalry of the gentleman, in his own opinion, to harry us with such a foray among the party pamphlets and party proceedings of Massachusetts! If he means that I spoke with dissatisfaction or disrespect of the ebullitions of individuals in South Carolina, it is true. But if he means that I assailed the character of the State, her honor, or patriotism, that I reflected on her history or her conduct, he has not the slightest ground for any such assumption. I did not even refer, I think, in my observations, to any collection of individuals. I said nothing of the recent conventions. I spoke in the most guarded and careful manner, and only expressed my regret for the publication of opinions, which I presumed the honorable member disapproved as much as myself. In this, it seems, I was mistaken. I do not remember that the gentleman has disclaimed any sentiment, or any opinion, of a supposed anti-union tendency, which on all or any of the recent occasions has been expressed. [21] The whole drift of his speech has been rather to prove, that, in divers times and manners, sentiments equally liable to my objection have been avowed in New England. And one would suppose that his object, in this reference to Massachusetts, was to find a precedent to justify proceedings in the South, were it not for the reproach and contumely with which he labors, all along, to load these his own chosen precedents. By way of defending South Carolina from what he chooses to think an attack on her, he first quotes the example of Massachusetts, and then denounces that example in good set terms. This

twofold purpose, not very consistent, one would think, with itself, was exhibited more than once in the course of his speech. He referred, for instance, to the Hartford Convention. Did he do this for authority, or for a topic of reproach? Apparently for both, for he told us that he should find no fault with the mere fact of holding such a convention, and considering and discussing such questions as he supposes were then and there discussed; but what rendered it obnoxious was its being held at the time, and under the circumstances of the country then existing. We were in a war, he said, and the country needed all our aid; the hand of government required to be strengthened, not weakened; and patriotism should have postponed such proceedings to another day. The thing itself, then, is a precedent; the time and manner of it only, a subject of censure.

Now, Sir, I go much further, on this point, than the honorable member. Supposing, as the gentleman seems to do, that the Hartford Convention assembled for any such purpose as breaking up the Union, because they thought unconstitutional laws had been passed, or to consult on that subject, or _to calculate the value of the Union_; supposing this to be their purpose, or any part of it, then I say the meeting itself was disloyal, and was obnoxious to censure, whether held in time of peace or time of war, or under whatever circumstances. The material question is the _object_. Is dissolution the _object_? If it be, external circumstances may make it a more or less aggravated case, but cannot affect the principle. I do not hold, therefore, Sir, that the Hartford Convention was pardonable, even to the extent of the gentleman's admission, if its objects were really such as have been imputed to it. Sir, there never was a time, under any degree of excitement, in which the Hartford Convention, or any other convention, could have maintained itself one moment in New England, if assembled for any such purpose as the gentleman says would have been an allowable purpose. To hold conventions to decide constitutional law! To try the binding validity of statutes by votes in a convention! Sir, the Hartford Convention, I presume, would not desire that the honorable gentleman should be their defender or advocate, if he puts their case upon such untenable and extravagant grounds.

Then, Sir, the gentleman has no fault to find with these recently promulgated South Carolina opinions. And certainly he need have none; for his own sentiments, as now advanced, and advanced on reflection, as far as I have been able to comprehend them, go the full length of all these opinions. I propose, Sir, to say something on these, and to consider how far they are just and constitutional. Before doing that, however, let me observe that the eulogium pronounced by the honorable gentleman on the character of the State of South Carolina, for her Revolutionary and other merits, meets my hearty concurrence. I shall not acknowledge that the honorable member goes before me in regard for whatever of distinguished talent, or distinguished character, South Carolina has produced. I claim part of the honor, I partake in the pride, of her great names. I claim them for countrymen, one and all, the Laurenses, the Rutledges, the Pinckneys, the Sumpters, the Marions, Americans all, whose fame is no more to be hemmed in by State lines, than their talents and patriotism were capable of being circumscribed within the same narrow limits. In their day and generation, they served and honored the country, and the whole country; and their renown is of the treasures of the whole country. Him

whose honored name the gentleman himself bears,--does he esteem me less capable of gratitude for his patriotism, or sympathy for his sufferings, than if his eyes had first opened upon the light of Massachusetts, instead of South Carolina? Sir, does he suppose it in his power to exhibit a Carolina name so bright as to produce envy in my bosom? No, Sir, increased gratification and delight, rather. I thank God, that, if I am gifted with little of the spirit which is able to raise mortals to the skies, I have yet none, as I trust, of that other spirit, which would drag angels down. When I shall be found, Sir, in my place here in the Senate, or elsewhere, to sneer at public merit, because it happens to spring up beyond the little limits of my own State or neighborhood; when I refuse, for any such cause or for any cause, the homage due to American talent, to elevated patriotism, to sincere devotion to liberty and the country; or, if I see an uncommon endowment of Heaven, if I see extraordinary capacity and virtue, in any son of the South, and if, moved by local prejudice or gangrened by State jealousy, I get up here to abate the tithe of a hair from his just character and just fame, may my tongue cleave to the roof of my mouth!

Sir, let me recur to pleasing recollections; let me indulge in refreshing remembrance of the past; let me remind you that, in early times, no States cherished greater harmony, both of principle and feeling, than Massachusetts and South Carolina. Would to God that harmony might again return! Shoulder to shoulder they went through the Revolution, hand in hand they stood round the administration of Washington, and felt his own great arm lean on them for support. Unkind feeling, if it exist, alienation, and distrust are the growth, unnatural to such soils, of false principles since sown. They are weeds, the seeds of which that same great arm never scattered.

Mr. President, I shall enter on no encomium upon Massachusetts; she needs none. There she is. Behold her, and judge for yourselves. There is her history; the world knows it by heart. The past, at least, is secure. There is Boston, and Concord, and Lexington, and Bunker Hill; and there they will remain for ever. The bones of her sons, falling in the great struggle for Independence, now lie mingled with the soil of every State from New England to Georgia; and there they will lie for ever. And, Sir, where American Liberty raised its first voice, and where its youth was nurtured and sustained, there it still lives, in the strength of its manhood and full of its original spirit. If discord and disunion shall wound it, if party strife and blind ambition shall hawk at and tear it, if folly and madness, if uneasiness under salutary and necessary restraint, shall succeed in separating it from that Union, by which alone its existence is made sure, it will stand, in the end, by the side of that cradle in which its infancy was rocked; it will stretch forth its arm with whatever of vigor it may still retain over the friends who gather round it; and it will fall at last, if fall it must, amidst the proudest monuments of its own glory, and on the very spot of its origin. [22]

There yet remains to be performed, Mr. President, by far the most grave and important duty, which I feel to be devolved on me by this occasion. It is to state, and to defend, what I conceive to be the true principles of the Constitution under which we are here assembled. I might well have

desired that so weighty a task should have fallen into other and abler hands. I could have wished that it should have been executed by those whose character and experience give weight and influence to their opinions, such as cannot possibly belong to mine. But, Sir, I have met the occasion, not sought it; and I shall proceed to state my own sentiments, without challenging for them any particular regard, with studied plainness, and as much precision as possible.

I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State legislatures to interfere, whenever, in their judgment, this government transcends its constitutional limits, and to arrest the operation of its laws.

I understand him to maintain this right, as a right existing _under_ the Constitution, not as a right to overthrow it on the ground of extreme necessity, such as would justify violent revolution.

I understand him to maintain an authority, on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the general government, of checking it, and of compelling it to conform to their opinion of the extent of its powers.

I understand him to maintain, that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the general government, or any branch of it; but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the general government transcends its power.

I understand him to insist, that, if the exigency of the case, in the opinion of any State government, require it, such State government may, by its own sovereign authority, annul an act of the general government which it deems plainly and palpably unconstitutional.

This is the sum of what I understand from him to be the South Carolina doctrine, and the doctrine which he maintains. I propose to consider it, and compare it with the Constitution. Allow me to say, as a preliminary remark, that I call this the South Carolina doctrine only because the gentleman himself has so denominated it. I do not feel at liberty to say that South Carolina, as a State, has ever advanced these sentiments. I hope she has not, and never may. That a great majority of her people are opposed to the tariff laws, is doubtless true. That a majority, somewhat less than that just mentioned, conscientiously believe these laws unconstitutional, may probably also be true. But that any majority holds to the right of direct State interference at State discretion, the right of nullifying acts of Congress by acts of State legislation, is more than I know, and what I shall be slow to believe.

That there are individuals besides the honorable gentleman who do maintain these opinions, is quite certain. I recollect the recent expression of a sentiment, which circumstances attending its utterance and publication justify us in supposing was not unpremeditated. "The sovereignty of the State,--never to be controlled, construed, or decided on, but by her own

feelings of honorable justice." [23]

We all know that civil institutions are established for the public benefit, and that when they cease to answer the ends of their existence they may be changed. But I do not understand the doctrine now contended for to be that, which, for the sake of distinction, we may call the right of revolution. I understand the gentleman to maintain, that it is constitutional to interrupt the administration of the Constitution itself, in the hands of those who are chosen and sworn to administer it, by the direct interference, in form of law, of the States, in virtue of their sovereign capacity. The inherent right in the people to reform their government I do not deny; and they have another right, and that is, to resist unconstitutional laws, without overturning the government. It is no doctrine of mine that unconstitutional laws bind the people. The great question is, Whose prerogative is it to decide on the constitutionality or unconstitutionality of the laws? On that, the main debate hinges. The proposition, that, in case of a supposed violation of the Constitution by Congress, the States have a constitutional right to interfere and annul the law of Congress, is the proposition of the gentleman. I do not admit it. If the gentleman had intended no more than to assert the right of revolution for justifiable cause, he would have said only what all agree to. But I cannot conceive that there can be a middle course, between submission to the laws, when regularly pronounced constitutional, on the one hand, and open resistance, which is revolution or rebellion, on the other.

This leads us to inquire into the origin of this government and the source of its power. Whose agent is it? Is it the creature of the State legislatures, or the creature of the people? If the government of the United States be the agent of the State governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify, or reform it. It is observable enough, that the doctrine for which the honorable gentleman contends leads him to the necessity of maintaining, not only that this general government is the creature of the States, but that it is the creature of each of the States severally, so that each may assert the power for itself of determining whether it acts within the limits of its authority. It is the servant of four-and-twenty masters, of different wills and different purposes, and yet bound to obey all. This absurdity (for it seems no less) arises from a misconception as to the origin of this government and its true character. It is, Sir, the people’s Constitution, the people’s government, made for the people, made by the people, and answerable to the people. The people of the United States have declared that this Constitution shall be the supreme law. We must either admit the proposition, or dispute their authority. The States are, unquestionably, sovereign, so far as their sovereignty is not affected by the supreme law. But the State legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the general government, so far the grant is unquestionably good, and the government holds of the people, and not of the State governments. We are all agents of the same supreme power, the people. The general government and the State governments derive their authority from the same source. Neither can, in relation to the other, be

called primary, though one is definite and restricted, and the other general and residuary. The national government possesses those powers which it can be shown the people have conferred on it, and no more. All the rest belongs to the State governments, or to the people themselves. So far as the people have restrained State sovereignty, by the expression of their will, in the Constitution of the United States, so far, it must be admitted, State sovereignty is effectually controlled. I do not contend that it is, or ought to be, controlled farther. The sentiment to which I have referred propounds that State sovereignty is only to be controlled by its own "feeling of justice"; that is to say, it is not to be controlled at all, for one who is to follow his own feelings is under no legal control. Now, however men may think this ought to be, the fact is, that the people of the United States have chosen to impose control on State sovereignties. There are those, doubtless, who wish they had been left without restraint; but the Constitution has ordered the matter differently. To make war, for instance, is an exercise of sovereignty; but the Constitution declares that no State shall make war. To coin money is another exercise of sovereign power; but no State is at liberty to coin money. Again, the Constitution says that no sovereign State shall be so sovereign as to make a treaty. These prohibitions, it must be confessed, are a control on the State sovereignty of South Carolina, as well as of the other States, which does not arise "from her own feelings of honorable justice." The opinion referred to, therefore, is in defiance of the plainest provisions of the Constitution.

There are other proceedings of public bodies which have already been alluded to, and to which I refer again for the purpose of ascertaining more fully what is the length and breadth of that doctrine, denominated the Carolina doctrine, which the honorable member has now stood up on this floor to maintain. In one of them I find it resolved, that "the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of others, is contrary to the meaning and intention of the federal compact; and such a dangerous, palpable, and deliberate usurpation of power, by a determined majority, wielding the general government beyond the limits of its delegated powers, as calls upon the States which compose the suffering minority, in their sovereign capacity, to exercise the powers which, as sovereigns, necessarily devolve upon them, when their compact is violated."

Observe, Sir, that this resolution holds the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of another, to be such a dangerous, palpable, and deliberate usurpation of power, as calls upon the States, in their sovereign capacity, to interfere by their own authority. This denunciation, Mr. President, you will please to observe, includes our old tariff of 1816, as well as all others; because that was established to promote the interest of the manufacturers of cotton, to the manifest and admitted injury of the Calcutta cotton trade. Observe, again, that all the qualifications are here rehearsed and charged upon the tariff, which are necessary to bring the case within the gentleman’s proposition. The tariff is a usurpation; it is a dangerous usurpation; it is a palpable usurpation; it is a deliberate usurpation. It is such a usurpation, therefore, as calls upon the States to exercise their right of interference. Here is a case, then, within the gentleman’s

principles, and all his qualifications of his principles. It is a case for action. The Constitution is plainly, dangerously, palpably, and deliberately violated; and the States must interpose their own authority to arrest the law. Let us suppose the State of South Carolina to express this same opinion, by the voice of her legislature. That would be very imposing; but what then? Is the voice of one State conclusive? It so happens that, at the very moment when South Carolina resolves that the tariff laws are unconstitutional, Pennsylvania and Kentucky resolve exactly the reverse. _They_ hold those laws to be both highly proper and strictly constitutional. And now, Sir, how does the honorable member propose to deal with this case? How does he relieve us from this difficulty, upon any principle of his? His construction gets us into it; how does he propose to get us out?

In Carolina, the tariff is a palpable, deliberate usurpation; Carolina, therefore, may nullify it, and refuse to pay the duties. In Pennsylvania, it is both clearly constitutional and highly expedient; and there the duties are to be paid. And yet we live under a government of uniform laws, and under a Constitution too, which contains an express provision, as it happens, that all duties shall be equal in all the States. Does not this approach absurdity?

If there be no power to settle such questions, independent of either of the States, is not the whole Union a rope of sand? Are we not thrown back again, precisely, upon the old Confederation?

It is too plain to be argued. Four-and-twenty interpreters of constitutional law, each with a power to decide for itself, and none with authority to bind anybody else, and this constitutional law the only bond of their union! What is such a state of things but a mere connection during pleasure, or, to use the phraseology of the times, _during feeling_? And that feeling, too, not the feeling of the people, who established the Constitution, but the feeling of the State governments.

In another of the South Carolina addresses, having premised that the crisis requires "all the concentrated energy of passion," an attitude of open resistance to the laws of the Union is advised. Open resistance to the laws, then, is the constitutional remedy, the conservative power of the State, which the South Carolina doctrines teach for the redress of political evils, real or imaginary. And its authors further say, that, appealing with confidence to the Constitution itself, to justify their opinions, they cannot consent to try their accuracy by the courts of justice. In one sense, indeed, Sir, this is assuming an attitude of open resistance in favor of liberty. But what sort of liberty? The liberty of establishing their own opinions, in defiance of the opinions of all others; the liberty of judging and of deciding exclusively themselves, in a matter in which others have as much right to judge and decide as they; the liberty of placing their own opinions above the judgment of all others, above the laws, and above the Constitution. This is their liberty, and this is the fair result of the proposition contended for by the honorable gentleman. Or, it may be more properly said, it is identical with it, rather than a result from it.

Resolutions, Sir, have been recently passed by the legislature of South Carolina. I need not refer to them; they go no farther than the honorable gentleman himself has gone, and I hope not so far. I content myself, therefore, with debating the matter with him.

And now, Sir, what I have first to say on this subject is, that at no time, and under no circumstances, has New England, or any State in New England, or any respectable body of persons in New England, or any public man of standing in New England, put forth such a doctrine as this Carolina doctrine.

The gentleman has found no case, he can find none, to support his own opinions by New England authority. New England has studied the Constitution in other schools, and under other teachers. She looks upon it with other regards, and deems more highly and reverently both of its just authority and its utility and excellence. The history of her legislative proceedings may be traced. The ephemeral effusions of temporary bodies, called together by the excitement of the occasion, may be hunted up; they have been hunted up. The opinions and votes of her public men, in and out of Congress, may be explored. It will all be in vain. The Carolina doctrine can derive from her neither countenance nor support. She rejects it now; she always did reject it; and till she loses her senses, she always will reject it. The honorable member has referred to expressions on the subject of the embargo law, made in this place, by an honorable and venerable gentleman, now favoring us with his presence. [24] He quotes that distinguished Senator as saying, that, in his judgment, the embargo law was unconstitutional, and that therefore, in his opinion, the people were not bound to obey it. That, Sir, is perfectly constitutional language. An unconstitutional law is not binding; _but then it does not rest with a resolution or a law of a State legislature to decide whether an act of Congress be or be not constitutional_. An unconstitutional act of Congress would not bind the people of this District, although they have no legislature to interfere in their behalf; and, on the other hand, a constitutional law of Congress does bind the citizens of every State, although all their legislatures should undertake to annul it by act or resolution. The venerable Connecticut Senator is a constitutional lawyer, of sound principles and enlarged knowledge; a statesman practised and experienced, bred in the company of Washington, and holding just views upon the nature of our governments. He believed the embargo unconstitutional, and so did others; but what then? Who did he suppose was to decide that question? The State legislatures? Certainly not. No such sentiment ever escaped his lips.

Let us follow up, Sir, this New England opposition to the embargo laws; let us trace it, till we discern the principle which controlled and governed New England throughout the whole course of that opposition. We shall then see what similarity there is between the New England school of constitutional opinions, and this modern Carolina school. The gentleman, I think, read a petition from some single individual addressed to the legislature of Massachusetts, asserting the Carolina doctrine; that is, the right of State interference to arrest the laws of the Union. The fate of that petition shows the sentiment of the legislature. It met no favor. The opinions of Massachusetts were very different. They had been expressed

in 1798, in answer to the resolutions of Virginia, and she did not depart from them, nor bend them to the times. Misgoverned, wronged, oppressed, as she felt herself to be, she still held fast her integrity to the Union. The gentleman may find in her proceedings much evidence of dissatisfaction with the measures of government, and great and deep dislike to the embargo; all this makes the case so much the stronger for her; for, notwithstanding all this dissatisfaction and dislike, she still claimed no right to sever the bonds of the Union. There was heat, and there was anger in her political feeling. Be it so; but neither her heat nor her anger betrayed, her into infidelity to the government. The gentleman labors to prove that she disliked the embargo as much as South Carolina dislikes the tariff, and expressed her dislike as strongly. Be it so; but did she propose the Carolina remedy? did she threaten to interfere, by State authority, to annul the laws of the Union? That is the question for the gentleman's consideration.

No doubt, Sir, a great majority of the people of New England conscientiously believed the embargo law of 1807 unconstitutional; [25] as conscientiously, certainly, as the people of South Carolina hold that opinion of the tariff. They reasoned thus: Congress has power to regulate commerce; but here is a law, they said, stopping all commerce, and stopping it indefinitely. The law is perpetual; that is, it is not limited in point of time, and must of course continue until it shall be repealed by some other law. It is as perpetual, therefore, as the law against treason or murder. Now, is this regulating commerce, or destroying it? Is it guiding, controlling, giving the rule to commerce, as a subsisting thing or is it putting an end to it altogether? Nothing is more certain, than that a majority in New England deemed this law a violation of the Constitution. The very case required by the gentleman to justify State interference had then arisen. Massachusetts believed this law to be "a deliberate, palpable, and dangerous exercise of a power not granted by the Constitution." Deliberate it was, for it was long continued; palpable she thought it, as no words in the Constitution gave the power, and only a construction, in her opinion most violent, raised it; dangerous it was, since it threatened utter ruin to her most important interests. Here, then, was a Carolina case. How did Massachusetts deal with it? It was, as she thought, a plain, manifest, palpable violation of the Constitution, and it brought ruin to her doors. Thousands of families, and hundreds of thousands of individuals, were beggared by it. While she saw and felt all this, she saw and felt also, that, as a measure of national policy, it was perfectly futile; that the country was no way benefited by that which caused so much individual distress; that it was efficient only for the production of evil, and all that evil inflicted on ourselves. In such a case, under such circumstances, how did Massachusetts demean herself? Sir, she remonstrated, she memorialized, she addressed herself to the general government, not exactly "with the concentrated energy of passion," but with her own strong sense, and the energy of sober conviction. But she did not interpose the arm of her own power to arrest the law, and break the embargo. Far from it. Her principles bound her to two things; and she followed her principles, lead where they might. First, to submit to every constitutional law of Congress, and secondly, if the constitutional validity of the law be doubted, to refer that question to the decision of the proper tribunals. The first principle is vain and ineffectual without

the second. A majority of us in New England believed the embargo law unconstitutional; but the great question was, and always will be in such cases, Who is to decide this? Who is to judge between the people and the government? And, Sir, it is quite plain, that the Constitution of the United States confers on the government itself, to be exercised by its appropriate department, and under its own responsibility to the people, this power of deciding ultimately and conclusively upon the just extent of its own authority. If this had not been done, we should not have advanced a single step beyond the old Confederation.

Being fully of the opinion that the embargo law was unconstitutional, the people of New England were yet equally clear in the opinion, (it was a matter they did doubt upon,) that the question, after all, must be decided by the judicial tribunals of the United States. Before those tribunals, therefore, they brought the question. Under the provisions of the law, they had given bonds to millions in amount, and which were alleged to be forfeited. They suffered the bonds to be sued, and thus raised the question. In the old-fashioned way of settling disputes, they went to law. The case came to hearing and solemn argument; and he who espoused their cause, and stood up for them against the validity of the embargo act, was none other than that great man, of whom the gentleman has made honorable mention, Samuel Dexter. He was then, Sir, in the fulness of his knowledge, and the maturity of his strength. He had retired from long and distinguished public service here, to the renewed pursuit of professional duties, carrying with him all that enlargement and expansion, all the new strength and force, which an acquaintance with the more general subjects discussed in the national councils is capable of adding to professional attainment, in a mind of true greatness and comprehension. He was a lawyer, and he was also a statesman. He had studied the Constitution, when he filled public station, that he might defend it; he had examined its principles that he might maintain them. More than all men, or at least as much as any man, he was attached to the general government and to the union of the States. His feelings and opinions all ran in that direction. A question of constitutional law, too, was, of all subjects, that one which was best suited to his talents and learning. Aloof from technicality, and unfettered by artificial rule, such a question gave opportunity for that deep and clear analysis, that mighty grasp of principle, which so much distinguished his higher efforts. His very statement was argument; his inference seemed demonstration. The earnestness of his own conviction wrought conviction in others. One was convinced, and believed, and assented, because it was gratifying, delightful, to think, and feel, and believe, in unison with an intellect of such evident superiority.

Mr. Dexter, Sir, such as I have described him, argued the New England cause. He put into his effort his whole heart, as well as all the powers of his understanding; for he had avowed, in the most public manner, his entire concurrence with his neighbors on the point in dispute. He argued the cause; it was lost, and New England submitted. The established tribunals pronounced the law constitutional, and New England acquiesced. Now, Sir, is not this the exact opposite of the doctrine of the gentleman from South Carolina? According to him, instead of referring to the judicial tribunals, we should have broken up the embargo by laws of our

own; we should have repealed it, _quoad_ New England; for we had a strong, palpable, and oppressive case. Sir, we believed the embargo unconstitutional; but still that was matter of opinion, and who was to decide it? We thought it a clear case; but, nevertheless, we did not take the law into our own hands, because we did not wish to bring about a revolution, nor to break up the Union; for I maintain, that between submission to the decision of the constituted tribunals, and revolution, or disunion, there is no middle ground; there is no ambiguous condition, half allegiance and half rebellion. And, Sir, how futile, how very futile it is, to admit the right of State interference, and then attempt to save it from the character of unlawful resistance, by adding terms of qualification to the causes and occasions, leaving all these qualifications, like the case itself, in the discretion of the State governments. It must be a clear case, it is said, a deliberate case, a palpable case, a dangerous case. But then the State is still left at liberty to decide for herself what is clear, what is deliberate, what is palpable, what is dangerous. Do adjectives and epithets avail any thing?

Sir, the human mind is so constituted, that the merits of both sides of a controversy appear very clear, and very palpable, to those who respectively espouse them; and both sides usually grow clearer as the controversy advances. South Carolina sees unconstitutionality in the tariff; she sees oppression there also, and she sees danger. Pennsylvania, with a vision not less sharp, looks at the same tariff, and sees no such thing in it; she sees it all constitutional, all useful, all safe. The faith of South Carolina is strengthened by opposition, and she now not only sees, but _resolves_, that the tariff is palpably unconstitutional, oppressive, and dangerous; but Pennsylvania, not to be behind her neighbors, and equally willing to strengthen her own faith by a confident asseveration, _resolves_, also, and gives to every warm affirmative of South Carolina, a plain, downright, Pennsylvania negative. South Carolina, to show the strength and unity of her opinion, brings her assembly to a unanimity, within seven voices; Pennsylvania, not to be outdone in this respect any more than in others, reduces her dissentient fraction to a single vote. Now, Sir, again, I ask the gentleman, What is to be done? Are these States both right? Is he bound to consider them both right? If not, which is in the wrong? or rather, which has the best right to decide? And if he, and if I, are not to know what the Constitution means, and what it is, till those two State legislatures, and the twenty-two others, shall agree in its construction, what have we sworn to, when we have sworn to maintain it? I was forcibly struck, Sir, with one reflection, as the gentleman went on in his speech. He quoted Mr. Madison's resolutions, to prove that a State may interfere, in a case of deliberate, palpable, and dangerous exercise of a power not granted. The honorable member supposes the tariff law to be such an exercise of power; and that consequently a case has arisen in which the State may, if it see fit, interfere by its own law. Now it so happens, nevertheless, that Mr. Madison deems this same tariff law quite constitutional. Instead of a clear and palpable violation, it is, in his judgment, no violation at all. So that, while they use his authority for a hypothetical case, they reject it in the very case before them. All this, Sir, shows the inherent futility, I had almost used a stronger word, of conceding this power of inference to the State, and then attempting to secure it from abuse by

imposing qualifications of which the States themselves are to judge. One of two things is true; either the laws of the Union are beyond the discretion and beyond the control of the States; or else we have no constitution of general government, and are thrust back again to the days of the Confederation.

Let me here say, Sir, that if the gentleman's doctrine had been received and acted upon in New England, in the times of the embargo and non-intercourse, we should probably not now have been here. The government would very likely have gone to pieces, and crumbled into dust. No stronger case can ever arise than existed under those laws; no States can ever entertain a clearer conviction than the New England States then entertained; and if they had been under the influence of that heresy of opinion, as I must call it, which the honorable member espouses, this Union would, in all probability, have been scattered to the four winds. I ask the gentleman, therefore, to apply his principles to that case; I ask him to come forth and declare, whether, in his opinion, the New England States would have been justified in interfering to break up the embargo system under the conscientious opinions which they held upon it? Had they a right to annul that law? Does he admit or deny? If what is thought palpably unconstitutional in South Carolina justifies that State in arresting the progress of the law, tell me whether that which was thought palpably unconstitutional also in Massachusetts would have justified her in doing the same thing? Sir, I deny the whole doctrine. It has not a foot of ground in the Constitution to stand on. No public man of reputation ever advanced it in Massachusetts in the warmest times, or could maintain himself upon it there at any time.

I must now beg to ask, Sir, Whence is this supposed right of the States derived? Where do they find the power to interfere with the laws of the Union? Sir, the opinion which the honorable gentleman maintains is a notion founded in a total misapprehension, in my judgment, of the origin of this government, and of the foundation on which it stands. I hold it to be a popular government, erected by the people; those who administer it, responsible to the people; and itself capable of being amended and modified, just as the people may choose it should be. It is as popular, just as truly emanating from the people, as the State governments. It is created for one purpose; the State governments for another. It has its own powers; they have theirs. There is no more authority with them to arrest the operation of a law of Congress, than with Congress to arrest the operation of their laws. We are here to administer a Constitution emanating immediately from the people, and trusted by them to our administration. It is not the creature of the State governments. It is of no moment to the argument, that certain acts of the State legislatures are necessary to fill our seats in this body. That is not one of their original State powers, a part of the sovereignty of the State. It is a duty which the people, by the Constitution itself, have imposed on the State legislatures; and which they might have left to be performed elsewhere, if they had seen fit. So they have left the choice of President with electors; but all this does not affect the proposition that this whole government, President, Senate, and House of Representatives, is a popular government. It leaves it still all its popular character. The governor of a State (in some of the States) is chosen, not directly by the

people, but by those who are chosen by the people, for the purpose of performing, among other duties, that of electing a governor. Is the government of the State, on that account, not a popular government? This government, Sir, is the independent offspring of the popular will. It is not the creature of State legislatures; nay, more, if the whole truth must be told, the people brought it into existence, established it, and have hitherto supported it, for the very purpose, amongst others, of imposing certain salutary restraints on State sovereignties. The States cannot now make war; they cannot contract alliances; they cannot make, each for itself, separate regulations of commerce; they cannot lay imposts; they cannot coin money. If this Constitution, Sir, be the creature of State legislatures, it must be admitted that it has obtained a strange control over the volitions of its creators.

The people, then, Sir, erected this government. They gave it a Constitution, and in that Constitution they have enumerated the powers which they bestow on it. They have made it a limited government. They have defined its authority. They have restrained it to the exercise of such powers as are granted; and all others, they declare, are reserved to the States or the people. But, Sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear, as to avoid possibility of doubt; no limitation so precise as to exclude all uncertainty. Who, then, shall construe this grant of the people? Who shall interpret their will, where it may be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the government? Sir, they have settled all this in the fullest manner. They have left it with the government itself, in its appropriate branches. Sir, the very chief end, the main design, for which the whole Constitution was framed and adopted, was to establish a government that should not be obliged to act through State agency, or depend on State opinion and State discretion. The people had had quite enough of that kind of government under the Confederation. Under that system, the legal action, the application of law to individuals, belonged exclusively to the States. Congress could only recommend; their acts were not of binding force, till the States had adopted and sanctioned them. Are we in that condition still? Are we yet at the mercy of State discretion and State construction? Sir, if we are, then vain will be our attempt to maintain the Constitution under which we sit.

But, Sir, the people have wisely provided, in the Constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. There are in the Constitution grants of powers to Congress, and restrictions on these powers. There are, also, prohibitions on the States. Some authority must, therefore, necessarily exist, having the ultimate jurisdiction to fix and ascertain the interpretation of these grants, restrictions, and prohibitions. The Constitution has itself pointed out, ordained, and established that authority. How has it accomplished this great and essential end? By declaring, Sir, that "_the Constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding_."

This, Sir, was the first great step. By this the supremacy of the

Constitution and laws of the United States is declared. The people so will it. No State law is to be valid which comes in conflict with the Constitution, or any law of the United States passed in pursuance of it. But who shall decide this question of interference? To whom lies the last appeal? This, Sir, the Constitution itself decides also, 25 by declaring, "_that the judicial power shall extend to all cases arising under the Constitution and laws of the United States_." These two provisions cover the whole ground. They are, in truth, the keystone of the arch! With these it is a government; without them it is a confederation. In pursuance of these clear and express provisions, Congress established, at its very first session, in the judicial act, a mode for carrying them into full effect, and for bringing all questions of constitutional power to the final decision of the Supreme Court. It then, Sir, became a government. It then had the means of self-protection; and but for this, it would, in all probability, have been now among things which are past. Having constituted the government, and declared its powers, the people have further said, that, since somebody must decide on the extent of these powers, the government shall itself decide; subject, always, like other popular governments, to its responsibility to the people. And now, Sir, I repeat, how is it that a State legislature acquires any power to interfere? Who, or what, gives them the right to say to the people, "We, who are your agents and servants for one purpose, will undertake to decide, that your other agents and servants, appointed by you for another purpose, have transcended the authority you gave them!" The reply would be, I think, not impertinent, "Who made you a judge over another's servants? To their own masters they stand or fall."

Sir, I deny this power of State legislatures altogether. It cannot stand the test of examination. Gentlemen may say, that, in an extreme case, a State government might protect the people from intolerable oppression. Sir, in such a case, the people might protect themselves, without the aid of the State governments. Such a case warrants revolution. It must make, when it comes, a law for itself. A nullifying act of a State legislature cannot alter the case, nor make resistance any more lawful. In maintaining these sentiments, Sir, I am but asserting the rights of the people. I state what they have declared, and insist on their right to declare it. They have chosen to repose this power in the general government, and I think it my duty to support it, like other constitutional powers.

For myself, Sir, I do not admit the competency of South Carolina, or any other State, to prescribe my constitutional duty; or to settle, between me and the people, the validity of laws of Congress for which I have voted. I decline her umpirage. I have not sworn to support the Constitution according to her construction of its clauses. I have not stipulated, by my oath of office or otherwise, to come under any responsibility, except to the people, and those whom they have appointed to pass upon the question, whether laws, supported by my votes, conform to the Constitution of the country. And, Sir, if we look to the general nature of the case, could anything have been more preposterous, than to make a government for the whole Union, and yet leave its powers subject, not to one interpretation, but to thirteen or twenty-four interpretations? Instead of one tribunal, established by all, responsible to all, with power to decide for all, shall constitutional questions be left to four-and-twenty popular bodies,

each at liberty to decide for itself, and none bound to respect the decisions of others,--and each at liberty, too, to give a new construction on every new election of its own members? Would anything, with such a principle in it, or rather with such a destitution of all principle, be fit to be called a government? No, Sir. It should not be denominated a Constitution. It should be called, rather, a collection of topics for everlasting controversy; heads of debate for a disputatious people. It would not be a government. It would not be adequate to any practical good, or fit for any country to live under.

To avoid all possibility of being misunderstood, allow me to repeat again, in the fullest manner, that I claim no powers for the government by forced or unfair construction. I admit that it is a government of strictly limited powers; of enumerated, specified, and particularized powers; and that whatsoever is not granted, is withheld. But notwithstanding all this, and however the grant of powers may be expressed, its limit and extent may yet, in some cases, admit of doubt; and the general government would be good for nothing, it would be incapable of long existing, if some mode had not been provided in which those doubts, as they should arise, might be peaceably, but authoritatively, solved.

And now, Mr. President, let me run the honorable gentleman's doctrine a little into its practical application. Let us look at his probable _modus operandi_. If a thing can be done, an ingenious man can tell how it is to be done, and I wish to be informed how this State interference is to be put in practice, without violence, bloodshed, and rebellion. We will take the existing case of the tariff law. South Carolina is said to have made up her opinion upon it. If we do not repeal it, (as we probably shall not,) she will then apply to the case the remedy of her doctrine. She will, we must suppose, pass a law of her legislature, declaring the several acts of Congress usually called the tariff laws null and void, so far as they respect South Carolina, or the citizens thereof. So far, all is a paper transaction, and easy enough. But the collector at Charleston is collecting the duties imposed by these tariff laws. He, therefore, must be stopped. The collector will seize the goods if the tariff duties are not paid. The State authorities will undertake their rescue, the marshal, with his posse, will come to the collector's aid, and here the contest begins. The militia of the State will be called out to sustain the nullifying act. They will march, Sir, under a very gallant leader; for I believe the honorable member himself commands the militia of that part of the State. He will raise the NULLIFYING ACT on his standard, and spread it out as his banner! It will have a preamble, setting forth that the tariff laws are palpable, deliberate, and dangerous violations of the Constitution! He will proceed, with this banner flying, to the custom-house in Charleston,

"All the while
Sonorous metal blowing martial sounds." [26]

Arrived at the custom-house, he will tell the collector that he must collect no more duties under any of the tariff laws. This he will be somewhat puzzled to say, by the way, with a grave countenance, considering what hand South Carolina herself had in that of 1816. But, Sir, the

collector would not, probably, desist, at his bidding. He would show him the law of Congress, the treasury instruction, and his own oath of office. He would say, he should perform his duty, come what come might.

Here would ensue a pause; for they say that a certain stillness precedes the tempest. The trumpeter would hold his breath awhile, and before all this military array should fall on the custom-house, collector, clerks, and all, it is very probable some of those composing it would request of their gallant commander-in-chief to be informed a little upon the point of law; for they have, doubtless, a just respect for his opinions as a lawyer, as well as for his bravery as a soldier. They know he has read Blackstone and the Constitution, as well as Turenne and Vauban. They would ask him, therefore, something concerning their rights in this matter. They would inquire, whether it was not somewhat dangerous to resist a law of the United States. What would be the nature of their offence, they would wish to learn, if they, by military force and array, resisted the execution in Carolina of a law of the United States, and it should turn out, after all, that the law _was constitutional_? He would answer, of course, Treason. No lawyer could give any other answer. John Fries,[27] he would tell them, had learned that, some years ago. How, then, they would ask, do you propose to defend us? We are not afraid of bullets, but treason has a way of taking people off that we do not much relish. How do you propose to defend us? "Look at my floating banner," he would reply; "see there the _nullifying law!_" Is it your opinion, gallant commander, they would then say, that, if we should be indicted for treason, that same floating banner of yours would make a good plea in bar? "South Carolina is a sovereign state," he would reply. That is true; but would the judge admit our plea? "These tariff laws," he would repeat, "are unconstitutional, palpably, deliberately, dangerously." That may all be so; but if the tribunal should not happen to be of that opinion, shall we swing for it? We are ready to die for our country, but it is rather an awkward business, this dying without touching the ground! After all, that is a sort of hemp tax worse than any part of the tariff.

Mr. President, the honorable gentleman would be in a dilemma, like that of another great general. He would have a knot before him which he could not untie. He must cut it with his sword. He must say to his followers, "Defend yourselves with your bayonets"; and this is war,--civil war.

Direct collision, therefore, between force and force, is the unavoidable result of that remedy for the revision of unconstitutional laws which the gentleman contends for. It must happen in the very first case to which it is applied. Is not this the plain result? To resist by force the execution of a law, generally, is treason. Can the courts of the United States take notice of the indulgence of a State to commit treason? The common saying, that a State cannot commit treason herself, is nothing to the purpose. Can she authorize others to do it? If John Fries had produced an act of Pennsylvania, annulling the law of Congress, would it have helped his case? Talk about it as we will, these doctrines go the length of revolution. They are incompatible with any peaceable administration of the government. They lead directly to disunion and civil commotion; and therefore it is, that at their commencement, when they are first found to be maintained by respectable men, and in a tangible form, I enter my

public protest against them all.

The honorable gentleman argues, that, if this government be the sole judge of the extent of its own powers, whether that right of judging be in Congress or the Supreme Court, it equally subverts State sovereignty. This the gentleman sees, or thinks he sees, although he cannot perceive how the right of judging, in this matter, if left to the exercise of State legislatures, has any tendency to subvert the government of the Union. The gentleman's opinion may be, that the right ought not to have been lodged with the general government; he may like better such a constitution as we should have under the right of State interference; but I ask him to meet me on the plain matter of fact. I ask him to meet me on the Constitution itself. I ask him if the power is not found there, clearly and visibly found there? But, Sir, what is this danger, and what are the grounds of it? Let it be remembered, that the Constitution of the United States is not unalterable. It is to continue in its present form no longer than the people who established it shall choose to continue it. If they shall become convinced that they have made an injudicious or inexpedient partition and distribution of power between the State governments and the general government, they can alter that distribution at will.

If anything be found in the national Constitution, either by original provision or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction, unacceptable to them, be established, so as to become practically a part of the Constitution, they will amend it at their own sovereign pleasure. But while the people choose to maintain it as it is, while they are satisfied with it, and refuse to change it, who has given, or who can give, to the State legislatures a right to alter it, either by interference, construction, or otherwise? Gentlemen do not seem to recollect that the people have any power to do anything for themselves. They imagine there is no safety for them, any longer than they are under the close guardianship of the State legislatures. Sir, the people have not trusted their safety in regard to the general Constitution to these hands. They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the government themselves, in doubtful cases, should put on their own powers, under their oaths of office, and subject to their responsibility to them; just as the people of a State trust their own State governments with a similar power. Secondly, they have reposed their trust in the efficacy of frequent elections, and in their own power to remove their own servants and agents whenever they see cause. Thirdly, they have reposed trust in the judicial power, which, in order that it might be trustworthy, they have made as respectable, as disinterested, and as independent as was practicable. Fourthly, they have seen fit to rely, in case of necessity, or high expediency, on their known and admitted power to alter or amend the Constitution, peaceably and quietly, whenever experience shall point out defects or imperfections. And, finally, the people of the United States have at no time, in no way, directly or indirectly, authorized any State legislature to construe or interpret _their_ high instrument of government; much less to interfere, by their own power, to arrest its course and operation.

If, Sir, the people in these respects had done otherwise than they have done, their Constitution could neither have been preserved, nor would it have been worth preserving. And if its plain provisions shall now be disregarded, and these new doctrines interpolated in it, it will become as feeble and helpless a being as its enemies, whether early or more recent, could possibly desire. It will exist in every State but as a poor dependent on State permission. It must borrow leave to be; and will be, no longer than State pleasure, or State discretion, sees fit to grant the indulgence, and to prolong its poor existence.

But, Sir, although there are fears, there are hopes also. The people have preserved this, their own chosen Constitution, for forty years, and have seen their happiness, prosperity, and renown grow with its growth, and strengthen with its strength. They are now, generally, strongly attached to it. Overthrown by direct assault, it cannot be; evaded, undermined, NULLIFIED, it will not be, if we and those who shall succeed us here as agents and representatives of the people shall conscientiously and vigilantly discharge the two great branches of our public trust, faithfully to preserve, and wisely to administer it.

Mr. President, I have thus stated the reasons of my dissent to the doctrines which have been advanced and maintained. I am conscious of having detained you and the Senate much too long. I was drawn into the debate with no previous deliberation, such as is suited to the discussion of so grave and important a subject. But it is a subject of which my heart is full, and I have not been willing to suppress the utterance of its spontaneous sentiments. I cannot, even now, persuade myself to relinquish it, without expressing once more my deep conviction, that, since it respects nothing less than the Union of the States, it is of most vital and essential importance to the public happiness. I profess, Sir, in my career hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of our Federal Union. It is to that Union we owe our safety at home, and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country. That Union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influences, these great interests immediately awoke, as from the dead, and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and although our territory has stretched out wider and wider, and our population spread farther and farther, they have not outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness.

I have not allowed myself, Sir, to look beyond the Union, to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counsellor in the affairs of this government, whose thoughts should be mainly bent on considering, not how the Union may be best preserved, but how tolerable

might be the condition of the people when it should be broken up and destroyed. While the Union lasts, we have high, exciting, gratifying prospects spread out before us, for us and our children. Beyond that I seek not to penetrate the veil. God grant that, in my day, at least, that curtain may not rise! God grant that on my vision never may be opened what lies behind! When my eyes shall be turned to behold for the last time the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance rather behold the gorgeous ensign of the republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, nor a single star obscured, bearing for its motto, no such miserable interrogatory as "What is all this worth?" nor those other words of delusion and folly, "Liberty first and Union afterwards"; but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart,--Liberty _and_ Union, now and for ever, one and inseparable! [28]

The Murder of Captain Joseph White.

I am little accustomed, Gentlemen, to the part which I am now attempting to perform. Hardly more than once or twice has it happened to me to be concerned on the side of the government in any criminal prosecution whatever; and never, until the present occasion, in any case affecting life.

But I very much regret that it should have been thought necessary to suggest to you that I am brought here to "hurry you against the law and beyond the evidence." I hope I have too much regard for justice, and too much respect for my own character, to attempt either; and 10 were I to make such attempt, I am sure that in this court nothing can be carried against the law, and that gentlemen, intelligent and just as you are, are not, by any power, to be hurried beyond the evidence. Though I could well have wished to shun this occasion, I have not felt at liberty to withhold my professional assistance, when it is supposed that I may be in some degree useful in investigating and discovering the truth respecting this most extraordinary murder. It has seemed to be a duty incumbent on me, as on every other citizen, to do my best and my utmost to bring to light the perpetrators of this crime. Against the prisoner at the bar, as an individual, I cannot have the slightest prejudice. I would not do him the smallest injury or injustice. But I do not affect to be indifferent to the discovery and the punishment of this deep guilt. I cheerfully share in the opprobrium, how great soever it may be, which is cast on those who feel and manifest an anxious concern that all who had a part in planning, or a hand in executing, this deed of midnight assassination, may be brought to

answer for their enormous crime at the bar of public justice.

Gentlemen, it is a most extraordinary case. In some respects, it has hardly a precedent anywhere; certainly none in our New England history. This bloody drama exhibited no suddenly excited, ungovernable rage. The actors in it were not surprised by any lion-like temptation springing upon their virtue, and overcoming it, before resistance could begin. Nor did they do the deed to glut savage vengeance, or satiate long-settled and deadly hate. It was a cool, calculating, money-making murder. It was all "hire and salary, not revenge." It was the weighing of money against life; the counting out of so many pieces of silver against so many ounces of blood.

An aged man, without an enemy in the world, in his own house, and in his own bed, is made the victim of a butcherly murder, for mere pay. Truly, here is a new lesson for painters and poets. Whoever shall hereafter draw the portrait of murder, if he will show it as it has been exhibited, where such example was last to have been looked for, in the very bosom of our New England society, let him not give it the grim visage of Moloch, the brow knitted by revenge, the face black with settled hate, and the bloodshot eye emitting livid fires of malice. Let him draw, rather, a decorous, smooth-faced, bloodless demon; a picture in repose, rather than in action; not so much an example of human nature in its depravity, and in its paroxysms of crime, as an infernal being, a fiend, in the ordinary display and development of his character.

The deed was executed with a degree of self-possession and steadiness equal to the wickedness with which it was planned. The circumstances now clearly in evidence spread out the whole scene before us. Deep sleep had fallen on the destined victim, and on all beneath his roof. A healthful old man, to whom sleep was sweet, the first sound slumbers of the night held him in their soft but strong embrace. The assassin enters, through the window already prepared, into an unoccupied apartment. With noiseless foot he paces the lonely hall, half lighted by the moon; he winds up the ascent of the stairs, and reaches the door of the chamber. Of this, he moves the lock, by soft and continued pressure, till it turns on its hinges without noise; and he enters, and beholds his victim before him. The room is uncommonly open to the admission of light. The face of the innocent sleeper is turned from the murderer, and the beams of the moon, resting on the gray locks of his aged temple, show him where to strike. The fatal blow is given! and the victim passes, without a struggle or a motion, from the repose of sleep to the repose of death! It is the assassin’s purpose to make sure work; and he plies the dagger, though it is obvious that life has been destroyed by the blow of the bludgeon. He even raises the aged arm, that he may not fail in his aim at the heart, and replaces it again over the wounds of the poinard! To finish the picture, he explores the wrist for the pulse! He feels for it, and ascertains that it beats no longer! It is accomplished. The deed is done. He retreats, retraces his steps to the window, passes out through it as he came in, and escapes. He has done the murder. No eye has seen him, no ear has heard him. The secret is his own, and it is safe!

Ah! Gentlemen, that was a dreadful mistake. Such a secret can be safe

nowhere. The whole creation of God has neither nook nor corner where the guilty can bestow it, and say it is safe. Not to speak of that eye which pierces all disguises, and beholds every thing as in the splendor of noon, such secrets of guilt are never safe from detection, even by men. True it is, generally speaking, that "murder will out." True it is, that Providence hath so ordained, and doth so govern things, that those who break the great law of Heaven by shedding man's blood seldom succeed in avoiding discovery. Especially, in a case exciting so much attention as this, discovery must come, and will come, sooner or later. A thousand eyes turn at once to explore every man, every thing, every circumstance, connected with the time and place; a thousand ears catch every whisper; a thousand excited minds intensely dwell on the scene, shedding all their light, and ready to kindle the slightest circumstance into a blaze of discovery. Meantime the guilty soul cannot keep its own secret. It is false to itself; or rather it feels an irresistible impulse of conscience to be true to itself. It labors under its guilty possession, and knows not what to do with it. The human heart was not made for the residence of such an inhabitant. It finds itself preyed on by a torment, which it dares not acknowledge to God or man. A vulture is devouring it, and it can ask no sympathy or assistance, either from heaven or earth. The secret which the murderer possesses soon comes to possess him; and, like the evil spirits of which we read, it overcomes him, and leads him whithersoever it will. He feels it beating at his heart, rising to his throat, and demanding disclosure. He thinks the whole world sees it in his face, reads it in his eyes, and almost hears its workings in the very silence of his thoughts. It has become his master. It betrays his discretion, it breaks down his courage, it conquers his prudence. When suspicions from without begin to embarrass him, and the net of circumstances to entangle him, the fatal secret struggles with still greater violence to burst forth. It must be confessed, it will be confessed; there is no refuge from confession but suicide, and suicide is confession.[1]

Much has been said, on this occasion, of the excitement which has existed, and still exists, and of the extraordinary measures taken to discover and punish the guilty. No doubt there has been, and is, much excitement, and strange indeed it would be had it been otherwise. Should not all the peaceable and well-disposed naturally feel concerned, and naturally exert themselves to bring to punishment the authors of this secret assassination? Was it a thing to be slept upon or forgotten? Did you, Gentlemen, sleep quite as quietly in your beds after this murder as before? Was it not a case for rewards, for meetings, for committees, for the united efforts of all the good, to find out a band of murderous conspirators, of midnight ruffians, and to bring them to the bar of justice and law? If this be excitement, is it an unnatural or an improper excitement?

It seems to me, Gentlemen, that there are appearances of another feeling, of a very different nature and character; not very extensive, I would hope, but still there is too much evidence of its existence. Such is human nature, that some persons lose their abhorrence of crime in their admiration of its magnificent exhibitions. Ordinary vice is reprobated by them, but extraordinary guilt, exquisite wickedness, the high flights and poetry of crime, seize on the imagination, and lead them to forget the

depths of the guilt, in admiration of the excellence of the performance, or the unequalled atrocity of the purpose. There are those in our day who have made great use of this infirmity of our nature, and by means of it done infinite injury to the cause of good morals. They have affected not only the taste, but I fear also the principles, of the young, the heedless, and the imaginative, by the exhibition of interesting and beautiful monsters. They render depravity attractive, sometimes by the polish of its manners, and sometimes by its very extravagance; and study to show off crime under all the advantages of cleverness and dexterity. Gentlemen, this is an extraordinary murder, but it is still a murder. We are not to lose ourselves in wonder at its origin, or in gazing on its cool and skilful execution. We are to detect and to punish it; and while we proceed with caution against the prisoner, and are to be sure that we do not visit on his head the offences of others, we are yet to consider that we are dealing with a case of most atrocious crime, which has not the slightest circumstance about it to soften its enormity. It is murder; deliberate, concerted, malicious murder.

Although the interest of this case may have diminished by the repeated investigation of the facts; still, the additional labor which it imposes upon all concerned is not to be regretted, if it should result in removing all doubts of the guilt of the prisoner.

The learned counsel for the prisoner has said truly, that it is your individual duty to judge the prisoner; that it is your individual duty to determine his guilt or innocence; and that you are to weigh the testimony with candor and fairness. But much at the same time has been said, which, though it would seem to have no distinct bearing on the trial, cannot be passed over without some notice.

A tone of complaint so peculiar has been indulged, as would almost lead us to doubt whether the prisoner at the bar, or the managers of this prosecution, are now on trial. Great pains have been taken to complain of the manner of the prosecution. We hear of getting up a case; of setting in motion trains of machinery; of foul testimony; of combinations to overwhelm the prisoner; of private prosecutors; that the prisoner is hunted, persecuted, driven to his trial; that everybody is against him; and various other complaints, as if those who would bring to punishment the authors of this murder were almost as bad as they who committed it.

In the course of my whole life, I have never heard before so much said about the particular counsel who happen to be employed; as if it were extraordinary that other counsel than the usual officers of the government should assist in the management of a case on the part of the government.[2] In one of the last criminal trials in this county, that of Jackman for the "Goodridge robbery" (so called), I remember that the learned head of the Suffolk Bar, Mr. Prescott, came down in aid of the officers of the government. This was regarded as neither strange nor improper. The counsel for the prisoner, in that case, contented themselves with answering his arguments, as far as they were able, instead of carping at his presence.

Complaint is made that rewards were offered, in this case, and temptations

held out to obtain testimony. Are not rewards always offered, when great and secret offences are committed? Rewards were offered in the case to which I have alluded; and every other means taken to discover the offenders, that ingenuity or the most persevering vigilance could suggest. The learned counsel have suffered their zeal to lead them into a strain of complaint at the manner in which the perpetrators of this crime were detected, almost indicating that they regard it as a positive injury to them to have found but their guilt. Since no man witnessed it, since they do not now confess it, attempts to discover it are half esteemed as officious intermeddling and impertinent inquiry.

It is said, that here even a Committee of Vigilance was appointed. This is a subject of reiterated remark. This committee are pointed at, as though they had been officiously intermeddling with the administration of justice. They are said to have been "laboring for months" against the prisoner. Gentlemen, what must we do in such a case? Are people to be dumb and still, through fear of overdoing? Is it come to this, that an effort cannot be made, a hand cannot be lifted, to discover the guilty, without its being said there is a combination to overwhelm innocence? Has the community lost all moral sense? Certainly, a community that would not be roused to action upon an occasion such as this was, a community which should not deny sleep to their eyes, and slumber to their eyelids, till they had exhausted all the means of discovery and detection, must indeed be lost to all moral sense, and would scarcely deserve protection from the laws. The learned counsel have endeavored to persuade you, that there exists a prejudice against the persons accused of this murder. They would have you understand that it is not confined to this vicinity alone; but that even the legislature have caught this spirit. That through the procurement of the gentleman here styled private prosecutor, who is a member of the Senate, a special session of this court was appointed for the trial of these offenders. That the ordinary movements of the wheels of justice were too slow for the purposes devised. But does not everybody see and know, that it was matter of absolute necessity to have a special session of the court? When or how could the prisoners have been tried without a special session? In the ordinary arrangement of the courts, but one week in a year is allotted for the whole court to sit in this county. In the trial of all capital offences a majority of the court, at least, is required to be present. In the trial of the present case alone, three weeks have already been taken up. Without such special session, then, three years would not have been sufficient for the purpose. It is answer sufficient to all complaints on this subject to say, that the law was drawn by the late Chief Justice [3] himself, to enable the court to accomplish its duties, and to afford the persons accused an opportunity for trial without delay.

Again, it is said that it was not thought of making Francis Knapp, the prisoner at the bar, a PRINCIPAL till after the death of Richard Crowningshield, Jr.; that the present indictment is an afterthought; that "testimony was got up" for the occasion. It is not so. There is no authority for this suggestion. The case of the Knapps had not then been before the grand jury. The officers of the government did not know what the testimony would be against them. They could not, therefore, have determined what course they should pursue. They intended to arraign all as

principals who should appear to have been principals, and all as accessories who should appear to have been accessories. All this could be known only when the evidence should be produced. But the learned counsel for the defendant take a somewhat loftier flight still. They are more concerned, they assure us, for the law itself, than even for their client. Your decision in this case, they say, will stand as a precedent. Gentlemen, we hope it will. We hope it will be a precedent both of candor and intelligence, of fairness and of firmness; a precedent of good sense and honest purpose pursuing their investigation discreetly, rejecting loose generalities, exploring all the circumstances, weighing each, in search of truth, and embracing and declaring the truth when found.

It is said, that "laws are made, not for the punishment of the guilty, but for the protection of the innocent." This is not quite accurate, perhaps, but if so, we hope they will be so administered as to give that protection. But who are the innocent whom the law would protect? Gentlemen, Joseph White was innocent. They are innocent who, having lived in the fear of God through the day, wish to sleep in his peace through the night, in their own beds. The law is established that those who live quietly may sleep quietly; that they who do no harm may feel none. The gentleman can think of none that are innocent except the prisoner at the bar, not yet convicted. Is a proved conspirator to murder innocent? Are the Crowningshields and the Knapps innocent? What is innocence? How deep stained with blood, how reckless in crime, how deep in depravity may it be, and yet remain innocence? The law is made, if we would speak with entire accuracy, to protect the innocent by punishing the guilty. But there are those innocent out of a court, as well as in; innocent citizens not suspected of crime, as well as innocent prisoners at the bar.

The criminal law is not founded in a principle of vengeance. It does not punish that it may inflict suffering. The humanity of the law feels and regrets every pain it causes, every hour of restraint it imposes, and more deeply still every life it forfeits. But it uses evil as the means of preventing greater evil. It seeks to deter from crime by the example of punishment. This is its true, and only true main object. It restrains the liberty of the few offenders, that the many who do not offend may enjoy their liberty. It takes the life of the murderer, that other murders may not be committed. The law might open the jails, and at once set free all persons accused of offences, and it ought to do so if it could be made certain that no other offences would hereafter be committed, because it punishes, not to satisfy any desire to inflict pain, but simply to prevent the repetition of crimes. When the guilty, therefore, are not punished, the law has so far failed of its purpose; the safety of the innocent is so far endangered. Every unpunished murder takes away something from the security of every man’s life. Whenever a jury, through whimsical and ill-founded scruples, suffer the guilty to escape, they make themselves answerable for the augmented danger of the innocent.

We wish nothing to be strained against this defendant. Why, then, all this alarm? Why all this complaint against the manner in which the crime is discovered? The prisoner’s counsel catch at supposed flaws of evidence, or bad character of witnesses, without meeting the case. Do they mean to deny the conspiracy? Do they mean to deny that the two Crowningshields and the

two Knapps were conspirators? Why do they rail against Palmer, while they do not disprove, and hardly dispute, the truth of any one fact sworn to by him? Instead of this, it is made matter of sentimentality that Palmer has been prevailed upon to betray his bosom companions and to violate the sanctity of friendship. Again I ask, Why do they not meet the case? If the fact is out, why not meet it? Do they mean to deny that Captain White is dead? One would have almost supposed even that, from some remarks that have been made. Do they mean to deny the conspiracy? Or, admitting a conspiracy, do they mean to deny only that Frank Knapp, the prisoner at the bar, was abetting in the murder, being present, and so deny that he was a principal? If a conspiracy is proved, it bears closely upon every subsequent subject of inquiry. Why do they not come to the fact? Here the defence is wholly indistinct. The counsel neither take the ground, nor abandon it. They neither fly, nor light. They hover. But they must come to a closer mode of contest. They must meet the facts, and either deny or admit them. Had the prisoner at the bar, then, a knowledge of this conspiracy or not? This is the question. Instead of laying out their strength in complaining of the _manner_ in which the deed is discovered, of the extraordinary pains taken to bring the prisoner's guilt to light, would it not be better to show there was no guilt? Would it not be better to show his innocence? They say, and they complain, that the community feel a great desire that he should be punished for his crimes. Would it not be better to convince you that he has committed no crime?

Gentlemen, let us now come to the case. Your first inquiry, on the evidence, will be, Was Captain White murdered in pursuance of a conspiracy, and was the defendant one of this conspiracy? If so, the second inquiry is, Was he so connected with the murder itself as that he is liable to be convicted as a _principal_? The defendant is indicted as a _principal_. If not guilty _as such_, you cannot convict him. The indictment contains three distinct classes of counts. In the first, he is charged as having done the deed with his own hand; in the second, as an aider and abettor to Richard Crowningshield, Jr., who did the deed; in the third, as an aider and abettor to some person unknown. If you believe him guilty on either of these counts, or in either of these ways, you must convict him.

It may be proper to say, as a preliminary remark, that there are two extraordinary circumstances attending this trial. One is, that Richard Crowningshield, Jr., the supposed immediate perpetrator of the murder, since his arrest, has committed suicide. He has gone to answer before a tribunal of perfect infallibility. The other is, that Joseph Knapp, the supposed originator and planner of the murder, having once made a full disclosure of the facts, under a promise of indemnity, is, nevertheless, not now a witness. Notwithstanding his disclosure and his promise of indemnity, he now refuses to testify. He chooses to return to his original state, and now stands answerable himself, when the time shall come for his trial. These circumstances it is fit you should remember, in your investigation of the case.

Your decision may affect more than the life of this defendant. If he be not convicted as principal, no one can be. Nor can any one be convicted of a participation in the crime as accessory. The Knapps and George

Crowningshield will be again on the community. This shows the importance of the duty you have to perform, and serves to remind you of the care and wisdom necessary to be exercised in its performance. But certainly these considerations do not render the prisoner's guilt any clearer, nor enhance the weight of the evidence against him. No one desires you to regard consequences in that light. No one wishes any thing to be strained, or too far pressed against the prisoner. Still, it is fit you should see the full importance of the duty which devolves upon you.[4] . . .

Gentlemen, your whole concern should be to do your duty, and leave consequences to take care of themselves. You will receive the law from the court. Your verdict, it is true, may endanger the prisoner's life, but then it is to save other lives. If the prisoner's guilt has been shown and proved beyond all reasonable doubt, you will convict him. If such reasonable doubts of guilt still remain, you will acquit him. You are the judges of the whole case. You owe a duty to the public, as well as to the prisoner at the bar. You cannot presume to be wiser than the law. Your duty is a plain, straightforward one. Doubtless we would all judge him in mercy. Towards him, as an individual, the law inculcates no hostility; but towards him, if proved to be a murderer, the law, and the oaths you have taken, and public justice, demand that you do your duty.

With consciences satisfied with the discharge of duty, no consequences can harm you. There is no evil that we cannot either face or fly from, but the consciousness of duty disregarded. A sense of duty pursues us ever. It is omnipresent, like the Deity. If we take to ourselves the wings of the morning, and dwell in the uttermost parts of the sea, duty performed, or duty violated, is still with us, for our happiness or our misery. If we say the darkness shall cover us, in the darkness as in the light our obligations are yet with us. We cannot escape their power, nor fly from their presence. They are with us in this life, will be with us at its close; and in that scene of inconceivable solemnity, which lies yet further onward, we shall still find ourselves surrounded by the consciousness of duty, to pain us wherever it has been violated, and to console us so far as God may have given us grace to perform it.

THE CONSTITUTION NOT A COMPACT BETWEEN SOVEREIGN STATES.

Mr. President,-The gentleman from South Carolina has admonished us to be mindful of the opinions of those who shall come after us. We must take our chance, Sir, as to the light in which posterity will regard us. I do not decline its judgment, nor withhold myself from its scrutiny. Feeling that I am performing my public duty with singleness of heart and to the best of my ability, I fearlessly trust myself to the country, now and hereafter, and leave both my motives and my character to its decision.

The gentleman has terminated his speech in a tone of threat and defiance towards this bill, even should it become a law of the land, altogether unusual in the halls of Congress. But I shall not suffer myself to be excited into warmth by his denunciation of the measure which I support. Among the feelings which at this moment fill my breast, not the least is that of regret at the position in which the gentleman has placed himself. Sir, he does himself no justice. The cause which he has espoused finds no

basis in the Constitution, no succor from public sympathy, no cheering from a patriotic community. He has no foothold on which to stand while he might display the powers of his acknowledged talents. Every thing beneath his feet is hollow and treacherous. He is like a strong man struggling in a morass: every effort to extricate himself only sinks him deeper and deeper. And I fear the resemblance may be carried still farther; I fear that no friend can safely come to his relief, that no one can approach near enough to hold out a helping hand, without danger of going down himself, also, into the bottomless depths of this Serbonian bog.

The honorable gentleman has declared, that on the decision of the question now in debate may depend the cause of liberty itself. I am of the same opinion; but then, Sir, the liberty which I think is staked on the contest is not political liberty, in any general and undefined character, but our own well-understood and long-enjoyed _American_ liberty,

Sir, I love Liberty no less ardently than the gentleman himself, in whatever form she may have appeared in the progress of human history. As exhibited in the master states of antiquity, as breaking out again from amidst the darkness of the Middle Ages, and beaming on the formation of new communities in modern Europe, she has, always and everywhere, charms for me. Yet, Sir, it is our own liberty, guarded by constitutions and secured by union, it is that liberty which is our paternal inheritance, it is our established, dear-bought, peculiar American liberty, to which I am chiefly devoted, and the cause of which I now mean, to the utmost of my power, to maintain and defend.

Mr. President, if I considered the constitutional question now before us as doubtful as it is important, and if I supposed that its decision, either in the Senate or by the country, was likely to be in any degree influenced by the manner in which I might now discuss it, this would be to me a moment of deep solicitude. Such a moment has once existed. There has been a time, when, rising in this place, on the same question, I felt, I must confess, that something for good or evil to the Constitution of the country might depend on an effort of mine. But circumstances are changed. Since that day, Sir, the public opinion has become awakened to this great question; it has grasped it; it has reasoned upon it, as becomes an intelligent and patriotic community, and has settled it, or now seems in the progress of settling it, by an authority which none can disobey, the authority of the people themselves.

I shall not, Mr. President, follow the gentleman, step by step, through the course of his speech. Much of what he has said he has deemed necessary to the just explanation and defence of his own political character and conduct. On this I shall offer no comment. Much, too, has consisted of philosophical remark upon the general nature of political liberty, and the history of free institutions; and upon other topics, so general in their nature as to possess, in my opinion, only a remote bearing on the immediate subject of this debate.

But the gentleman’s speech made some days ago, upon introducing his resolutions, those resolutions themselves, and parts of the speech now just concluded, may, I presume, be justly regarded as containing the whole

South Carolina doctrine. That doctrine it is my purpose now to examine, and to compare it with the Constitution of the United States. I shall not consent, Sir, to make any new constitution, or to establish another form of government. I will not undertake to say what a constitution for these United States ought to be. That question the people have decided for themselves; and I shall take the instrument as they have established it, and shall endeavor to maintain it, in its plain sense and meaning, against opinions and notions, which, in my judgment, threaten its subversion.

The resolutions introduced by the gentleman were apparently drawn up with care, and brought forward upon deliberation. I shall not be in danger, therefore, of misunderstanding him, or those who agree with him, if I proceed at once to these resolutions, and consider them as an authentic statement of those opinions upon the great constitutional question by which the recent proceedings in South Carolina are attempted to be justified.

These resolutions are three in number.

The third seems intended to enumerate, and to deny, the several opinions expressed in the President’s proclamation, respecting the nature and powers of this government. Of this third resolution, I purpose, at present, to take no particular notice.

The first two resolutions of the honorable member affirm these propositions, viz.:--

1. That the political system under which we live, and under which Congress is now assembled, is a _compact_, to which the people of the several States, as separate and sovereign communities, are _the parties_.

2. That these sovereign parties have a right to judge, each for itself, of any alleged violation of the Constitution by Congress; and, in case of such violation, to choose, each for itself, its own mode and measure of redress.

It is true, Sir, that the honorable member calls this a "constitutional" compact; but still he affirms it to be a compact between sovereign States. What precise meaning, then, does he attach to the term _constitutional_? When applied to compacts between sovereign States, the term _constitutional_ affixes to the word _compact_ no definite idea. Were we to hear of a constitutional league or treaty between England and France, or a constitutional convention between Austria and Russia, we should not understand what could be intended by such a league, such a treaty, or such a convention. In these connections, the word is void of all meaning; and yet, Sir, it is easy, quite easy, to see why the honorable gentleman has used it in these resolutions. He cannot open the book, and look upon our written frame of government, without seeing that it is called a _constitution_. This may well be appalling to him. It threatens his whole doctrine of compact, and its darling derivatives, nullification and secession, with instant confutation. Because, if he admits our instrument of government to be a _constitution_, then, for that very reason, it is not a compact between sovereigns; a constitution of government and a

compact between sovereign powers being things essentially unlike in their very natures, and incapable of ever being the same. Yet the word _constitution_ is on the very front of the instrument. He cannot overlook it. He seeks, therefore, to compromise the matter, and to sink all the substantial sense of the word, while he retains a resemblance of its sound. He introduces a new word of his own, viz. _compact_, as importing the principal idea, and designed to play the principal part, and degrades _constitution_ into an insignificant, idle epithet, attached to _compact_. The whole then stands as a _"constitutional compact"!_ And in this way he hopes to pass off a plausible gloss, as satisfying the words of the instrument. But he will find himself disappointed. Sir, I must say to the honorable gentleman, that, in our American political grammar, CONSTITUTION is a noun substantive; it imports a distinct and clear idea of itself; and it is not to lose its importance and dignity, it is not to be turned into a poor, ambiguous, senseless, unmeaning adjective, for the purpose of accommodating any new set of political notions. Sir, we reject his new rules of syntax altogether. We will not give up our forms of political speech to the grammarians of the school of nullification. By the Constitution, we mean, not a "constitutional compact," but, simply and directly, the Constitution, the fundamental law; and if there be one word in the language which the people of the United States understand, this is that word. We know no more of a constitutional compact between sovereign powers, than we know of a _constitutional_ indenture of copartnership, a _constitutional_ deed of conveyance, or a _constitutional_ bill of exchange. But we know what the _Constitution_ is; we know what the plainly written fundamental law is; we know what the bond of our Union and the security of our liberties is; and we mean to maintain and to defend it, in its plain sense and unsophisticated meaning.

The sense of the gentleman’s proposition, therefore, is not at all affected, one way or the other, by the use of this word. That proposition still is, that our system of government is but a _compact_ between the people of separate and sovereign States.

Was it Mirabeau, Mr. President, or some other master of the human passions, who has told us that words are things? They are indeed things, and things of mighty influence, not only in addresses to the passions and high-wrought feelings of mankind, but in the discussion of legal and political questions also; because a just conclusion is often avoided, or a false one reached, by the adroit substitution of one phrase, or one word, for another. Of this we have, I think, another example in the resolutions before us.

The first resolution declares that the people of the several States _"acceded"_ to the Constitution, or to the constitutional compact, as it is called. This word "accede," not found either in the Constitution itself, or in the ratification of it by any one of the States, has been chosen for use here, doubtless, not without a well-considered purpose.

The natural converse of _accession_ is _secession_; and, therefore, when it is stated that the people of the States acceded to the Union, it may be more plausibly argued that they may secede from it. If,

in adopting the Constitution, nothing was done but acceding to a compact, nothing would seem necessary, in order to break it up, but to secede from the same compact. But the term is wholly out of place. _Accession_, as a word applied to political associations, implies coming into a league, treaty, or confederacy, by one hitherto a stranger to it; and _secession_ implies departing from such league or confederacy. The people of the United States have used no such form of expression in establishing the present government. They do not say that they _accede_ to a league, but they declare that they _ordain_ and _establish_ a Constitution. Such are the very words of the instrument itself; and in all the States, without an exception, the language used by their conventions was, that they "_ratified the Constitution_"; some of them employing the additional words "assented to" and "adopted," but all of them "ratifying."

There is more importance than may, at first sight, appear, in the introduction of this new word, by the honorable mover of these resolutions. Its adoption and use are indispensable to maintain those premises from which his main conclusion is to be afterwards drawn. But before showing that, allow me to remark, that this phraseology tends to keep out of sight the just view of a previous political history, as well as to suggest wrong ideas as to what was actually done when the present Constitution was agreed to. In 1789, and before this Constitution was adopted, the United States had already been in a union, more or less close, for fifteen years. At least as far back as the meeting of the first Congress, in 1774, they had been in some measure, and for some national purposes, united together. Before the Confederation of 1781, they had declared independence jointly, and had carried on the war jointly, both by sea and land; and this not as separate States, but as one people. When, therefore, they formed that Confederation, and adopted its articles as articles of perpetual union, they did not come together for the first time; and therefore they did not speak of the States as _acceding_ to the Confederation, although it was a league, and nothing but a league, and rested on nothing but plighted faith for its performance. Yet, even then, the States were not strangers to each other; there was a bond of union already subsisting between them; they were associated, united States; and the object of the Confederation was to make a stronger and better bond of union. Their representatives deliberated together on these proposed Articles of Confederation, and being authorized by their respective States, finally "_ratified and confirmed_" them. Inasmuch as they were already in union, they did not speak of _acceding_ to the new Articles of Confederation, but of _ratifying_ and _confirming_ them; and this language was not used inadvertently, because, in the same instrument, _accession_ is used in its proper sense, when applied to Canada, which was altogether a stranger to the existing union. "Canada," says the eleventh article, "_acceding_ to this Confederation, and joining in the measures of the United States, shall be admitted into the Union."

Having thus used the terms _ratify_ and _confirm_, even in regard to the old Confederation, it would have been strange indeed, if the people of the United States, after its formation, and when they came to establish the present Constitution, had spoken of the States, or the

people of the States, as _acceding_ to this constitution. Such language would have been ill-suited to the occasion. It would have implied an existing separation or disunion among the States, such as never has existed since 1774. No such language, therefore, was used. The language actually employed is, _adopt, ratify, ordain, establish_.

Therefore, Sir, since any State, before she can prove her right to dissolve the Union, must show her authority to undo what has been done, no State is at liberty to _secede_, on the ground that she and other States have done nothing but _accede_. She must show that she has a right to _reverse_ what has been _ordained_, to _unsettle_ and _overthrow_ what has been _established_, to _reject_ what the people have _adopted_, and to breakup what have _ratified_; because these are the terms which express the transactions which have actually taken place. In other words, she must show her right to make a revolution.

If, Mr. President, in drawing these resolutions, the honorable member and confined himself to the use of constitutional language, there would have been a wide and awful _hiatus_ between his premises and his conclusion. Leaving out the two words _compact_ and _accession_, which are not constitutional modes of expression, and stating the matter precisely as the truth is, his first resolution would have affirmed that _the people of the several States ratified this Constitution, or form of government_. These are the very words of South Carolina herself, in her act of ratification. Let, then, his first resolution tell the exact truth; let it state the fact precisely as it exists; let it say that the people of the several States ratified a constitution, or form of government, and then, Sir, what will become of his inference in his second resolution, which is in these words, viz. "that, as in all other cases of compact among sovereign parties, each has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress"? It is obvious, is it not, Sir? that this conclusion requires for its support quite other premises; it requires premises which speak of _accession_ and of _compact_ between sovereign powers; and, without such premises, it is altogether unmeaning.

Mr. President, if the honorable member will truly state what the people did in forming this Constitution, and then state what they must do if they would now undo what they then did, he will unavoidably state a case of revolution.

Let us see if it be not so. He must state, in the first place, that the people of the several States adopted and ratified this Constitution, or form of government; and, in the next place, he must state that they have a right to undo this; that is to say, that they have a right to discard the form of government which they have adopted, and to break up the Constitution which they have ratified. Now, Sir, this is neither more nor less than saying that they have a right to make a revolution. To reject an established government, to break up a political constitution, is revolution.

I deny that any man can state accurately what was done by the people, in

establishing the present Constitution, and then state accurately what the people, or any part of them, must now do to get rid of its obligations, without stating an undeniable case of the overthrow of government. I admit, of course, that the people may, if they choose, overthrow the government. But, then, that is revolution. The doctrine how contended for is, that, by _nullification_, or _secession_, the obligations and authority of the government may be set aside or rejected, without revolution. But that is what I deny; and what I say is, that no man can state the case with historical accuracy, and in constitutional language, without showing that the honorable gentleman's right, as asserted in his conclusion, is a revolutionary right merely; that it does not and cannot exist under the Constitution, or agreeably to the Constitution, but can come into existence only when the Constitution is overthrown. This is the reason, Sir, which makes it necessary to abandon the use of constitutional language for a new vocabulary, and to substitute, in the place of plain historical facts, a series of assumptions. This is the reason why it is necessary to give new names to things, to speak of the Constitution, not as a constitution, but as a compact, and of the ratifications by the people, not as ratifications, but as acts of accession.

Sir, I intend to hold the gentlemen to the written record. In the discussion of a constitutional question, I intend to impose upon him the restraints of constitutional language. The people have ordained a Constitution; can they reject it without revolution? They have established a form of government; can they overthrow it without revolution? These are the true questions.

Allow me now, Mr. President, to inquire further into the extent of the propositions contained in the resolutions, and their necessary consequences.

Where sovereign communities are parties, there is no essential difference between a compact, a confederation, and a league. They all equally rest on the plighted faith of the sovereign party. A league, or confederacy, is but a subsisting or continuing treaty.

The gentleman's resolutions, then, affirm, in effect, that these twenty-four United States are held together only by a subsisting treaty, resting for its fulfilment and continuance on no inherent power of its own, but on the plighted faith of each State; or, in other words, that our Union is but a league; and, as a consequence from this proposition, they further affirm that, as sovereigns are subject to no superior power, the States must judge, each for itself, of any alleged violation of the league; and if such violation be supposed to have occurred, each may adopt any mode or measure of redress which it shall think proper.

Other consequences naturally follow, too, from the main proposition. If a league between sovereign powers have no limitation as to the time of its duration, and contain nothing making it perpetual, it subsists only during the good pleasure of the parties, although no violation be complained of. If, in the opinion of either party, it be violated, such party may say that he will no longer fulfil its obligations on his part, but will consider the whole league or compact at an end, although it might be one

of its stipulations that it should be perpetual. Upon this principle, the Congress of the United States, in 1798, declared null and void the treaty of alliance between the United States and France, though it professed to be a perpetual alliance.

If the violation of the league be accompanied with serious injuries, the suffering party, being sole judge of his own mode and measure of redress, has a right to indemnify himself by reprisals on the offending members of the league; and reprisals, if the circumstances of the case require it, may be followed by direct, avowed, and public war.

The necessary import of the resolution, therefore, is that the United States are connected only by a league; that it is in the good pleasure of every State to decide how long she will choose to remain a member of this league; that any State may determine the extent of her own obligations under it, and accept or reject what shall be decided by the whole; that she may also determine whether her rights have been violated, what is the extent of the injury done her, and what mode and measure of redress her wrongs may make it fit and expedient for her to adopt. The result of the whole is, that any State may secede at pleasure; that any State may resist a law which she herself may choose to say exceeds the power of Congress; and that, as a sovereign power, she may redress her own grievances, by her own arm, at her own discretion. She may make reprisals; she may cruise against the property of other members of the league; she may authorize captures, and make open war.

If, Sir, this be our political condition, it is time the people of the United States understood it. Let us look for a moment to the practical consequences of these opinions. One State, holding an embargo law unconstitutional, may declare her opinion, and withdraw from the Union. _She_ secedes. Another, forming and expressing the same judgment on a law laying duties on imports, may withdraw also. _She_ secedes. And as, in her opinion, money has been taken out of the pockets of her citizens illegally, under pretence of this law, and as she has power to redress their wrongs, she may demand satisfaction; and, if refused, she may take it with a strong hand. The gentleman has himself pronounced the collection of duties, under existing laws, to be nothing but robbery. Robbers, of course, may be rightfully dispossessed of the fruits of their flagitious crimes; and therefore, reprisals, impositions on the commerce of other States, foreign alliances against them, or open war, are all modes of redress justly open to the discretion and choice of South Carolina; for she is to judge of her own rights, and to seek satisfaction for her own wrongs, in her own way.

But, Sir, a _third_ State is of opinion, not only that these laws of imposts are constitutional, but that it is the absolute duty of Congress to pass and to maintain such laws; and that, by omitting to pass and maintain them, its constitutional obligations would be grossly disregarded. She herself relinquished the power of protection, she might allege, and allege truly, and gave it up to Congress, on the faith that Congress would exercise it. If Congress now refuse to exercise it, Congress does, as she may insist, break the condition of the grant, and thus manifestly violate the Constitution; and for this violation of the

Constitution, _she_ may threaten to secede also. Virginia may secede, and hold the fortresses in the Chesapeake. The Western States may secede, and take to their own use the public lands. Louisiana may secede, if she choose, form a foreign alliance, and hold the mouth of the Mississippi. If one State may secede, ten may do so, twenty may do so, twenty-three may do so. Sir, as these secessions go on, one after another, what is to constitute the United States? Whose will be the army? Whose the navy? Who will pay the debts? Who fulfil the public treaties? Who perform the constitutional guaranties? Who govern this District and the Territories? Who retain the public property?

Mr. President, every man must see that these are all questions which can arise only _after a revolution_. They presuppose the breaking up of the government. While the Constitution lasts, they are repressed; they spring up to annoy and startle us only from its grave.

The Constitution does not provide for events which must be preceded by its own destruction. SECESSION, therefore, since it must bring these consequences with it, is REVOLUTIONARY, and NULLIFICATION is equally REVOLUTIONARY. What is revolution? Why, Sir, that is revolution which overturns, or controls, or successfully resists, the existing public authority; that which arrests the exercise of the supreme power; that which introduces a new paramount authority into the rule of the State. Now, Sir, this is the precise object of nullification. It attempts to supersede the supreme legislative authority. It arrests the arm of the executive magistrate. It interrupts the exercise of the accustomed judicial power. Under the name of an ordinance, it declares null and void, within the State, all the revenue laws of the United States. Is not this revolutionary? Sir, so soon as this ordinance shall be carried into effect, a _revolution_ will have commenced in South Carolina. She will have thrown off the authority to which her citizens have heretofore been subject. She will have declared her own opinions and her own will to be above the laws and above the power of those who are intrusted with their administration. If she makes good these declarations, she is revolutionized. As to her, it is as distinctly a change of the supreme power as the American Revolution of 1776. That revolution did not subvert government in all its forms. It did not subvert local laws and municipal administrations. It only threw off the dominion of a power claiming to be superior, and to have a right, in many important respects, to exercise legislative authority. Thinking this authority to have been usurped or abused, the American Colonies, now the United States, bade it defiance, and freed themselves from it by means of a revolution. But that revolution left them with their own municipal laws still, and the forms of local government. If Carolina now shall effectually resist the laws of Congress; if she shall be her own judge, take her remedy into her own hands, obey the laws of the Union when she pleases and disobey them when she pleases, she will relieve herself from a paramount power as distinctly as the American Colonies did the same thing in 1776. In other words, she will achieve, as to herself, a revolution.

But, Sir, while practical nullification in South Carolina would be, as to herself, actual and distinct revolution, its necessary tendency must also be to spread revolution, and to break up the Constitution, as to all the

other States. It strikes a deadly blow at the vital principle of the whole Union. To allow State resistance to the laws of Congress to be rightful and proper, to admit nullification in some States, and yet not expect to see a dismemberment of the entire government, appears to me the wildest illusion, and the most extravagant folly. The gentleman seems not conscious of the direction or the rapidity of his own course. The current of his opinions sweeps him along, he knows not whither. To begin with nullification, with the avowed intent, nevertheless, not to proceed to secession, dismemberment, and general revolution, is as if one were to take the plunge of Niagara, and cry out that he would stop half-way down. In the one case, as in the other, the rash adventurer must go to the bottom of the dark abyss below, were it not that that abyss has no discovered bottom.

Nullification, if successful, arrests the power of the law, absolves citizens from their duty, subverts the foundation both of protection and obedience, dispenses with oaths and obligations of allegiance, and elevates another authority to supreme command. Is not this revolution? And it raises to supreme command four-and-twenty distinct powers, each professing to be under a general government, and yet each setting its laws at defiance at pleasure. Is not this anarchy, as well as revolution? Sir, the Constitution of the United States was received as a whole, and for the whole country. If it cannot stand altogether, it cannot stand in parts; and if the laws cannot be executed everywhere, they cannot long be executed anywhere. The gentleman very well knows that all duties and imposts must be uniform throughout the country. He knows that we cannot have one rule or one law for South Carolina, and another for other States. He must see, therefore, and does see, and every man sees, that the only alternative is a repeal of the laws throughout the whole Union, or their execution in Carolina as well as elsewhere. And this repeal is demanded because a single State interposes her veto, and threatens resistance! The result of the gentleman’s opinion, or rather the very text of his doctrine, is, that no act of Congress can bind all the States, the constitutionality of which is not admitted by all; or, in other words, that no single State is bound, against its own dissent, by a law of imposts. This is precisely the evil experienced under the old Confederation, and for remedy of which this Constitution was adopted. The leading object in establishing this government, an object forced on the country by the conditions of the times and the absolute necessity of the law, was to give to Congress power to lay and collect imposts _without the consent of particular States_. The Revolutionary debt remained unpaid; the national treasury was bankrupt; the country was destitute of credit; Congress issued its requisitions on the States, and the States neglected them; there was no power of coercion but war, Congress could not lay imposts, or other taxes, by its own authority; the whole general government, therefore, was little more than a name. The Articles of Confederation, as to purposes of revenue and finance, were nearly a dead letter. The country sought to escape from this condition, at once feeble and disgraceful, by constituting a government which should have power, of itself, to lay duties and taxes, and to pay the public debt, and provide for the general welfare; and to lay these duties and taxes in all the States, without asking the consent of the State governments. This was the very power on which the new Constitution was to depend for all its ability

to do good; and without it, it can be no government, now or at any time. Yet, Sir, it is precisely against this power, so absolutely indispensable to the very being of the government, that South Carolina directs her ordinance. She attacks the government in its authority to raise revenue, the very mainspring of the whole system; and if she succeed, every movement of that system must inevitably cease. It is of no avail that she declares that she does not resist the law as a revenue law, but as a law for protecting manufacturers. It is a revenue law; it is the very law by force of which the revenue is collected; if it be arrested in any State, the revenue ceases in that State; it is, in a word, the sole reliance of the government for the means of maintaining itself and performing its duties.

Mr. President, the alleged right of a State to decide constitutional questions for herself necessarily leads to force because other States must have the same right, and because different States will decide differently; and when these questions arise between States, if there be no superior power, they can be decided only by the law of force. On entering into the Union, the people of each State gave up a part of their own power to make laws for themselves, in consideration, that, as to common objects, they should have a part in making laws for other States. In other words, the people of all the States agreed to create a common government, to be conducted by common counsels. Pennsylvania, for example, yielded the right of laying imposts in her own ports, in consideration that the new government, in which she was to have a share, should possess the power of laying imposts on all the States. If South Carolina now refuses to submit to this power, she breaks the condition on which other States entered into the Union. She partakes of the common counsels, and therein assists to bind others, while she refuses to be bound herself. It makes no difference in the case whether she does all this without reason or pretext, or whether she sets up as a reason, that, in her judgment, the acts complained of are unconstitutional. In the judgment of other States, they are not so. It is nothing to them that she offers some reason or some apology for her conduct, if it be one which they do not admit. It is not to be expected that any State will violate her duty without some plausible pretext. That would be too rash a defiance of the opinion of mankind. But if it be a pretext which lies in her own breast, if it be no more than an opinion which she says she has formed, how can other States be satisfied with this? How can they allow her to be judge of her own obligations? Or, if she may judge of her obligations, may they not judge of their rights also? May not the twenty-three entertain an opinion as well as the twenty-fourth? And if it be their right, in their own opinion, as expressed in the common council, to enforce the law against her, how is she to say that her right and her opinion are to be every thing, and their right and their opinion nothing?

Mr. President, if we are to receive the Constitution as the text, and then to lay down in its margin the contradictory commentaries which have been, and which may be, made by different States, the whole page would be a polyglot indeed. It would speak with as many tongues as the builders of Babel, and in dialects as much confused, and mutually as unintelligible. The very instance now before us presents a practical illustration. The law of the last session is declared unconstitutional in South Carolina, and in

obedience to it is refused. In other States, it is admitted to be strictly constitutional. You walk over the limit of its authority, therefore, when you pass a State line. On one side it is law, on the other side a nullity; and yet it is passed by a common government, having the same authority in all the States.

Such, Sir, are the inevitable results of this doctrine. Beginning with the original error, that the Constitution of the United States is nothing but a compact between sovereign States; asserting, in the next step, that each State has a right to be its own sole judge of the extent of its own obligations, and consequently of the constitutionality of laws of Congress; and, in the next, that it may oppose whatever it sees fit to declare unconstitutional, and that it decides for itself on the mode and measure of redress,--the argument arrives at once at the conclusion, that what a State dissents from, it may nullify; what it opposes, it may oppose by force; what it decides for itself, it may execute by its own power; and that, in short, it is itself supreme over the legislation of Congress, and supreme over the decisions of the national judicature; supreme over the constitution of the country, supreme over the supreme law of the land. However it seeks to protect itself against these plain inferences, by saying that an unconstitutional law is no law, and that it only opposes such laws as are unconstitutional, yet this does not in the slightest degree vary the result; since it insists on deciding this question for itself; and, in opposition to reason and argument, in opposition to practice and experience, in opposition to the judgment of others, having an equal right to judge, it says, only, "Such is my opinion, and my opinion shall be my law, and I will support it by my own strong hand. I denounce the law; I declare it unconstitutional; that is enough; it shall not be executed. Men in arms are ready to resist its execution. An attempt to enforce it shall cover the land with blood. Elsewhere it may be binding; but here it is trampled under foot." This, Sir, is practical nullification.

And now, Sir, against all these theories and opinions, I maintain,--

1. That the Constitution of the United States is not a league, confederacy, or compact between the people of the several States in their sovereign capacities; but a government proper, founded on the adoption of the people, and creating direct relations between itself and individuals.

2. That no State authority has power to dissolve these relations; that nothing can dissolve them but revolution; and that, consequently, there can be no such thing as secession without revolution.

3. That there is a supreme law, consisting of the Constitution of the United States, and acts of Congress passed in pursuance of it, and treaties; and that, in cases not capable of assuming the character of a suit in law or equity, Congress must judge of, and finally interpret, this supreme law so often as it has occasion to pass acts of legislation; and in cases capable of assuming, and actually assuming, the character of a suit, the Supreme Court of the United States is the final interpreter.

4. That an attempt by a State to abrogate, annul, or nullify an act of

Congress, or to arrest its operation within her limits, on the ground that, in her opinion, such law is unconstitutional, is a direct usurpation on the just powers of the general government, and on the equal rights of other States; a plain violation of the Constitution, and a proceeding essentially revolutionary in its character and tendency.

Whether the Constitution be a compact between States in their sovereign capacities, is a question which must be mainly argued from what is contained in the instrument itself. We all agree that it is an instrument which has been in some way clothed with power. We all admit that it speaks with authority. The first question then is, What does it say of itself? What does it purport to be? Does it style itself a league, confederacy, or compact between sovereign States? It is to be remembered, Sir, that the Constitution began to speak only after its adoption. Until it was ratified by nine States, it was but a proposal, the mere draught of an instrument. It was like a deed drawn, but not executed. The Convention had framed it; sent it to Congress, then sitting under the Confederation; Congress had transmitted it to the State legislatures; and by these last it was laid before conventions of the people in the several States. All this while it was inoperative paper. It had received no stamp of authority, no sanction; it spoke no language. But when ratified by the people in their respective conventions, then it had a voice, and spoke authentically. Every word in it had then received the sanction of the popular will, and was to be received as the expression of that will. What the Constitution says of itself, therefore, is as conclusive as what it says on any other point. Does it call itself a "compact"? Certainly not. It uses the word _compact_ but once, and that is when it declares that the States shall enter into no compact. Does it call itself a "league," a "confederacy," a "subsisting treaty between the States"? Certainly not. There is not a particle of such language in all its pages. But it declares itself a CONSTITUTION. What is a _constitution_? Certainly not a league, compact, or confederacy, but a _fundamental law_. That fundamental regulation which determines the manner in which the public authority is to be executed, is what forms the _constitution_ of a state. Those primary rules which concern the body itself, and the very being of the political society, the form of government, and the manner in which power is to be exercised,--all, in a word, which form together the _constitution of a state_,--these are the fundamental laws. This, Sir, is the language of the public writers. But do we need to be informed, in this country, what a _constitution_ is? Is it not an idea perfectly familiar, definite, and settled? We are at no loss to understand what is meant by the constitution of one of the States; and the Constitution of the United States speaks of itself as being an instrument of the same nature. It says this _Constitution_ shall be the law of the land, anything in any State _constitution_ to the contrary notwithstanding. And it speaks of itself, too, in plain contradistinction from a confederation; for it says that all debts contracted, and all engagements entered into, by the United States, shall be as valid under this _Constitution_ as under the _Confederation_. It does not say, as valid under this _compact_, or this league, or this confederation, as under the former confederation, but as valid under this _Constitution_.

This, then, Sir, is declared to be a _constitution_. A constitution is the fundamental law of the state; and this is expressly declared to be the supreme law. It is as if the people had said, "We prescribe this fundamental law," or "this supreme law," for they do say that they establish this Constitution, and that it shall be the supreme law. They say that they _ordain and establish_ it. Now, Sir, what is the common application of these words? We do not speak of ordaining leagues and compacts. If this was intended to be a compact or league, and the States to be parties to it, why was it not so said? Why is there found no one expression in the whole instrument indicating such intent? The old Confederation was expressly called a _league_, and into this league it was declared that the States, as States, severally entered. Why was not similar language used in the Constitution, if a similar intention had existed? Why was it not said, "the States enter into this new league," "the States form this new confederation," or "the States agree to this new compact"? Or why was it not said, in the language of the gentleman's resolution, that the people of the several States acceded to this compact in their sovereign capacities? What reason is there for supposing that the framers of the Constitution rejected expressions appropriate to their own meaning, and adopted others wholly at war with that meaning?

Again, Sir, the Constitution speaks of that political system which is established as "the government of the United States." Is it not doing strange violence to language to call a league or a compact between sovereign powers a _government_? The government of a state is that organization in which the political power resides. It is the political being created by the constitution or fundamental law. The broad and clear difference between a government and a league or compact is, that a government is a body politic; it has a will of its own; and it possesses powers and faculties to execute its own purposes. Every compact looks to some power to enforce its stipulations. Even in a compact between sovereign communities, there always exists this ultimate reference to a power to insure its execution; although, in such case, this power is but the force of one party against the force of another; that is to say, the power of war. But a _government_ executes its decisions by its own supreme authority. Its use of force in compelling obedience to its own enactments is not war. It contemplates no opposing party having a right of resistance. It rests on its own power to enforce its own will; and when it ceases to possess this power, it is no longer a government.

Mr. President, I concur so generally to the very able speech of the gentleman from Virginia near me [1], that it is not without diffidence and regret that I venture to differ with him on any point. His opinions, Sir, are redolent of the doctrines of a very distinguished school, for which I have the highest regard, of whose doctrines I can say, what I can also say of the gentleman's speech, that, while I concur in the results, I must be permitted to hesitate about some of the premises. I do not agree that the Constitution is a compact between States in their sovereign capacities. I do not agree, that, in strictness of language, it is a compact at all. But I do agree that it is founded on consent or agreement, or on compact, if the gentleman prefers that word, and means no more by it than voluntary consent or agreement. The Constitution, Sir, is not a contract, but the result of a contract; meaning by contract no more than assent. Founded on

consent, it is a government proper. Adopted by the agreement of the people of the United States, when adopted, it has become a Constitution. The people have agreed to make a Constitution; but when made, that Constitution becomes what its name imports. It is no longer a mere agreement. Our laws, Sir, have their foundation in the agreement or consent of the two houses of Congress. We say, habitually, that one house proposes a bill, and the other agrees to it; but the result of this agreement is not a compact, but a law. The law, the statute, is not the agreement, but something created by the agreement; and something which, when created, has a new character, and acts by its own authority. So the Constitution of the United States, founded in or on the consent of the people, may be said to rest on compact or consent; but it is not itself the compact, but its result. When the people agree to erect a government, and actually erect it, the thing is done, and the agreement is at an end. The compact is executed, and the end designed by it attained. Henceforth, the fruit of the agreement exists, but the agreement itself is merged in its own accomplishment; since there can be no longer a subsisting agreement or compact _to form_ a constitution or government, after that constitution or government has been actually formed and established.

It appears to me, Mr. President, that the plainest account of the establishment of this government presents the most just and philosophical view of its foundation. The people of the several States had their separate State governments; and between the States there also existed a Confederation. With this condition of things the people were not satisfied, as the Confederation had been found not to fulfil its intended objects. It was _proposed_, therefore, to erect a new, common government, which should possess certain definite powers, such as regarded the prosperity of the people of all the States, and to be formed upon the general model of American constitutions. This proposal was assented to, and an instrument was presented to the people of the several States for their consideration. They approved it, and agreed to adopt it, as a Constitution. They executed that agreement; they adopted the Constitution as a Constitution, and henceforth it must stand as a Constitution until it shall be altogether destroyed. Now, Sir, is not this the truth of the whole matter? And is not all that we have heard of compact between sovereign States the mere effect of a theoretical and artificial mode of reasoning upon the subject? a mode of reasoning which disregards plain facts for the sake of hypothesis?

Mr. President, the nature of sovereignty or sovereign power has been extensively discussed by gentlemen on this occasion, as it generally is when the origin of our government is debated. But I confess myself not entirely satisfied with arguments and illustrations drawn from that topic. The sovereignty of government is an idea belonging to the other side of the Atlantic. No such thing is known in North America. Our governments are all limited. In Europe, sovereignty is of feudal origin, and imports no more than the state of the sovereign. It comprises his rights, duties, exemptions, prerogatives, and powers. But with us, all power is with the people. They alone are sovereign; and they erect what governments they please, and confer on them such powers as they please. None of these governments is sovereign, in the European sense of the word, all being restrained by written constitutions. It seems to me, therefore, that we

only perplex ourselves when we attempt to explain the relations existing between the general government and the several State governments according to those ideas of sovereignty which prevail under systems essentially different from our own.

But, Sir, to return to the Constitution itself; let me inquire what it relies upon for its own continuance and support. I hear it often suggested, that the States, by refusing to appoint Senators and Electors, might bring this government to an end. Perhaps that is true; but the same may be said of the State governments themselves. Suppose the legislature of a State, having the power to appoint the governor and the judges, should omit that duty, would not the State government remain unorganized? No doubt, all elective governments may be broken up by a general abandonment on the part of those intrusted with political powers of their appropriate duties. But one popular government has, in this respect, as much security as another. The maintenance of this Constitution does not depend on the plighted faith of the States, as States, to support it; and this again shows that it is not a league. It relies on individual duty and obligation.

The Constitution of the United States creates direct relations between this government and individuals. This government may punish individuals for treason, and all other crimes in the code, when committed against the United States. It has power also to tax individuals, in any mode and to any extent; and it possesses the further power of demanding from individuals military service. Nothing, certainly, can more clearly distinguish a government from a confederation of states than the possession of these powers. No closer relations can exist between individuals and any government.

On the other hand, the government owes high and solemn duties to every citizen of the country. It is bound to protect him in his most important rights and interests. It makes war for his protection, and no other government in the country can make war. It makes peace for his protection, and no other government can make peace. It maintains armies and navies for his defence and security, and no other government is allowed to maintain them. He goes abroad beneath its flag, and carries over all the earth a national character imparted to him by this government, and which no other government can impart. In whatever relates to war, to peace, to commerce, he knows no other government. All these, Sir, are connections as dear and as sacred as can bind individuals to any government on earth. It is not, therefore, a compact between States, but a government proper, operating directly upon individuals, yielding to them protection on the one hand, and demanding from them obedience on the other.

There is no language in the whole Constitution applicable to a confederation of States. If the States be parties, as States, what are their rights, and what their respective covenants and stipulations? And where are their rights, covenants, and stipulations expressed? The States engage for nothing, they promise nothing. In the Articles of Confederation, they did make promises, and did enter into engagements, and did plight the faith of each State for their fulfilment; but In the Constitution there is nothing of that kind. The reason is, that, in the

Constitution, it is the _people_ who speak, and not the States. The people ordain the Constitution, and therein address themselves to the States, and to the legislatures of the States, in the language of injunction and prohibition. The Constitution utters its behests in the name and by authority of the people, and it does not exact from States any plighted public faith to maintain it. On the contrary, it makes its own preservation depend on individual duty and individual obligation. Sir, the States cannot omit to appoint Senators and Electors. It is not a matter resting in State discretion or State pleasure. The Constitution has taken better care of its own preservation. It lays its hand on individual conscience and individual duty. It incapacitates any man to sit in the legislature of a State who shall not first have taken his solemn oath to support the Constitution of the United States. From the obligation of this oath no State power can discharge him. All the members of all the State legislatures are as religiously bound to support the Constitution of the United States as they are to support their own State constitution. Nay, Sir, they are as solemnly sworn to support it as we ourselves are, who are members of Congress.

No member of a State legislature can refuse to proceed, at the proper time, to elect Senators to Congress, or to provide for the choice of Electors of President and Vice-President, any more than the members of this Senate can refuse, when the appointed day arrives, to meet the members of the other house, to count the votes for those officers, and ascertain who are chosen. In both cases, the duty binds, and with equal strength, the conscience of the individual member, and it is imposed on all by an oath in the same words. Let it then never be said, Sir, that it is a matter of discretion with the States whether they will continue the government, or break it up by refusing to appoint Senators and to elect Electors. They have no discretion in the matter. The members of their legislatures cannot avoid doing either, so often as the time arrives, without a direct violation of their duty and their oaths; such a violation as would break up any other government.

Looking still further to the provisions of the Constitution itself, in order to learn its true character, we find its great apparent purpose to be, to unite the people of all the States under one general government, for certain definite objects, and, to the extent of this union, to restrain the separate authority of the States. Congress only can declare war; therefore, when one State is at war with a foreign nation, all must be at war. The President and the Senate only can make peace; when peace is made for one State, therefore, it must be made for all.

Can anything be conceived more preposterous, than that any State should have power to nullify the proceedings of the general government respecting peace and war? When war is declared by a law of Congress, can a single State nullify that law, and remain at peace? And yet she may nullify that law as well as any other. If the President and Senate make peace, may one State, nevertheless, continue the war? And yet, if she can nullify a law, she may quite as well nullify a treaty.

The truth is, Mr. President, and no ingenuity of argument, no subtilty of distinction can evade it, that, as to certain purposes, the people of the

United States are one people. They are one in making war, and one in making peace; they are one in regulating commerce, and one in laying duties of imposts. The very end and purpose of the Constitution was, to make them one people in these particulars; and it has effectually accomplished its object. All this is apparent on the face of the Constitution itself. I have already said, Sir, that to obtain a power of direct legislation over the people, especially in regard to imposts, was always prominent as a reason for getting rid of the Confederation, and forming a new Constitution. Among innumerable proofs of this, before the assembling of the Convention, allow me to refer only to the report of the committee of the old Congress, July, 1785.

But, Sir, let us go to the actual formation of the Constitution; let us open the journal of the Convention itself, and we shall see that the very first resolution which the Convention adopted was, "That a national government ought to be established, consisting of a supreme legislature, judiciary, and executive."

This itself completely negatives all idea of league, and compact, and confederation. Terms could not be chosen more fit to express an intention to establish a national government, and to banish for ever all notion of a compact between sovereign States.

This resolution was adopted on the 30th of May, 1787. Afterwards, the style was altered, and, instead of being called a national government, it was called the government of the United States; but the substance of this resolution was retained, and was at the head of that list of resolutions which was afterwards sent to the committee who were to frame the instrument.

It is true, there were gentlemen in the Convention, who were for retaining the Confederation, and amending its Articles; but the majority was against this, and was for a national government. Mr. Patterson’s propositions, which were for continuing the Articles of Confederation with additional powers, were submitted to the Convention on the 15th of June, and referred to the committee of the whole. The resolutions forming the basis of a national government, which had once been agreed to in the committee of the whole, and reported, were recommitted to the same committee, on the same day. The Convention, then, in committee of the whole, on the 19th of June, had both these plans before them; that is to say, the plan of a confederacy, or compact, between States, and the plan of a national government. Both these plans were considered and debated, and the committee reported, "That they do not agree to the propositions offered by the honorable Mr. Patterson, but that they again submit the resolutions formerly reported." If, Sir, any historical fact in the world be plain and undeniable, it is that the Convention deliberated on the expediency of continuing the Confederation, with some amendments, and rejected that scheme, and adopted the plan of a national government, with a legislature, an executive, and a judiciary of its own. They were asked to preserve the league; they rejected the proposition. They were asked to continue the existing compact between States; they rejected it. They rejected compact, league, and confederation, and set themselves about framing the constitution of a national government; and they accomplished

what they undertook.

If men will open their eyes fairly to the lights of history, it is impossible to be deceived on this point. The great object was to supersede the Confederation by a regular government; because, under the Confederation, Congress had power only to make requisitions on States; and if States declined compliance, as they did, there was no remedy but war against such delinquent States. It would seem, from Mr. Jefferson's correspondence, in 1786 and 1787, that he was of opinion that even this remedy ought to be tried. "There will be no money in the treasury," said he, "till the confederacy shows its teeth"; and he suggests that a single frigate would soon levy, on the commerce of a delinquent State, the deficiency of its contribution. But this would be war; and it was evident that a confederacy could not long hold together, which should be at war with its members. The Constitution was adopted to avoid this necessity. It was adopted that there might be a government which should act directly on individuals, without borrowing aid from the State governments. This is clear as light itself on the very face of the provisions of the Constitution, and its whole history tends to the same conclusion. Its framers gave this very reason for their work in the most distinct terms. Allow me to quote but one or two proofs, out of hundreds. That State, so small in territory, but so distinguished for learning and talent, Connecticut, had sent to the general Convention, among other members, Samuel Johnston and Oliver Ellsworth. The Constitution having been framed, it was submitted to a convention of the people of Connecticut for ratification on the part of that State; and Mr. Johnston and Mr. Ellsworth were also members of this convention. On the first day of the debates, being called on to explain the reasons which led the Convention at Philadelphia to recommend such a Constitution, after showing the insufficiency of the existing confederacy, inasmuch as it applied to States, as States, Mr. Johnston proceeded to say:--

"The Convention saw this imperfection in attempting to legislate for States in their political capacity, that the coercion of law can be exercised by nothing but a military force. They have, therefore, gone upon entirely new ground. They have formed one new nation out of the individual States. The Constitution vests in the general legislature a power to make laws in matters of national concern; to appoint judges to decide upon these laws; and to appoint officers to carry them into execution. This excludes the idea of an armed force. The power which is to enforce these laws is to be a legal power, vested in proper magistrates. The force which is to be employed is the energy of law; and this force is to operate only upon individuals who fail in their duty to their country. This is the peculiar glory of the Constitution, that it depends upon the mild and equal energy of the magistracy for the execution of the laws."

In the further course of the debate, Mr. Ellsworth said:--

"In republics, it is a fundamental principle, that the majority govern, and that the minority comply with the general voice. How contrary, then, to republican principles, how humiliating, is our present situation! A single State can rise up, and put a veto upon the most important public measures. We have seen this actually take place; a single State has

controlled the general voice of the Union; a minority, a very small minority, has governed us. So far is this from being consistent with republican principles, that it is, in effect, the worst species of monarchy.

"Hence we see how necessary for the Union is a coercive principle. No man pretends the contrary. We all see and feel this necessity. The only question is, Shall it be a coercion of law, or a coercion of arms? There is no other possible alternative. Where will those who oppose a coercion of law come out? Where will they end? A necessary consequence of their principles is a war of the States one against another. I am for coercion by law; that coercion which acts only upon delinquent individuals. This Constitution does not attempt to coerce sovereign bodies, States, in their political capacity. No coercion is applicable to such bodies, but that of an armed force. If we should attempt to execute the laws of the Union by sending an armed force against a delinquent State, it would involve the good and bad, the innocent and guilty, in the same calamity. But this legal coercion singles out the guilty individual, and punishes him for breaking the laws of the Union."

Indeed, Sir, if we look to all contemporary history, to the numbers of the Federalist, to the debates in the conventions, to the publications of friends and foes, they all agree, that a change had been made from a confederacy of States to a different system; they all agree, that the Convention had formed a Constitution for a national government. With this result some were satisfied, and some were dissatisfied; but all admitted that the thing had been done. In none of these various productions and publications did any one intimate that the new Constitution was but another compact between States in their sovereign capacities. I do not find such an opinion advanced in a single instance. Everywhere, the people were told that the old Confederation was to be abandoned, and a new system to be tried; that a proper government was proposed, to be founded in the name of the people, and to have a regular organization of its own. Everywhere, the people were told that it was to be a government with direct powers to make laws over individuals, and to lay taxes and imposts without the consent of the States. Everywhere, it was understood to be a popular Constitution. It came to the people for their adoption, and was to rest on the same deep foundation as the State constitutions themselves. Its most distinguished advocates, who had been themselves members of the Convention, declared that the very object of submitting the Constitution to the people was, to preclude the possibility of its being regarded as a mere compact. "However gross a heresy," say the writers of the Federalist, "it may be to maintain that a party to a _compact_ has a right to revoke that _compact_, the doctrine itself has had respectable advocates. The possibility of a question of this nature proves the necessity of laying the foundations of our national government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE."

Such is the language, Sir, addressed to the people, while they yet had the Constitution under consideration. The powers conferred on the new government were perfectly well understood to be conferred, not by any State, or the people of any State, but by the people of the United States.

Virginia is more explicit, perhaps, in this particular, than any other State. Her convention, assembled to ratify the Constitution, "in the name and behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, _being derived from the people of the United States_, may be resumed by them whenever the same shall be perverted to their injury or oppression."

Is this language which describes the formation of a compact between States? or language describing the grant of powers to a new government, by the whole people of the United States?

Among all the other ratifications, there is not one which speaks of the Constitution as a compact between States. Those of Massachusetts and New Hampshire express the transaction, in my opinion, with sufficient accuracy. They recognize the Divine goodness "in affording THE PEOPLE OF THE UNITED STATES an opportunity of entering into an explicit and solemn compact with each other _by assenting to and ratifying a new Constitution_." You will observe, Sir, that it is the PEOPLE, and not the States, who have entered into this compact; and it is the PEOPLE of all the United States. These conventions, by this form of expression, meant merely to say, that the people of the United States had, by the blessing of Providence, enjoyed the opportunity of establishing a new Constitution, _founded in the consent of the people_. This consent of the people has been called, by European writers, the _social compact_; and, in conformity to this common mode of expression, these conventions speak of that assent, on which the new Constitution was to rest, as an explicit and solemn compact, not which the States had entered into with each other, but which the _people_ of the United States had entered into.

Finally, Sir, how can any man get over the words of the Constitution itself?--"WE, THE PEOPLE OF THE UNITED STATES, DO ORDAIN AND ESTABLISH THIS CONSTITUTION." These words must cease to be a part of the Constitution, they must be obliterated from the parchment on which they are written, before any human ingenuity or human argument can remove the popular basis on which that Constitution rests, and turn the instrument into a mere compact between sovereign States.

The second proposition, Sir, which I propose to maintain, is, that no State authority can dissolve the relations subsisting between the government of the United States and individuals; that nothing can dissolve these relations but revolution; and that, therefore, there can be no such thing as _secession_ without revolution. All this follows, as it seems to me, as a just consequence, if it be first proved that the Constitution of the United States is a government proper, owing protection to individuals, and entitled to their obedience.

The people, Sir, in every State, live under two governments. They owe obedience to both. These governments, though distinct, are not adverse. Each has its separate sphere, and its peculiar powers and duties. It is not a contest between two sovereigns for the same power, like the wars of the rival houses of England; nor is it a dispute between a government _de facto_ and a government _de jure_. It is the case of a

division of powers between two governments, made by the people, to whom both are responsible. Neither can dispense with the duty which individuals owe to the other; neither can call itself master of the other; the people are masters of both. This division of power, it is true, is in a great measure unknown in Europe. It is the peculiar system of America; and, though new and singular, it is not incomprehensible. The State constitutions are established by the people of the States. This Constitution is established by the people of all the States. How, then, can a State secede? How can a State undo what the whole people have done? How can she absolve her citizens from their obedience to the laws of the United States? How can she annul their obligations and oaths? How can the members of her legislature renounce their own oaths? Sir, secession, as a revolutionary right, is intelligible; as a right to be proclaimed in the midst of civil commotions, and asserted at the head of armies, I can understand it. But as a practical right, existing under the Constitution, and in conformity with its provisions, it seems to me to be nothing but a plain absurdity; for it supposes resistance to government, under the authority of government itself; it supposes dismemberment, without violating the principles of union; it supposes opposition to law, without crime; it supposes the violation of oaths, without responsibility; it supposes the total overthrow of government, without revolution. The Constitution, Sir, regards itself as perpetual and immortal. It seeks to establish a union among the people of the States, which shall last through all time. Or, if the common fate of things human must be expected at some period to happen to it, yet that catastrophe is not anticipated.

The instrument contains ample provisions for its amendment, at all times; none for its abandonment at any time. It declares that new States may come into the Union, but it does not declare that old States may go out. The Union is not a temporary partnership of States. It is the association of the people, under a constitution of government, uniting their power, joining together their highest interests, cementing their present enjoyments, and blending, in one indivisible mass, all their hopes for the future. Whatsoever is steadfast in just political principles; whatsoever is permanent in the structure of human society; whatsoever there is which can derive an enduring character from being founded on deep-laid principles of constitutional liberty and on the broad foundations of the public will,--all these unite to entitle this instrument to be regarded as a permanent constitution of government.

In the next place, Mr. President, I contend that there is a supreme law of the land, consisting of the Constitution, acts of Congress passed in pursuance of it, and the public treaties. This will not be denied, because such are the very words of the Constitution. But I contend, further, that it rightfully belongs to Congress, and to the courts of the United States, to settle the construction of this supreme law, in doubtful cases. This is denied; and here arises the great practical question, _Who is to construe finally the Constitution of the United States_? We all agree that the Constitution is the supreme law; but who shall interpret that law? In our system of the division of powers between different governments, controversies will necessarily sometimes arise, respecting the extent of the powers of each. Who shall decide these controversies? Does it rest with the general government, in all or any of its departments, to exercise the

office of final interpreter? Or may each of the States, as well as the general government, claim this right of ultimate decision? The practical result of this whole debate turns on this point. The gentleman contends that each State may judge for itself of any alleged violation of the Constitution, and may finally decide for itself, and may execute its own decisions by its own power. All the recent proceedings in South Carolina are founded on this claim of right. Her convention has pronounced the revenue laws of the United States unconstitutional; and this decision she does not allow any authority of the United States to overrule or reverse. Of course she rejects the authority of Congress, because the very object of the ordinance is to reverse the decision of Congress; and she rejects, too, the authority of the courts of the United States, because she expressly prohibits all appeal to those courts. It is in order to sustain this asserted right of being her own judge, that she pronounces the Constitution of the United States to be but a compact, to which she is a party, and a sovereign party. If this be established, then the inference is supposed to follow, that, being sovereign, there is no power to control her decision; and her own judgment on her own compact is, and must be, conclusive.

I have already endeavored, Sir, to point out the practical consequences of this doctrine, and to show how utterly inconsistent it is with all ideas of regular government, and how soon its adoption would involve the whole country in revolution and absolute anarchy. I hope it is easy now to show, Sir, that a doctrine bringing such consequences with it is not well founded; that it has nothing to stand on but theory and assumption; and that it is refuted by plain and express constitutional provisions. I think the government of the United States does possess, in its appropriate departments, the authority of final decision on questions of disputed power. I think it possesses this authority, both by necessary implication and by express grant.

It will not be denied, Sir, that this authority naturally belongs to all governments. They all exercise it from necessity, and as a consequence of the exercise of other powers. The State governments themselves possess it, except in that class of questions which may arise between them and the general government, and in regard to which they have surrendered it, as well by the nature of the case as by clear constitutional provisions. In other and ordinary cases, whether a particular law be in conformity to the constitution of the State is a question which the State legislature or the State judiciary must determine. We all know that these questions arise daily in the State governments, and are decided by those governments; and I know no government which does not exercise a similar power.

Upon general principles, then, the government of the United States possesses this authority; and this would hardly be denied were it not that there are other governments. But since there are State governments, and since these, like other governments, ordinarily construe their own powers, if the government of the United States construes its own powers also, which construction is to prevail in the case of opposite constructions? And again, as in the case now actually before us, the State governments may undertake, not only to construe their own powers, but to decide directly on the extent of the powers of Congress. Congress has passed a

law as being within its just powers; South Carolina denies that this law is within its just powers, and insists that she has the right so to decide this point, and that her decision is final. How are these questions to be settled?

In my opinion, Sir, even if the Constitution of the United States had made no express provision for such cases, it would yet be difficult to maintain, that, in a Constitution existing over four-and-twenty States, with equal authority over all, one could claim a right of construing it for the whole. This would seem a manifest impropriety; indeed, an absurdity. If the Constitution is a government existing over all the States, though with limited powers, it necessarily follows, that, to the extent of those powers, it must be supreme. If it be not superior to the authority of a particular State, it is not a national government. But as it is a government, as it has a legislative power of its own, and a judicial power coextensive with the legislative, the inference is irresistible that this government, thus created _by_ the whole and _for_ the whole, must have an authority superior to that of the particular government of any one part. Congress is the legislature of all the people of the United States; the judiciary of the general government is the judiciary of all the people of the United States. To hold, therefore, that this legislature and this judiciary are subordinate in authority to the legislature and judiciary of a single State, is doing violence to all common sense, and overturning all established principles. Congress must judge of the extent of its own powers so often as it is called on to exercise them, or it cannot act at all; and it must also act independent of State control, or it cannot act at all.

The right of State interposition strikes at the very foundation of the legislative power of Congress. It possesses no effective legislative power, if such right of State interposition exists; because it can pass no law not subject to abrogation. It cannot make laws for the Union, if any part of the Union may pronounce its enactments void and of no effect. Its forms of legislation would be an idle ceremony, if, after all, any one of four-and-twenty States might bid defiance to its authority. Without express provision in the Constitution, therefore, Sir, this whole question is necessarily decided by those provisions which create a legislative power and a judicial power. If these exist in a government intended for the whole, the inevitable consequence is, that the laws of this legislative power and the decisions of this judicial power must be binding on and over the whole. No man can form the conception of a government existing over four-and-twenty States, with a regular legislative and judicial power, and of the existence at the same time of an authority, residing elsewhere, to resist, at pleasure or discretion, the enactments and the decisions of such a government. I maintain, therefore, Sir, that, from the nature of the case, and as an inference wholly unavoidable, the acts of Congress and the decisions of the national courts must be of higher authority than State laws and State decisions. If this be not so, there is, there can be, no general government.

But, Mr. President, the Constitution has not left this cardinal point without full and explicit provisions. First, as to the authority of Congress. Having enumerated the specific powers conferred on Congress, the

Constitution adds, as a distinct and substantive clause, the following, viz.: "To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof." If this means anything, it means that Congress may judge of the true extent and just interpretation of the specific powers granted to it, and may judge also of what is necessary and proper for executing those powers. If Congress is to judge of what is necessary for the execution of its powers, it must, of necessity, judge of the extent and interpretation of those powers.

And in regard, Sir, to the judiciary, the Constitution is still more express and emphatic. It declares that the judicial power shall extend to all _cases_ in law or equity arising under the Constitution, laws of the United States, and treaties; that there shall be _one_ Supreme Court, and that this Supreme Court shall have appellate jurisdiction of all these cases, subject to such exceptions as Congress may make. It is impossible to escape from the generality of these words. If a case arises under the Constitution, that is, if a case arises depending on the construction of the Constitution, the judicial power of the United States extends to it. It reaches _the case, the question_; it attaches the power of the national judicature to the _case_ itself, in whatever court it may arise or exist; and in this _case_ the Supreme Court has appellate jurisdiction over all courts whatever. No language could provide with more effect and precision than is here done, for subjecting constitutional questions to the ultimate decision of the Supreme Court. And, Sir, this is exactly what the Convention found it necessary to provide for, and intended to provide for. It is, too, exactly what the people were universally told was done when they adopted the Constitution. One of the first resolutions adopted by the Convention was in these words, viz.: "That the jurisdiction of the national judiciary shall extend to cases which respect _the collection of the national revenue_, and questions which involve the national peace and harmony." Now, Sir, this either had no sensible meaning at all, or else it meant that the jurisdiction of the national judiciary should extend to these questions, _with a paramount authority_. It is not to be supposed that the Convention intended that the power of the national judiciary should extend to these questions, and that the power of the judicatures of the States should also extend to them, _with equal power of final decision_. This would be to defeat the whole object of the provision. There were thirteen judicatures already in existence. The evil complained of, or the danger to be guarded against, was contradiction and repugnance in the decisions of these judicatures. If the framers of the Constitution meant to create a fourteenth, and yet not to give it power to revise and control the decisions of the existing thirteen, then they only intended to augment the existing evil and the apprehended danger by increasing still further the chances of discordant judgments. Why, Sir, has it become a settled axiom in politics that every government must have a judicial power coextensive with its legislative power? Certainly, there is only this reason, namely, that the laws may receive a uniform interpretation and a uniform execution. This object cannot be otherwise attained. A statute is what it is judicially interpreted to be; and if it be construed one way in New Hampshire, and another way in Georgia, there is no uniform law. One

supreme court, with appellate and final jurisdiction, is the natural and only adequate means, in any government, to secure this uniformity. The Convention saw all this clearly; and the resolution which I have quoted, never afterwards rescinded, passed through various modifications, till it finally received the form which the article now bears in the Constitution.

It is undeniably true, then, that the framers of the Constitution intended to create a national judicial power, which should be paramount on national subjects. And after the Constitution was framed, and while the whole country was engaged in discussing its merits, one of its most distinguished advocates, Mr. Madison, told the people that it _was true, that, in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the general government_. Mr. Martin, who had been a member of the Convention, asserted the same thing to be the legislature of Maryland, and urged it as a reason for rejecting the Constitution. Mr. Pinckney, himself also a leading member of the Convention, declared it to the people of South Carolina. Everywhere it was admitted, by friends and foes, that this power was in the Constitution. By some it was thought dangerous, by most it was thought necessary; but by all it was agreed to be a power actually contained in the instrument. The Convention saw the absolute necessity of some control in the national government over State laws. Different modes of establishing this control were suggested and considered. At one time, it was proposed that the laws of the States should, from time to time, be laid before Congress, and that Congress should possess a negative over them. But this was thought inexpedient and inadmissible; and in its place, and expressly as a substitute for it, the existing provision was introduced; that is to say, a provision by which the federal courts should have authority to overrule such State laws as might be in manifest contravention of the Constitution. The writers of the Federalist, in explaining the Constitution, while it was yet pending before the people, and still unadopted, give this account of the matter in terms, and assign this reason for the article as it now stands. By this provision Congress escaped the necessity of any revision of State laws, left the whole sphere of State legislation quite untouched, and yet obtained a security against any infringement of the constitutional power of the general government. Indeed, Sir, allow me to ask again, if the national judiciary was not to exercise a power of revision on constitutional questions over the judicatures of the States, why was any national judicature erected at all? Can any man give a sensible reason for having a judicial power in this government, unless it be for the sake of maintaining a uniformity of decision on questions arising under the Constitution and laws of Congress, and insuring its execution? And does not this very idea of uniformity necessarily imply that the construction given by the national courts is to be the prevailing construction? How else, Sir, is it possible that uniformity can be preserved?

Gentlemen appear to me, Sir, to look at but one side of the question. They regard only the supposed danger of trusting a government with the interpretation of its own powers. But will they view the question in its other aspect? Will they show us how it is possible for a government to get along with four-and-twenty interpreters of its laws and powers? Gentlemen argue, too, as if, in these cases, the State would be always right, and

the general government always wrong. But suppose the reverse,--suppose the State wrong (and, since they differ, some of them must be wrong),--are the most important and essential operations of the government to be embarrassed and arrested, because one State holds the contrary opinion? Mr. President, every argument which refers the constitutionality of acts of Congress to State decision appeals from the majority to the minority; it appeals from the common interest to a particular interest; from the counsels of all to the counsel of one; and endeavors to supersede the judgment of the whole by the judgment of a part.

I think it is clear, Sir, that the Constitution, by express provision, by definite and unequivocal words, as well as by necessary implication, has constituted the Supreme Court of the United States the appellate tribunal in all cases of a constitutional nature which assume the shape of a suit, in law or equity. And I think I cannot do better than to leave this part of the subject by reading the remarks made upon it in the convention of Connecticut, by Mr. Ellsworth; a gentleman, Sir, who has left behind him, on the records of the government of his country, proofs of the clearest intelligence and the deepest sagacity, as well as of the utmost purity and integrity of character. "This Constitution," says he, "defines the extent of the powers of the general government. If the general legislature should, at any time, overleap their limits, the judicial department is a constitutional check. If the United States go beyond their powers, if they make a law which the Constitution does not authorize, it is void; and the judiciary power, the national judges, who, to secure their impartiality, are to be made independent, will declare it to be void. On the other hand, if the States go beyond their limits, if they make a law which is a usurpation upon the general government, the law is void; and upright, independent judges will declare it to be so." Nor did this remain merely matter of private opinion. In the very first session of the first Congress, with all these well-known objects, both of the Convention and the people, full and fresh in his mind, Mr. Ellsworth, as is generally understood, reported the bill for the organization of the judicial department, and in that bill made provision for the exercise of this appellate power of the Supreme Court, in all the proper cases, in whatsoever court arising; and this appellate power has now been exercised for more than forty years, without interruption, and without doubt.

As to the cases, Sir, which do not come before the courts, those political questions which terminate with the enactments of Congress, it is of necessity that these should be ultimately decided by Congress itself. Like other legislatures, it must be trusted with this power. The members of Congress are chosen by the people, and they are answerable to the people; like other public agents, they are bound by oath to support the Constitution. These are the securities that they will not violate their duty, nor transcend their powers. They are the same securities that prevail in other popular governments; nor is it easy to see how grants of power can be more safely guarded, without rendering them nugatory. If the case cannot come before the courts, and if Congress be not trusted with its decision, who shall decide it? The gentleman says, each State is to decide it for herself. If so, then, as I have already urged, what is law in one State is not law in another. Or, if the resistance of one State compels an entire repeal of the law, then a minority, and that a small

one, governs the whole country.

Sir, those who espouse the doctrines of nullification reject, as it seems to me, the first great principle of all republican liberty; that is, that the majority _must_ govern. In matters of common concern, the judgment of a majority _must_ stand as the judgment of the whole. This is a law imposed on us by the absolute necessity of the case; and if we do not act upon it, there is no possibility of maintaining any government but despotism. We hear loud and repeated denunciations against what is called _majority government_. It is declared, with much warmth, that a majority government cannot be maintained in the United States. What, then, do gentlemen wish? Do they wish to establish a _minority_ government? Do they wish to subject the will of the many to the will of the few? The honorable gentleman from South Carolina has spoken of absolute majorities and majorities concurrent; language wholly unknown to our Constitution, and to which it is not easy to affix definite ideas. As far as I understand it, it would teach us that the absolute majority may be found in Congress, but the majority concurrent must be looked for in the States; that is to say, Sir, stripping the matter of this novelty of phrase, that the dissent of one or more States, as States, renders void the decision of a majority of Congress, so far as that State is concerned. And so this doctrine, running but a short career, like other dogmas of the day, terminates in nullification.

If this vehement invective against _majorities_ meant no more than that, in the construction of government, it is wise to provide checks and balances, so that there should be various limitations on the power of the mere majority, it would only mean what the Constitution of the United States has already abundantly provided. It is full of such checks and balances. In its very organization, it adopts a broad and most effective principle in restraint of the power of mere majorities. A majority of the people elects the House of Representatives, but it does not elect the Senate. The Senate is elected by the States, each State having, in this respect, an equal power. No law, therefore, can pass, without the assent of the representatives of the people, and a majority of the representatives of the States also. A majority of the representatives of the people must concur, and a majority of the States must concur, in every act of Congress; and the President is elected on a plan compounded of both these principles. But having composed one house of representatives chosen by the people in each State, according to their numbers, and the other of an equal number of members from every State, whether larger or smaller, the Constitution gives to majorities in these houses thus constituted the full and entire power of passing laws, subject always to the constitutional restrictions and to the approval of the President. To subject them to any other power is clear usurpation. The majority of one house may be controlled by the majority of the other; and both may be restrained by the President's negative. These are checks and balances provided by the Constitution, existing in the government itself, and wisely intended to secure deliberation and caution in legislative proceedings. But to resist the will of the majority in both houses, thus constitutionally exercised; to insist on the lawfulness of interposition by an extraneous power; to claim the right of defeating the will of Congress, by setting up against it the will of a single State,--is neither

more nor less, as it strikes me, than a plain attempt to overthrow the government. The constituted authorities of the United States are no longer a government, if they be not masters of their own will; they are no longer a government, if an external power may arrest their proceedings; they are no longer a government, if acts passed by both houses, and approved by the President, may be nullified by State vetoes or State ordinances. Does any one suppose it could make any difference, as to the binding authority of an act of Congress, and of the duty of a State to respect it, whether it passed by a mere majority of both houses, or by three fourths of each, or the unanimous vote of each? Within the limits and restrictions of the Constitution, the government of the United States, like all other popular governments, acts by majorities. It can act no otherwise. Whoever, therefore, denounces the government of majorities, denounces the government of his own country, and denounces all free governments. And whoever would restrain these majorities, while acting within their constitutional limits, by an external power, whatever he may intend, asserts principles which, if adopted, can lead to nothing else than the destruction of the government itself.

Does not the gentleman perceive, Sir, how his argument against majorities might here be retorted upon him? Does he not see how cogently he might be asked, whether it be the character of nullification to practise what it preaches? Look to South Carolina, at the present moment. How far are the rights of minorities there respected? I confess, sir, I have not known, in peaceable times, the power of the majority carried with a higher hand, or upheld with more relentless disregard of the rights, feelings, and principles of the minority;--a minority embracing, as the gentleman himself will admit, a large portion of the worth and respectability of the state;--a minority comprehending in its numbers men who have been associated with him, and with us, in these halls of legislation; men who have served their country at home and honored it abroad; men who would cheerfully lay down their lives for their native state, in any cause which they could regard as the cause of honor and duty; men above fear, and above reproach, whose deepest grief and distress spring from the conviction, that the present proceedings of the state must ultimately reflect discredit upon her. How is this minority, how are these men, regarded? They are enthralled and disfranchised by ordinances and acts of legislation; subjected to tests and oaths incompatible, as they conscientiously think, with oaths already taken, and obligations already assumed; they are proscribed and denounced as recreants to duty and patriotism, and slaves to a foreign power. Both the spirit which pursues them, and the positive measures which emanate from that spirit, are harsh and proscriptive beyond all precedent within my knowledge, except in periods of professed revolution.

It is not, sir, one would think, for those who approve these proceedings to complain of the power of majorities.

Mr. President, all popular governments rest on two principles, or two assumptions:--

First, That there is so far a common interest among those over whom the government extends, as that it may provide for the defence, protection,

and good government of the whole, without injustice or oppression to parts; and

Secondly, That the representatives of the people, and especially the people themselves, are secure against general corruption, and may be trusted, therefore, with the exercise of power.

Whoever argues against these principles argues against the practicability of all free governments. And whoever admits these, must admit, or cannot deny, that power is as safe in the hands of Congress as in those of other representative bodies. Congress is not irresponsible. Its members are agents of the people, elected by them, answerable to them, and liable to be displaced or superseded, at their pleasure; and they possess as fair a claim to the confidence of the people, while they continue to deserve it, as any other public political agents.

If, then, Sir, the manifest intention of the Convention, and the contemporary admission of both friends and foes, prove anything; if the plain text of the instrument itself, as well as the necessary implication from other provisions, prove anything; if the early legislation of Congress, the course of judicial decisions, acquiesced in by all the States for forty years, prove any thing,--then it is proved that there is a supreme law, and a final interpreter.

My fourth and last proposition, Mr. President, was, that any attempt by a State to abrogate or nullify acts of Congress is a usurpation on the powers of the general government and on the equal rights of other States, a violation of the Constitution, and a proceeding essentially revolutionary. This is undoubtedly true, if the preceding propositions be regarded as proved. If the government of the United States be trusted with the duty, in any department, of declaring the extent of its own powers, then a State ordinance, or act of legislation, authorizing resistance to an act of Congress, on the alleged ground of its unconstitutionality, is manifestly a usurpation upon its powers. If the States have equal rights in matters concerning the whole, then for one State to set up her judgment against the judgment of the rest, and to insist on executing that judgment by force, is also a manifest usurpation on the rights of other States. If the Constitution of the United States be a government proper, with authority to pass laws, and to give them a uniform interpretation and execution, then the interposition of a State, to enforce her own construction, and to resist, as to herself, that law which binds the other States, is a violation of the Constitution.

If that be revolutionary which arrests the legislative, executive, and judicial power of government, dispenses with existing oaths and obligations of obedience, and elevates another power to supreme dominion, then nullification is revolutionary. Or if that be revolutionary the natural tendency and practical effect of which are to break the Union into fragments, to sever all connection among the people of the respective States, and to prostrate this general government in the dust, then nullification is revolutionary.

Nullification, Sir, is as distinctly revolutionary as secession; but I

cannot say that the revolution which it seeks is one of so respectable a character. Secession would, it is true, abandon the Constitution altogether; but then it would profess to abandon it. Whatever other inconsistencies it might run into, one, at least, it would avoid. It would not belong to a government, while it rejected its authority. It would not repel the burden, and continue to enjoy the benefits. It would not aid in passing laws which others are to obey, and yet reject their authority as to itself. It would not undertake to reconcile obedience to public authority with an asserted right of command over that same authority. It would not be in the government, and above the government, at the same time. But though secession may be a more respectable mode of attaining the object than nullification, it is not more truly revolutionary. Each, and both, resist the constitutional authorities; each, and both, would sever the Union and subvert the government.

Mr. President, having detained the Senate so long already, I will not now examine at length the ordinance and laws of South Carolina. These papers are well drawn for their purpose. Their authors understood their own objects. They are called a peaceable remedy, and we have been told that South Carolina, after all, intends nothing but a lawsuit. A very few words, Sir, will show the nature of this peaceable remedy, and of the lawsuit which South Carolina contemplates.

In the first place, the ordinance declares the law of last July, and all other laws of the United States laying duties, to be absolutely null and void, and makes it unlawful for the constituted authorities of the United States to enforce the payment of such duties. It is therefore, Sir, an indictable offence, at this moment, in South Carolina, for any person to be concerned in collecting revenue under the laws of the United States. It being declared, by what is considered a fundamental law of the State, unlawful to collect these duties, an indictment lies, of course, against any one concerned in such collection; and he is, on general principles, liable to be punished by fine and imprisonment. The terms, it is true, are, that it is unlawful "to enforce the payment of duties"; but every custom-house officer enforces payment while he detains the goods in order to obtain such payment. The ordinance, therefore, reaches everybody concerned in the collection of the duties.

This is the first step in the prosecution of the peaceable remedy. The second is more decisive. By the act commonly called _replevin_ law, any person whose goods are seized or detained by the collector for the payment of duties may sue out a writ of replevin, and, by virtue of that writ, the goods are to be restored to him. A writ of replevin is a writ which the sheriff is bound to execute, and for the execution of which he is bound to employ force, if necessary. He may call out the _posse_, and must do so, if resistance be made. This _posse_ may be armed or unarmed. It may come forth with military array, and under the lead of military men. Whatever number of troops may be assembled in Charleston, they may be summoned, with the governor, or commander-in-chief, at their head, to come in aid of the sheriff. It is evident, then, Sir, that the whole military power of the State is to be employed, if necessary, in dispossessing the custom-house officers, and in seizing and holding the goods, without paying the duties. This is the second step in the peaceable

remedy.

Sir, whatever pretences may be set up to the contrary, this is the direct application of force, and of military force. It is unlawful, in itself, to replevy goods in the custody of the collectors. But this unlawful act is to be done, and it is to be done by force. Here is a plain interposition, by physical force, to resist the laws of the Union. The legal mode of collecting duties is to detain the goods till such duties are paid or secured. But force comes, and overpowers the collector and his assistants, and takes away the goods, leaving the duties unpaid. There cannot be a clearer case of forcible resistance to law. And it is provided that the goods thus seized shall be held against any attempt to retake them, by the same force which seized them.

Having thus dispossessed the officers of the government of the goods, without payment of duties, and seized and secured them by the strong arm of the State, only one thing more remains to be done, and that is, to cut off all possibility of legal redress; and that, too, is accomplished, or thought to be accomplished. The ordinance declares, _that all judicial proceedings founded on the revenue laws_ (including, of course, proceedings in the courts of the United States), _shall be null and void_. This nullifies the judicial power of the United States. Then comes the test-oath act. This requires all State judges and jurors in the State courts to swear that they will execute the ordinance, and all acts of the legislature passed in pursuance thereof. The ordinance declares, that no appeal shall be allowed from the decision of the State courts to the Supreme Court of the United States; and the replevin act makes it an indictable offence for any clerk to furnish a copy of the record, for the purpose of such appeal.

The two principal provisions on which South Carolina relies, to resist the laws of the United States, and nullify the authority of this government, are, therefore, these:--

1. A forcible seizure of goods, before duties are paid or secured, by the power of the State, civil and military.

2. The taking away, by the most effectual means in her power, of all legal redress in the courts of the United States; the confining of judicial proceedings to her own State tribunals; and the compelling of her judges and jurors of these her own courts to take an oath, beforehand, that they will decide all cases according to the ordinance, and the acts passed under it; that is, that they will decide the cause one way. They do not swear to _try_ it, on its own merits; they only swear to _decide_ it as nullification requires.

The character, Sir, of these provisions defies comment. Their object is as plain as their means are extraordinary. They propose direct resistance, by the whole power of the State, to laws of Congress, and cut off, by methods deemed adequate, any redress by legal and judicial authority. They arrest legislation, defy the executive, and banish the judicial power of this government. They authorize and command acts to be done, and done by force, both of numbers and of arms, which, if done, and done by force, are

clearly acts of rebellion and treason.

Such, Sir, are the laws of South Carolina; such, Sir, is the peaceable remedy of nullification. Has not nullification reached, Sir, even thus early, that point of direct and forcible resistance to law to which I intimated, three years ago, it plainly tended?

And now, Mr. President, what is the reason for passing laws like these? What are the oppressions experienced under the Union, calling for measures which thus threaten to sever and destroy it? What invasions of public liberty, what ruin to private happiness, what long list of rights violated, or wrongs unredressed, is to justify to the country, to posterity, and to the world, this assault upon the free Constitution of the United States, this great and glorious work of our fathers? At this very moment, Sir, the whole land smiles in peace, and rejoices in plenty. A general and a high prosperity pervades the country; and, judging by the common standard, by increase of population and wealth, or judging by the opinions of that portion of her people not embarked in these dangerous and desperate measures, this prosperity overspreads South Carolina herself.

Thus happy at home, our country, at the same time, holds high the character of her institutions, her power, her rapid growth, and her future destiny, in the eyes of all foreign states. One danger only creates hesitation; one doubt only exists, to darken the otherwise unclouded brightness of that aspect which she exhibits to the view and to the admiration of the world. Need I say, that that doubt respects the permanency of our Union? and need I say, that that doubt is now caused, more than any thing else, by these very proceedings of South Carolina? Sir, all Europe is, at this moment, beholding us, and looking for the issue of this controversy; those who hate free institutions, with malignant hope; those who love them, with deep anxiety and shivering fear.

The cause, then, Sir, the cause! Let the world know the cause which has thus induced one State of the Union to bid defiance to the power of the whole, and openly to talk secession. Sir, the world will scarcely believe that this whole controversy, and all the desperate measures which its support requires, have no other foundation than a difference of opinion upon a provision of the Constitution, between a majority of the people of South Carolina, on one side, and a vast majority of the whole people of the United States, on the other. It will not credit the fact, it will not admit the possibility, that, in an enlightened age, in a free, popular republic, under a constitution where the people govern, as they must always govern under such systems, by majorities, at a time of unprecedented prosperity, without practical oppression, without evils such as may not only be pretended, but felt and experienced,--evils not slight or temporary, but deep, permanent, and intolerable,--a single State should rush into conflict with all the rest, attempt to put down the power of the Union by her own laws, and to support those laws by her military power, and thus break up and destroy the world's last hope. And well the world may be incredulous. We, who see and hear it, can ourselves hardly yet believe it. Even after all that had preceded it this ordinance struck the country with amazement. It was incredible and inconceivable that South Carolina should plunge headlong into resistance to the laws on a matter of

opinion and on a question in which the preponderance of opinion, both of the present day and of all past time, was so overwhelmingly against her. The ordinance declares that Congress has exceeded its just power by laying duties on imports, intended for the protection of manufactures. This is the opinion of South Carolina; and on the strength of that opinion she nullifies the laws. Yet has the rest of the country no right to its opinion also? Is one State to sit sole arbitress? She maintains that those laws are plain, deliberate, and palpable violations of the Constitution; that she has a sovereign right to decide this matter; and that, having so decided, she is authorized to resist their execution by her own sovereign power; and she declares that she will resist it, though such resistance should shatter the Union into atoms.

Mr. President, I do not intend to discuss the propriety of these laws at large; but I will ask, How are they shown to be thus plainly and palpably unconstitutional? Have they no countenance at all in the Constitution itself? Are they quite new in the history of the government? Are they a sudden and violent usurpation on the rights of the States? Sir, what will the civilized world say, what will posterity say, when they learn that similar laws have existed from the very foundation of the government, that for thirty years the power was never questioned, and that no State in the Union has more freely and unequivocally admitted it than South Carolina herself?

To lay and collect duties and imposts is an _express power_ granted by the Constitution to Congress. It is, also, an _exclusive power_; for the Constitution as expressly prohibits all the States from exercising it themselves. This express and exclusive power is unlimited in the terms of the grant, but is attended with two specific restrictions: first, that all duties and imposts shall be equal in all the States; second, that no duties shall be laid on exports. The power, then, being granted, and being attended with these two restrictions, and no more, who is to impose a third restriction on the general words of the grant? If the power to lay duties, as known among all other nations, and as known in all our history, and as it was perfectly understood when the Constitution was adopted, includes a right of discriminating while exercising the power, and of laying some duties heavier and some lighter, for the sake of encouraging our own domestic products, what authority is there for giving to the words used in the Constitution a new, narrow, and unusual meaning? All the limitations which the Constitution intended, it has expressed; and what it has left unrestricted is as much a part of its will as the restraints which it has imposed.

But these laws, it is said, are unconstitutional on account of the _motive_. How, Sir, can a law be examined on any such ground? How is the motive to be ascertained? One house, or one member, may have one motive; the other house, or another member, another. One motive may operate to-day, and another to-morrow. Upon any such mode of reasoning as this, one law might be unconstitutional now, and another law, in exactly the same words, perfectly constitutional next year. Besides, articles may not only be taxed for the purpose of protecting home products, but other articles may be left free, for the same purpose and with the same motive. A law, therefore, would become unconstitutional from what it omitted, as

well as from what it contained. Mr. President, it is a settled principle, acknowledged in all legislative halls, recognized before all tribunals, sanctioned by the general sense and understanding of mankind, that there can be no inquiry into the motives of those who pass laws, for the purpose of determining on their validity. If the law be within the fair meaning of the words in the grant of the power, its authority must be admitted until it is repealed. This rule, everywhere acknowledged, everywhere admitted, is so universal and so completely without exception, that even an allegation of fraud, in the majority of a legislature, is not allowed as a ground to set aside a law.

But, Sir, is it true that the motive for these laws is such as is stated? I think not. The great object of all these laws is, unquestionably, revenue. If there were no occasion for revenue, the laws would not have been passed; and it is notorious that almost the entire revenue of the country is derived from them. And as yet we have collected none too much revenue. The treasury has not been more reduced for many years than it is at the present moment. All that South Carolina can say is, that, in passing the laws which she now undertakes to nullify, _particular imparted articles were taxed, from a regard to the protection of certain articles of domestic manufacture, higher than they would have been had no such regard been entertained_. And she insists, that, according to the Constitution, no such discrimination can be allowed; that duties should be laid for revenue, and revenue only; and that it is unlawful to have reference, in any case, to protection. In other words, she denies the power of DISCRIMINATION. She does not, and cannot, complain of excessive taxation; on the contrary, she professes to be willing to pay any amount for revenue, merely as revenue; and up to the present moment there is no surplus of revenue. Her grievance, then, that plain and palpable violation of the Constitution which she insists has taken place, is simply the exercise of the power of DISCRIMINATION. Now, Sir, is the exercise of this power of discrimination plainly and palpably unconstitutional?

I have already said, the power to lay duties is given by the Constitution in broad and general terms. There is also conferred on Congress the whole power of regulating commerce, in another distinct provision. Is it clear and palpable, Sir, can any man say it is a case beyond doubt, that, under these two powers, Congress may not justly _discriminate_, in laying duties, _for the purpose of countervailing the policy of foreign nations, or of favoring our own home productions?_ Sir, what ought to conclude this question for ever, as it would seem to me, is, that the regulation of commerce and the imposition of duties are, in all commercial nations, powers avowedly and constantly exercised for this very end. That undeniable truth ought to settle the question; because the Constitution ought to be considered, when it uses well-known language, as using it in its well-known sense. But it is equally undeniable, that it has been, from the very first, fully believed that this power of discrimination was conferred on Congress; and the Constitution was itself recommended, urged upon the people, and enthusiastically insisted on in some of the States, for that very reason. Not that, at that time, the country was extensively engaged in manufactures, especially of the kinds now existing. But the trades and crafts of the seaport towns, the business of the artisans and manual laborers,--those employments, the work in which supplies so great a

portion of the daily wants of all classes,--all these looked to the new Constitution as a source of relief from the severe distress which followed the war. It would, Sir, be unpardonable, at so late an hour, to go into details on this point; but the truth is as I have stated. The papers of the day, the resolutions of public meetings, the debates in the conventions, all that we open our eyes upon in the history of the times, prove it.

Sir, the honorable gentleman from South Carolina has referred to two incidents connected with the proceedings of the Convention at Philadelphia, which he thinks are evidence to show that the power of protecting manufactures by laying duties, and by commercial regulations, was not intended to be given to Congress. The first is, as he says, that a power to protect manufactures was expressly proposed, but not granted. I think, Sir, the gentleman is quite mistaken in relation to this part of the proceedings of the Convention. The whole history of the occurrence to which he alludes is simply this. Towards the conclusion of the Convention, after the provisions of the Constitution had been mainly agreed upon, after the power to lay duties and the power to regulate commerce had both been granted, a long list of propositions was made and referred to the committee, containing various miscellaneous powers, some or all of which it was thought might be properly vested in Congress. Among these was a power to establish a university; to grant charters of incorporation; to regulate stage-coaches on the post-roads; and also the power to which the gentleman refers, and which is expressed in these words: "To establish public institutions, rewards, and immunities, for the promotion of agriculture, commerce, trades, and manufactures." The committee made no report on this or various other propositions in the same list. But the only inference from this omission is, that neither the committee nor the Convention thought it proper to authorize Congress "to establish public institutions, rewards, and immunities," for the promotion of manufactures, and other interests. The Convention supposed it had done enough,--at any rate, it had done all it intended,--when it had given to Congress, in general terms, the power to lay imposts and the power to regulate trade. It is not to be argued, from its omission to give more, that it meant to take back what it had already given. It had given the impost power; it had given the regulation of trade; and it did not deem it necessary to give the further and distinct power of establishing public institutions.

The other fact, Sir, on which the gentleman relies, is the declaration of Mr. Martin to the legislature of Maryland. The gentleman supposes Mr. Martin to have urged against the Constitution, that it did not contain the power of protection. But if the gentleman will look again at what Mr. Martin said, he will find, I think, that what Mr. Martin complained of was, that the Constitution, by its prohibitions on the States, had taken away from the States themselves the power of protecting their own manufactures by duties on imports. This is undoubtedly true; but I find no expression of Mr. Martin intimating that the Constitution had not conferred on Congress the same power which it had thus taken from the States.

But, Sir, let us go to the first Congress; let us look in upon this and the other house, at the first session of their organization.

We see, in both houses, men distinguished among the framers, friends, and advocates of the Constitution. We see in both, those who had drawn, discussed, and matured the instrument in the Convention, explained and defended it before the people, and were now elected members of Congress, to put the new government into motion, and to carry the powers of the Constitution into beneficial execution. At the head of the government was WASHINGTON himself, who had been President of the Convention; and in his cabinet were others most thoroughly acquainted with the history of the Constitution, and distinguished for the part taken in its discussion. If these persons were not acquainted with the meaning of the Constitution, if they did not undergo stand the work of their own hands, who can understand it, or who shall now interpret it to us?

Sir, the volume which records the proceedings and debates of the first session of the House of Representatives lies before me. I open it, and I find that, having provided for the administration of the necessary oaths, the very first measure proposed for consideration is, the laying of imposts; and in the very first committee of the whole into which the House of Representatives ever resolved itself, on this its earliest subject, and in this its very first debate, the duty of so laying the imposts as to encourage manufactures was advanced and enlarged upon by almost every speaker, and doubted or denied by none. The first gentleman who suggests this as the clear duty of Congress, and as an object necessary to be attended to, is Mr. Fitzsimons, of Pennsylvania; the second, Mr. White, of Virginia; the third, Mr. Tucker, of South Carolina.

But the great leader, Sir, on this occasion, was Mr. Madison. Was _he_ likely to know the intentions of the Convention and the people? Was _he_ likely to understand the Constitution? At the second sitting of the committee, Mr. Madison explained his own opinions of the duty of Congress, fully and explicitly. I must not detain you, Sir, with more than a few short extracts from these opinions, but they are such as are clear, intelligible, and decisive. "The States," says he, "that are most advanced in population, and ripe for manufacturers, ought to have their particular interest attended to, in some degree. While these States retained the power of making regulations of trade, they had the power to cherish such institutions. By adopting the present Constitution, they have thrown the exercise of this power into other hands; they must have done this with an expectation that those interests would not be neglected here." In another report of the same speech, Mr. Madison is represented as using still stronger language; as saying that, the Constitution having taken this power away from the States and conferred it on Congress, it would be a _fraud_ on the States and on the people were Congress to refuse to exercise it.

Mr. Madison argues, Sir, on this early and interesting occasion, very justly and liberally, in favor of the general principles of unrestricted commerce. But he argues, also, with equal force and clearness, for certain important exceptions to these general principles. The first, Sir, respects those manufactures which had been brought forward under encouragement by the State governments. "It would be cruel," says Mr. Madison, "to neglect them, and to divert their industry into other channels; for it is not

possible for the hand of man to shift from one employment to another without being injured by the change." Again: "There may be some manufactures which, being once formed, can advance towards perfection without any adventitious aid; while others, for want of the fostering hand of government, will be unable to go on at all. Legislative provision, therefore, will be necessary to collect the proper objects for this purpose; and this will form another exception to my general principle." And again: "The next exception that occurs is one on which great stress is laid by some well-informed men, and this with great plausibility; that each nation should have, within itself, the means of defence, independent of foreign supplies; that, in whatever relates to the operations of war, no State ought to depend upon a precarious supply from any part of the world. There may be some truth in this remark; and therefore it is proper for legislative attention."

In the same debate, Sir, Mr. Burk, from South Carolina, supported a duty on hemp, for the express purpose of encouraging its growth on the strong lands of South Carolina. "Cotton," he said, "was also in contemplation among them, and, if good seed could be procured, he hoped might succeed." Afterwards, Sir, the cotton was obtained, its culture was protected, and it did succeed. Mr. Smith, a very distinguished member from the same state, observed: "It has been said, and justly, that the States which adopted this Constitution expected its administration would be conducted with a favorable hand. The manufacturing States wished the encouragement of manufactures, the maritime States the encouragement of shipbuilding, and the agricultural States the encouragement of agriculture."

Sir, I will detain the Senate by reading no more extracts from these debates. I have already shown a majority of the members of South Carolina, in this very first session, acknowledging this power of protection, voting for its exercise, and proposing its extension to their own products. Similar propositions came from Virginia; and, indeed, Sir, in the whole debate, at whatever page you open the volume, you find the power admitted, and you find it applied to the protection of particular articles, or not applied, according to the discretion of Congress. No man denied the power, no man doubted it; the only questions were, in regard to the several articles proposed to be taxed, whether they were fit subjects for protection, and what the amount of that protection ought to be. Will gentlemen, Sir, now answer the argument drawn from these proceedings of the first Congress? Will they undertake to deny that that Congress did act on the avowed principle of protection? Or, if they admit it, will they tell us how those who framed the Constitution fell, thus early, into this great mistake about its meaning? Will they tell us how it should happen that they had so soon forgotten their own sentiments and their own purposes? I confess I have seen no answer to this argument, nor any respectable attempt to answer it. And, Sir, how did this debate terminate? What law was passed? There it stands, Sir, among the statutes, the second law in the book. It has a _preamble_, and that preamble expressly recites, that the duties which it imposes are laid "for the support of government, for the discharge of the debts of the United States, and _the encouragement and protection of manufactures_." Until, Sir, this early legislation, thus coeval with the Constitution itself, thus full and explicit, can be explained away, no man can doubt of the meaning of that

instrument in this respect.

Mr. President, this power of _discrimination_, thus admitted, avowed, and practised upon in the first revenue act, has never been denied or doubted until within a few years past. It was not at all doubted in 1816, when it became necessary to adjust the revenue to a state of peace. On the contrary, the power was then exercised, not without opposition as to its expediency, but, as far as I remember or have understood, without the slightest opposition founded on any supposed want of constitutional authority. Certainly, South Carolina did not doubt it. The tariff of 1816 was introduced, carried through, and established, under the lead of South Carolina. Even the minimum policy is of South Carolina origin. The honorable gentleman himself supported, and ably supported, the tariff of 1816. He has informed us, Sir, that his speech on that occasion was sudden and off-hand, he being called up by the request of a friend. I am sure the gentleman so remembers it, and that it was so; but there is, nevertheless, much method, arrangement, and clear exposition in that extempore speech. It is very able, very, very much to the point, and very decisive. And in another speech, delivered two months earlier, on the proposition to repeal the internal taxes, the honorable gentleman had touched the same subject, and had declared "_that a certain encouragement ought to be extended at least to our woollen and cotton manufactures_." I do not quote these speeches, Sir, for the purpose of showing that the honorable gentleman has changed his opinion: my object is other and higher. I do it for the sake of saying that that cannot be so plainly and palpably unconstitutional as to warrant resistance to law, nullification, and revolution, which the honorable gentleman and his friends have heretofore agreed to and acted upon without doubt and without hesitation. Sir, it is no answer to say that the tariff of 1816 was a revenue bill. So are they all revenue bills. The point is, and the truth is, that the tariff of 1816, like the rest, _did discriminate_; it did distinguish one article from another; it did lay duties for protection. Look to the case of coarse cottons under the minimum calculation: the duty on these was from sixty to eighty per cent. Something beside revenue, certainly, was intended in this; and, in fact, the law cut up our whole commerce with India in that article.

It is, Sir, only within a few years that Carolina has denied the constitutionality of these protective laws. The gentleman himself has narrated to us the true history of her proceedings on this point. He says, that, after the passing of the law of 1828, despairing then of being able to abolish the system of protection, political men went forth among the people, and set up the doctrine that the system was unconstitutional. "_And the people_," says the honorable gentleman, "_received the doctrine_." This, I believe, is true, Sir. The people did then receive the doctrine; they had never entertained it before. Down to that period, the constitutionality of these laws had been no more doubted in South Carolina than elsewhere. And I suspect it is true, Sir, and I deem it a great misfortune, that, to the present moment, a great portion of the people of the State have never yet seen more than one side of the argument. I believe that thousands of honest men are involved in scenes now passing, led away by one-sided views of the question, and following their leaders by the impulses of an unlimited confidence. Depend upon it, Sir, if we can avoid the shock of arms, a day for reconsideration and

reflection will come; truth and reason will act with their accustomed force, and the public opinion of South Carolina will be restored to its usual constitutional and patriotic tone.

But, Sir, I hold South Carolina to her ancient, her cool, her uninfluenced, her deliberate opinions. I hold her to her own admissions, nay, to her own claims and pretensions, in 1789, in the first Congress, and to her acknowledgments and avowed sentiments through a long series of succeeding years. I hold her to the principles on which she led Congress to act in 1816; or, if she have changed her own opinions, I claim some respect for those who still retain the same opinions. I say she is precluded from asserting that doctrines, which she has herself so long and so ably sustained, are plain, palpable, and dangerous violations of the Constitution. Mr. President, if the friends of nullification should be able to propagate their opinions, and give them practical effect, they would, in my judgment, prove themselves the most skilful "architects of ruin," the most effectual extinguishers of high-raised expectation, the greatest blasters of human hopes, that any age has produced. They would stand up to proclaim, in tones which would pierce the ears of half the human race, that the last great experiment of representative government had failed. They would send forth sounds, at the hearing of which the doctrine of the divine right of kings would feel, even in its grave, a returning sensation of vitality and resuscitation. Millions of eyes, of those who now feed their inherent love of liberty on the success of the American example, would turn away from beholding our dismemberment, and find no place on earth whereon to rest their gratified sight. Amidst the incantations and orgies of nullification, secession, disunion, and revolution, would be celebrated the funeral rites of constitutional and republican liberty.

But, Sir, if the government do its duty, if it act with firmness and with moderation, these opinions cannot prevail. Be assured, Sir, be assured, that, among the political sentiments of this people, the love of union is still uppermost. They will stand fast by the Constitution, and by those who defend it. I rely on no temporary expedients, on no political combination; but I rely on the true American feeling, the genuine patriotism of the people, and the imperative decision of the public voice. Disorder and confusion, indeed, may arise; scenes of commotion and contest are threatened, and perhaps may come. With my whole heart, I pray for the continuance of the domestic peace and quiet of the country.

I desire, most ardently, the restoration of affection and harmony to all its parts. I desire that every citizen of the whole country may look to this government with no other sentiments than those of grateful respect and attachment. But I cannot yield even to kind feelings the cause of the Constitution, the true glory of the country, and the great trust which we hold in our hands for succeeding ages. If the Constitution cannot be maintained without meeting these scenes of commotion and contest, however unwelcome, they must come. We cannot, we must not, we dare not, omit to do that which, in our judgment, the safety of the Union requires. Not regardless of consequences, we must yet meet consequences; seeing the hazards which surround the discharge of public duty, it must yet be discharged. For myself, Sir, I shun no responsibility justly devolving on

me, here or elsewhere, in attempting to maintain the cause. I am bound to it by indissoluble ties of affection and duty, and I shall cheerfully partake in its fortunes and its fate. I am ready to perform my own appropriate part, whenever and wherever the occasion may call on me, and to take my chance among those upon whom blows may fall first and fall thickest. I shall exert every faculty I possess in aiding to prevent the Constitution from being nullified, destroyed, or impaired; and even should I see it fall, I will still, with a voice feeble, perhaps, but earnest as ever issued from human lips, and with fidelity and zeal which nothing shall extinguish, call on the PEOPLE to come to its rescue. [2]

SPEECH AT SARATOGA.

We are, my friends, in the midst of a great movement of the people. That a revolution in public sentiment on some important questions of public policy has begun, and is in progress, it is vain to attempt to conceal, and folly to deny. What will be the extent of this revolution, what its immediate effects upon political men and political measures, what ultimate influence it may have on the integrity of the Constitution, and the permanent prosperity of the country, remains to be seen. Meantime, no one can deny that an extraordinary excitement exists in the country, such as has not been witnessed for more than half a century; not local, nor confined to any two, or three, or ten States, but pervading the whole, from north to south, and from east to west, with equal force and intensity. For an effect so general, a cause of equal extent must exist. No cause, local or partial, can produce consequences so general and universal. In some parts of the country, indeed, local causes may in some degree add to the flame; but no local cause, nor any number of local causes, can account for the generally excited state of the public mind.

In portions of the country devoted to agriculture and manufactures, we hear complaints of want of market and low prices. Yet there are other portions of the country, which are consumers, and not producers, of food and manufactures; and, as purchasers, they should, it would seem, be satisfied with the low prices of which the sellers complain; but in these portions, too, of the country, there are dissatisfaction and discontent. Everywhere we find complaining and a desire for change.

There are those who think that this excitement among the people will prove transitory and evanescent. I am not of that opinion. So far as I can judge, attention to public affairs among the people of the United States, has increased, is increasing, and is not likely to be diminished; and this not in one part of the country, but all over it. This certainly is the fact, if we may judge from recent information. The breeze of popular excitement is blowing everywhere. It fans the air in Alabama and the Carolinas; and I am of opinion, that, when it shall cross the Potomac, and range along the Northern Alleghanies, it will grow stronger and stronger, until, mingling with the gales of the Empire State, and the mountain blasts of New England, it will blow a perfect hurricane.

There are those, again, who think these vast popular meetings are got up by effort; but I say that no effort could get them up, and no effort can keep them down. There must, then, be some general cause that animates the

whole country. What is that cause? It is upon this point I propose to give my opinion to-day. I have no design to offend the feelings of any, but I mean in perfect plainness to express my views to the vast multitude assembled around. I know there are among them many who from first to last supported General Jackson. I know there are many who, if conscience and patriotism permitted, would support his successor; and I should ill repay the attention with which they may honor me by any reviling or denunciation. Again, I come to play no part of oratory before you. If there have been times and occasions in my life when I might be supposed anxious to exhibit myself in such a light, that period has passed, and this is not one of the occasions. I come to dictate and prescribe to no man. If my experience, not now short, in the affairs of government, entitle my opinions to any respect, those opinions are at the service of my fellow-citizens. What I shall state as facts, I hold myself and my character responsible for; what I shall state as opinions, all are alike at liberty to reject or to receive. I ask such consideration for them only as the fairness and sincerity with which they are uttered may claim.

What, then, has excited the whole land, from Maine to Georgia, and gives us assurance, that, while we are meeting here in New York in such vast numbers, other like meetings are holding throughout all the States? That this cause must be general is certain, for it agitates the whole country, and not parts only.

When that fluid in the human system indispensable to life becomes disordered, corrupted, or obstructed in its circulation, not the head or the heart alone suffers; but the whole body--head, heart, and hand, all the members, and all the extremities--is affected with debility, paralysis, numbness, and death. The analogy between the human system and the social and political system is complete; and what the lifeblood is to the former, circulation, money, currency, is to the latter; and if that be disordered or corrupted, paralysis must fall on the system.

The original, leading, main cause, then, of all our difficulties and disasters, is the disordered state of the circulation. This is, perhaps, not a perfectly obvious truth; and yet it is one susceptible of easy demonstration. In order to explain this the more readily, I wish to bring your minds to the consideration of the internal condition, and the vast domestic trade, of the United States. Our country is not a small province or canton, but an empire, extending over a large and diversified surface, with a population of various conditions and pursuits. It is in this variety that consists its prosperity; for the different parts become useful one to the other, not by identity, but by difference, of production, and thus each by interchange contributes to the interest of the other. Hence, our internal trade, that which carries on this exchange of the products and industry of the different portions of the United States, is one of our most important interests, I had almost said the most important. Its operations are easy and silent, not always perceptible, but diffusing health and life throughout the system by the intercourse thus promoted, from neighborhood to neighborhood, and from State to State.

This circuit of trade, in a country of such great extent as ours, demands, more than in any country under heaven, a uniform currency for the whole

people; that what is money in Carolina shall be so elsewhere; that what the Kentucky drover receives, what the planter of Alabama sells for, what the laborer in New York gets in pay for his work, and carries home to support his family, shall be of ascertained and uniform value.

This is not the time nor the occasion for an essay or dissertation on money; but I mean distinctly to express the opinion, that until the general government shall take in hand the currency of the country, until that government shall devise some means, I say not what, of raising the whole currency to the level of gold and silver, there can be no prosperity.

Let us retrace briefly the history of the currency question in this country, a most important branch of the commercial question. I appeal to all who have studied the history of the times, and of the Constitution, whether our fathers, in framing the Constitution which should unite us in common rights and a common glory, had not also among their chief objects to provide a uniform system of commerce, including a uniform system of currency for the whole country. I especially invite the ingenuous youth of the country to go back to the history of those times, and particularly to the Virginia resolutions of 1786, and to the proceedings of the convention at Annapolis, and they will there find that the prevailing motive for forming a general government was, to secure a uniform system of commerce, of customhouse duties, and a general regulation of the trade, external and internal, of the whole country. It was no longer to be the commerce of New York, or of Massachusetts, but of the United States, to be carried on under that star-spangled banner, which was to bear to every shore, and over every sea, the glorious motto, _E Pluribus Unum_.

At the second session, of the first Congress, the United States Bank was established. From the incorporation of the bank to the expiration of its charter,[1] embracing a period of great commercial and political vicissitudes, the currency furnished by that bank was never objected to: it, indeed, surpassed the hopes and equalled the desires of everybody.

Of the hundreds here, possibly, who supported General Jackson, not one dreamed that he was elected to put down established institutions and overthrow the currency of the country. Who, among all those that, in the honest convictions of their hearts, cried, Hurrah for Jackson! believed or expected or desired that he would interfere with the Bank of the United States, or destroy the circulating medium of the country? [Here there arose a cry from the crowd, "None! None!"] I stand here upon the fact, and defy contradiction from any quarter, that there was no complaint then, anywhere, of the bank. There never before was a country, of equal extent, where exchanges and circulation were carried on so cheaply, so conveniently, and so securely. General Jackson was inaugurated in March, 1829, and pronounced an address upon that occasion, which I heard, as I did the oath which he took to support the Constitution. In that address were enumerated various objects, requiring, as he said, reform; but among them was not the Bank of the United States, nor the currency. This was in March, 1829. In December, 1829, General Jackson came out with the declaration (than which none I have ever heard surprised me more), that "the constitutionality of the Bank of the United States might be well

questioned," and that it had failed to furnish a sound and uniform currency to the country.

What produced this change of views? Down to March of the same year, nothing of this sort was indicated or threatened. What, then, induced the change? [A voice from the crowd said, "Martin Van Buren."] If that be so, it was the production of mighty consequences by a cause not at all proportioned. I will state, in connection with, and in elucidation of, this subject, certain transactions, which constitute one of those contingencies in human affairs, in which casual circumstances, acting upon the peculiar temper and character of a man of very decided temper and character, affect the fate of nations. A movement was made in the summer of 1829, for the purpose of effecting a change of certain officers of the branch of the Bank of the United States in Portsmouth, New Hampshire. Mr. Woodbury, then a Senator from New Hampshire, transmitted to the president of the bank at Philadelphia a request; purporting to proceed from merchants and men of business of all parties, asking the removal of the president of that branch, _not on political grounds_, but as acceptable and advantageous to the business community. At the same time, Mr. Woodbury addressed a letter to the then Secretary of the Treasury, Mr. Ingham, suggesting that his department should, on _political grounds_, obtain from the mother bank the removal of the branch president. This letter was transmitted to the president of the mother bank, and reached him about the same time with the other, so that, looking upon this picture and upon that, upon one letter, which urged the removal on political grounds, and upon the other, which denied that political considerations entered into the matter at all, he concluded to let things remain as they were. Appeals were then artfully made to the President of the United States. His feelings were enlisted, and it is well known that, when he had an object in view, his character was to go ahead.[2] I mean to speak no evil nor disrespect of General Jackson. He has passed off the stage to his retirement at the Hermitage, which it would be as well, perhaps, that friends should not disturb, and where I sincerely wish he may, in tranquillity, pass the residue of his days. But General Jackson’s character was imperious; he took the back track never; and however his friends might differ, or whether they concurred or dissented, they were fain always to submit. General Jackson put forth the pretension, that appointments by the bank should have regard to the wishes of the treasury; the matter was formally submitted to the directors of the bank, and they as formally determined that the treasury could not rightly or properly have any thing to say in the matter. A long and somewhat angry correspondence ensued; for General Jackson found in the president of the bank a man who had something of his own quality. The result was that the bank resisted, and refused the required acquiescence in the dictation of the treasury.

This happened in the summer and autumn of 1829, and in December we had the message in which, for the first time, the bank was arraigned and denounced. Then came the application of the bank for re-incorporation, the passage of a bill for that purpose through both houses, and the Presidential veto.[3] The Bank of the United States being thus put down, a multitude of new State banks sprang up; and next came a law, adopting some of these as deposit banks. Now, what I have to say in regard to General

Jackson in this matter is this: he said he could establish a better currency; and, whether successful or not in this, it is at least to be said in his favor and praise, that he never did renounce the obligation of the federal government to take care of the currency, paper as well as metallic, of the people. It was in furtherance of this duty, which he felt called on to discharge, of "providing a better currency," that he recommended the prohibition of small bills. Why? Because, as it was argued, it would improve the general mixed currency of the country; and although he did not as distinctly as Mr. Madison admit and urge the duty of the federal government to provide a currency for the people, _he never renounced it_, but, on the contrary, in his message of December, 1835, held this explicit language:--

"By the use of the State banks, which do not derive their charters from the general government, and are not controlled by its authority, it is ascertained that the moneys of the United States can be collected and distributed without loss or inconvenience, and that all the wants of the community, in relation to exchange and currency, are supplied as well as they have ever been before."

It is not here a question whether these banks did, or did not, effect the purpose which General Jackson takes so much praise to himself for accomplishing through their agency, that of supplying the country with as good a currency as it ever enjoyed. But why, if this was not a duty of the federal government, is it mentioned at all?

Two months only after General Jackson had retired, and when his vigorous hand was no longer there to uphold it, the league of State banks fell, and crumbled into atoms; and when Mr. Van Buren had been only three months President, he convoked a special session of Congress for the ensuing September. The country was in wide-spread confusion, paralyzed in its commerce, its currency utterly deranged.[4] What was to be done? What would Mr. Van Buren recommend? He could not go back to the Bank of the United States, for he had committed himself against its constitutionality; nor could he, with any great prospect of success, undertake to reconstruct the league of deposit banks; for it had recently failed, and the country had lost confidence in it. What, then, was to be done? He could go neither backward nor forward. What did he do? I mean not to speak disrespectfully, but I say he--_escaped!_ Afraid to touch the fragments of the broken banks, unable to touch the United States Bank, he folded up his arms, and said, The government has nothing to do with providing a currency for the people. That I may do him no wrong, I will read his own language. His predecessors had all said, We _will not_ turn our backs upon this duty of government to provide a uniform currency; his language is, We _will_ turn our backs on this duty. He proposes nothing for the country, nothing for the relief of commerce, or the regulation of exchanges, but simply the means of getting money into the treasury without loss. In his first message to Congress, he thus expresses himself:--

"It is not the province of our government to aid individuals in the transfer of their funds, otherwise than through the facilities of the Post-Office Department. As justly might it be called on to provide for the transportation of their merchandise.

"If, therefore, I refrain from suggesting to Congress any specific plan for regulating the exchanges or the currency, relieving mercantile embarrassments, or interfering with the ordinary operations of foreign or domestic commerce, it is from a conviction that such are not within the constitutional province of the general government, and that their adoption would not promote the real and permanent welfare of those they might be designed to aid."

I put it to you, my friends, if this is a statesman's argument. You can transport your merchandise yourselves; you can build ships, and make your own wagons; but can you make a currency? Can you say what shall be money, and what shall not be money, and determine its value here and elsewhere? Why, it would be as reasonable to say, that the people make war for themselves, and peace for themselves, as to say that they may exercise this other not less exclusive attribute of sovereignty, of making a currency for themselves. He insists that Congress has no power to regulate currency or exchanges, none to mitigate the embarrassments of the country, none to relieve its prostrate industry, and even if the power did exist, it would be unwise, in his opinion, to exercise it!

Let us compare this declaration with that of one now numbered with the mighty dead; of one who has left behind a reputation excelled by that of no other man, as understanding thoroughly the Constitution; of one taking a leading part in its inception, and closing his public career by administering its highest office; I need not name JAMES MADISON.[5]

In his message to Congress, in December, 1815, when the war had closed, and the country was laboring under the disordered currency of that period, the President thus spoke:--

"It is essential to every modification of the finances, that the benefits of a uniform national currency should be restored to the community. The absence of the precious metals will, it is believed, be a temporary evil; but until they can again be rendered the general medium of exchange, it devolves on the wisdom of Congress to provide a substitute, which shall equally engage the confidence and accommodate the wants of the citizens throughout the Union."

The new doctrine which the administration had set up is one vitally affecting the business and pursuits of the people at large, extending its efforts to the interests of every family, and of every individual; and you must determine for yourselves if it shall be the doctrine of the country. But, before determining, look well at the Constitution, weigh all the precedents, and if names and authority are to be appealed to, contrast those of President Van Buren with those of the dead patriarch whose words I have just read to you, and decide accordingly.

But Mr. Van Buren's message contains a principle,--one altogether erroneous as a doctrine, and fatal in its operations,--the principle that the government has nothing to do with providing a currency for the country; in other words, proposing a separation between the money of the government and the money of the people. This is the great error, which

cannot be compromised with, which is susceptible of no amelioration or modification, like a disease which admits no remedy and no palliative but the caustic which shall totally eradicate it.

Do we not know that there must always be bank paper? Is there a man here who expects that he, or his children, or his children's children, shall see the day when only gold coin, glittering through silk purses, will be the currency of the country, to the entire exclusion of bank notes? Not one. But we are told that the value of these notes is questionable. It is the neglect of government to perform its duties that makes them so. You here, in New York, have sound bank paper, redeemable in coin; and if you were surrounded by a Chinese wall, it might be indifferent to you whether government looked after the currency elsewhere or not. But you have daily business relations with Pennsylvania, and with the West, and East, and South, and you have a direct interest that their currency too shall be sound; for otherwise the very superiority of yours is, to a certain degree, an injury and loss to you, since you pay in the equivalent of specie for what you buy, and you sell for such money as may circulate in the States with which you deal. But New York cannot affect the general restoration of the currency, nor any one State, nor any number of States short of the whole, and hence the duty of the general government to superintend this interest.

But what does the sub-treasury propose? [6] Its basis is a separation of the concerns of the treasury from those of the people. It directs that there shall be certain vaults, and safes, and rooms for deposit of the money of the government. But it has not been for want of adequate vaults and rooms that we have lost our money, but owing to the hands to which we have intrusted the keys. It is in the character of the officers, and not in the strength of bars and vaults, that we must look for the security of the public treasure. There are no securities under this new system of keeping the public moneys that we had not before; while many that did exist, in the personal character, high trusts, and diversified duties of the officers and directors of banks are removed. Moreover, the number of receiving and disbursing officers is increased, and the danger to the public treasure is increased in proportion. The next provision is, that money once received into the treasury is not to be lent out. Yet the practice of this government hitherto has always been opposed to this policy of locking up the money of the people, when and while it is not required for the public service. Until this time the public deposits, like private deposits, were used by the banks in which they were placed, as some compensation for the trouble of safe-keeping, and in furtherance of the general convenience. The next provision is that requiring, after 1843, all dues to the government to be paid in gold and silver. But what are we promised as the equivalent for all this inconvenience and oppression? Why, that the government in its turn will pay its debts in specie, and that thus what it receives with one hand it will pay out with the other, and a metallic circulation will be established. I undertake to say, that no greater fallacy than this was ever uttered; the thing is impossible, and for this plain reason. The dues which the government collects come from individuals; each pays for himself. But it is far otherwise with the disbursements of government. They do not go down to individuals, and, seeking out the workmen and the laborers, pay to each his dues. Government

pays in large sums, to large contractors, and to these it may pay gold and silver. But do the gold and silver reach those whom the contractor employs? On the contrary, the contractors deal as they see fit, with those whom they employ, or of whom they purchase. I speak of what is in proof. A contractor came to Washington last winter, and received a draft of $180,000 on a specie-paying bank in New York. This he sold at ten per cent premium, and with the avails purchased funds in the West, with which he paid the producer, the farmer, the laborer. This is the operation of specie payments. It gives to the government hard money, to the rich contractor hard money; but to the producer and the laborer it gives paper, and bad paper only. And yet this system is recommended as specially favoring the poor man, rather than the rich, and credit is claimed for this administration as the poor man's friend.

Let us look a little more nearly at this matter, and see whom, in truth, it does favor. Who are the rich in this country? There is very little hereditary wealth among us; and large capitalists are not numerous. But some there are, nevertheless, who live upon the interest of their money; and these, certainly, do not suffer by this new doctrine; for their revenues are increased in amount, while the means of living are reduced in value. There is the money-lender, too, who suffers not by the reduction of prices all around him. Who else are the rich in this country? Why, the holders of office. He who has a fixed salary of from $2,500 to $5,000 finds prices falling; but does his salary fall? On the contrary, three fourths of that salary will now purchase more than the whole of it would purchase before; and he, therefore, is not dissatisfied with this new state of things.

I live on the sea-coast of New England, and one of my nearest neighbors is the largest ship-owner, probably, in the United States. During the past year, he has made what might suffice for two or three fortunes of moderate size; and how has he made it? He sends his ships to Alabama, Louisiana, Mississippi, to take freights of cotton. This staple, whatever may be the price abroad, cannot be suffered to rot at home; and therefore it is shipped. My friend tells his captain to provision his ship at Natchez, for instance, where he buys flour and stores in the currency of that region, which is so depreciated that he is able to sell his bills on Boston at forty-eight per cent premium! Here, at once, it will be seen, he gets his provisions for half price, because prices do not always rise suddenly, as money depreciates. He delivers his freight in Europe, and gets paid for it in good money. The disordered currency of the country to which he belongs does not follow and afflict him abroad. He gets his freight in good money, places it in the hands of his owner's banker, who again draws at a premium for it. The ship-owner, then, makes money, when all others are suffering, _because he can escape from the influence of the bad laws and bad currency of his own country_.

Now, I will contrast the story of this neighbor with that of another of my neighbors, not rich. He is a New England mechanic, hard-working, sober, and intelligent, a tool-maker by trade, who wields his own sledge-hammer. His particular business is the making of augers for the South and Southwest. He has for years employed many hands, and been the support thereby of many families around him, himself, meanwhile, moderately

prosperous until these evil times came on. Annually, however, for some years, he has been going backwards. Not less industrious, not less frugal, he has yet found, that, however good nominally the prices he might receive at the South and Southwest for his tools, the cost of converting his Southern or Western funds into money current in New England was ruinous. He has persevered, however, always hoping for some change for the better, and contracting gradually the circle of his work and the number of his workmen, until at length, the little earnings of the past wasted, and the condition of the currency becoming worse and worse, he is reduced to bankruptcy; and he, and the twenty families that he supported, are beggared by no fault of their own. What was his difficulty? He _could not escape_ from the evils of bad laws and bad currency at home; and while his rich neighbor, who could and did, is made richer by these very causes, he, the honest and industrious mechanic, is crushed to the earth; and yet we are told that this is a system for promoting the interests of the poor!

This leads me naturally to the great subject of _American labor_, which has hardly been considered or discussed as carefully as it deserves. What is _American labor_? It is best described by saying, _it is not_ European labor. Nine tenths of the whole labor of this country is performed by those who cultivate the land they or their fathers own, or who, in their workshops, employ some little capital of their own, and mix it up with their manual toil. No such thing exists in other countries. Look at the different departments of industry, whether agricultural, manufacturing, or mechanical, and you will find that, in almost all, the laborers mix up some little capital with the work of their hands. The laborer of the United States is the United States. Strike out the laborers of the United States, including therein all who in some way or other belong to the industrious and working classes, and you reduce the population of the United States from sixteen millions to one million. The American laborer is expected to have a comfortable home, decent though frugal living, and to be able to clothe and educate his children, to qualify them to take part, as all are called to do, in the political affairs and government of their country. Can this be said of any European laborer? Does he take any share in the government of his country, or feel it an obligation to educate his children? In most parts of Europe, nine tenths of the laborers have no interest in the soil they cultivate, nor in the fabrics they produce; no hope, under any circumstances, of rising themselves, or of raising their children, above the condition of a day-laborer at wages; and only know the government under which they live by the sense of its burdens, which they have no voice in mitigating.

To compare such a state of labor with the labor of this country, or to reason from that to ours, is preposterous. And yet the doctrine now is, not of individuals only, but of the administration, that the wages of American labor must be brought down to the level of those of Europe.

I have said this is not the doctrine of a few individuals; and on that head I think injustice has been done to a Senator from Pennsylvania, who has been made to bear a large share of the responsibility of suggesting such a policy. If I mistake not, the same idea is thrown out in the President’s message at the commencement of the last session, and in the

treasury report. Hear what Mr. Woodbury says:--

"Should the States not speedily suspend more of their undertakings which are unproductive, but, by new loans or otherwise, find means to employ armies of laborers in consuming rather than raising crops, and should prices thus continue in many cases to be unnaturally inflated, as they have been of late years, in the face of a contracting currency, the effect of it on our finances would be still more to lessen exports, and, consequently, the prosperity and revenue of our foreign trade."

He is for turning off from the public works these "armies of laborers," who consume without producing crops, and thus bring down prices, both of crops and labor. Diminish the mouths that consume, and multiply the arms that produce, and you have the treasury prescription for mitigating distress and raising prices! How would that operate in this great State? You have, perhaps, some fifteen thousand men employed on your public works, works of the kind that the Secretary calls "unproductive"; and, even with such a demand as they must produce for provisions, prices are very low. The Secretary's remedy is to set them to raise provisions themselves, and thus augment the supply, while they diminish the demand. In this way, the wages of labor are to be reduced, as well as the prices of agricultural productions. But this is not all. I have in my hand an extract from a speech in the House of Representatives of a zealous supporter, as it appears, of the administration, who maintains that, other things being reduced in proportion, you may reduce the wages of labor, without evil consequences. And where does he seek this example? On the shores of the Mediterranean. He fixes upon Corsica and Sardinia. But what is the Corsican laborer, that he should be the model upon which American labor is to be formed? Does he know any thing himself? Has he any education, or does he give any to his children? Has he a home, a freehold, and the comforts of life around him? No: with a crust of bread and a handful of olives, his daily wants are satisfied. And yet, from such a state of society, the laborer of New England, the laborer of the United States, is to be taught submission to low wages. The extract before me states that the wages of Corsica are,

"For the male laborer, 24 cents a day;
And the female do. 11 cents do.";--

both, I presume, finding their own food. And the honorable gentleman argues, that, owing to the greater cheapness of other articles, this is relatively as much as the American laborer gets; and he illustrates the fact by this bill of clothing for a Corsican laborer:--

"Jacket, lasting 24 months, 8 francs;
Cap, do. 24 do. 2 do.
Waistcoat, do. 36 do. 4 do.
Pantaloons, do. 18 do. 5 do.
Shirt, do. 12 do. 3 do.
Pair of shoes, do. 6 do. 6 do.
---
28 francs."

Eight francs are equal to one dollar and sixty cents, and five francs to one dollar. Now, what say you, my friends? What will the farmer of New York, of Pennsylvania, or of New England say to the idea of walking on Sunday to church, at the head of his family, in his jacket _two years old?_ What will the young man say, when, his work ended, he desires to visit the families of his neighbors, to the one pair of pantaloons, not quite two years old, indeed, but, as the farmers say of a colt, "coming two next grass," and which, for eighteen months, have every day done yeoman's service? Away with it all! Away with this plan of humbling and degrading the free, intelligent, well-educated, and well-paid laborer of the United States to the level of the almost brute laborer of Europe!

There is not much danger that schemes and doctrines such as these shall find favor with the people. They understand their own interest too well for that. Gentlemen, I am a farmer, on the sea-shore, [7] and have, of course, occasion to employ some degree of agricultural labor. I am sometimes also rowed out to sea, being, like other New England men, fond of occasionally catching a fish, and finding health and recreation, in warm weather, from the air of the ocean. For the few months during which I am able to enjoy this retreat from labor, public or professional, I do not often trouble my neighbors, or they me, with conversation on politics. It happened, however, about three weeks ago, that, on such an excursion as I have mentioned, with one man only with me, I mentioned this doctrine of the reduction of prices, and asked him his opinion of it. He said he did not like it. I replied, "The wages of labor, it is true, are reduced; but then flour and beef, and perhaps clothing, all of which you buy, are reduced also. What, then, can be your objections?" "Why," said he, "it is true that flour is now low; but then it is an article that may rise suddenly, by means of a scanty crop in England, or at home; and if it should rise from five dollars to ten, I do not know for certain that it would fetch the price of my labor up with it. But while wages are high, then I am safe; and if produce chances to fall, so much the better for me. But there is another thing. I have but one thing to sell, that is, my labor; but I must buy many things, not only flour, and meat, and clothing, but also some articles that come from other countries,--a little sugar, a little coffee, a little tea, a little of the common spices, and such like. Now, I do not see how these foreign articles will be brought down by reducing wages at home; and before the price is brought down of the only thing I have to sell, I want to be sure that the prices will fall also, not of a part, but of all the things which I must buy."

Now, Gentlemen, though he will be astonished, or amused, that I should tell the story before such a vast and respectable assemblage as this, I will place the argument of _Seth Peterson_, sometimes farmer and sometimes fisherman on the coast of Massachusetts, stated to me while pulling an oar with each hand, and with the sleeves of his red shirt rolled up above his elbows, against the reasonings, the theories, and the speeches of the administration and all its friends, in or out of Congress, and take the verdict of the country, and of the civilized world, whether he has not the best of the argument.

Since I have adverted to this conversation, Gentlemen, allow me to say that this neighbor of mine is a man fifty years of age, one of several

sons of a poor man; that by his labor he has obtained some few acres, his own unencumbered freehold, has a comfortable dwelling, and plenty of the poor man's blessings. Of these, I have known six, decently and cleanly clad, each with the book, the slate, and the map proper to its age, all going at the same time daily to enjoy the blessing of that which is the great glory of New England, the common free school. Who can contemplate this, and thousands of other cases like it, not as pictures, but as common facts, without feeling how much our free institutions, and the policy hitherto pursued, have done for the comfort and happiness of the great mass of our citizens? Where in Europe, where in any part of the world out of our own country, shall we find labor thus rewarded, and the general condition of the people so good? Nowhere; nowhere! Away, then, with the injustice and the folly of reducing the cost of productions with us to what is called the common standard of the world! Away, then, away at once and for ever, with the miserable policy which would bring the condition of a laborer in the United States to that of a laborer in Russia or Sweden, in France or Germany, in Italy or Corsica! Instead of following these examples, let us hold up our own, which all nations may well envy, and which, unhappily, in most parts of the earth, it is easier to envy than to imitate.

But it is the cry and effort of the times to stimulate those who are called poor against those who are called rich; and yet, among those who urge this cry, and seek to profit by it, there is betrayed sometimes an occasional sneer at whatever savors of humble life. Witness the reproach against a candidate now before the people for their highest honors, that a log cabin, with plenty of hard cider, is good enough for him!

It appears to some persons, that a great deal too much use is made of the symbol of the log cabin. No man of sense supposes, certainly, that the having lived in a log cabin is any further proof of qualification for the Presidency, than as it creates a presumption that any one who, rising from humble condition, or under unfavorable circumstances, has been able to attract a considerable degree of public attention, is possessed of reputable qualities, moral and intellectual.

But it is to be remembered, that this matter of the log cabin originated, not with the friends of the Whig candidate, but with his enemies. Soon after his nomination at Harrisburg, a writer for one of the leading administration papers spoke of his "log cabin," and his use of "hard cider," by way of sneer and reproach. As might have been expected, (for pretenders are apt to be thrown off their guard,) this taunt at humble life proceeded from the party which claims a monopoly of the purest democracy. The whole party appeared to enjoy it, or, at least, they countenanced it by silent acquiescence; for I do not know that, to this day, any eminent individual or any leading newspaper attached to the administration has rebuked this scornful jeering at the supposed humble condition or circumstances in life, past or present, of a worthy man and a war-worn soldier. But it touched a tender point in the public feeling. It naturally roused indignation. What was intended as reproach was immediately seized on as merit. "Be it so! Be it so!" was the instant burst of the public voice. "Let him be the log cabin candidate. What you say in scorn, we will shout with all our lungs. From this day forward, we

have our cry of rally; and we shall see whether he who has dwelt in one of the rude abodes of the West may not become the best house in the country!"

All this is natural, and springs from sources of just feeling. Other things, Gentlemen, have had a similar origin. We all know that the term "Whig" was bestowed in derision, two hundred years ago, on those who were thought too fond of liberty; and our national air of "Yankee Doodle" was composed by British officers, in ridicule of the American troops. Yet, ere long, the last of the British armies laid down its arms at Yorktown, while this same air was playing in the ears of officers and men. Gentlemen, it is only shallow-minded pretenders who either make distinguished origin matter of personal merit, or obscure origin matter of personal reproach. Taunt and scoffing at the humble condition of early life affect nobody, in this country, but those who are foolish enough to indulge in them, and they are generally sufficiently punished by public rebuke. A man who is not ashamed of himself need not be ashamed of his early condition.

Gentlemen, it did not happen to me to be born in a log cabin; but my elder brothers and sisters were born in a log cabin, raised amid the snow-drifts of New Hampshire, at a period so early that, when the smoke first rose from its rude chimney, and curled over the frozen hills, there was no similar evidence of a white man's habitation between it and the settlements on the rivers of Canada. Its remains still exist. I make to it an annual visit. I carry my children to it, to teach them the hardships endured by the generations which have gone before them. I love to dwell on the tender recollections, the kindred ties, the early affections, and the touching narratives and incidents, which mingle with all I know of this primitive family abode. I weep to think that none of those who inhabited it are now among the living; and if ever I am ashamed of it, or if I ever fail in affectionate veneration for him who reared it, and defended it against savage violence and destruction, cherished all the domestic virtues beneath its roof, and, through the fire and blood of a seven years' revolutionary war, shrunk from no danger, no toil, no sacrifice, to serve his country, and to raise his children to a condition better than his own, may my name and the name of my posterity be blotted for ever from the memory of mankind!

I have now frankly stated my opinions as to the nature of the present excitement, and have answered the question I propounded as to the causes of the revolution in public sentiment now in progress. Will this revolution succeed? Does it move the masses, or is it an ebullition merely on the surface? And who is it that opposes the change which seems to be going forward? [Here some one in the crowd cried out, "None, hardly, but the office-holders, oppose it."] I hear one say that the office-holders oppose it; and that is true. If they were quiet, in my opinion, a change would take place almost by common consent. I have heard of an anecdote, perhaps hardly suited to the sobriety and dignity of this occasion, but which confirms the answer which my friend in the crowd has given to my question. It happened to a farmer's son, that his load of hay was blown over by a sudden gust, on an exposed plain. Those near him, seeing him manifest a degree of distress, which such an accident would not usually occasion, asked him the reason; he said he should not _take on_ so much about it, only father was under the load. I think it very probable,

Gentlemen, that there are many now very active and zealous friends, who would not care much whether the wagon of the administration were blown over or not, if it were not for the fear that father, or son, or uncle, or brother, might be found under the load. Indeed, it is remarkable how frequently the fire of patriotism glows in the breast of the holders of office. A thousand favored contractors shake with horrid fear, lest the proposed change should put the interests of the public in great danger. Ten thousand post-offices, moved by the same apprehension, join in the cry of alarm, while a perfect earthquake of disinterested remonstrance proceeds from the custom-houses. Patronage and favoritism tremble and quake, through every limb and every nerve, lest the people should be found in favor of a change, which might endanger the liberties of the country, or at least break down its present eminent and distinguished prosperity, by abandoning the measures, so wise, so beneficent, so successful, and so popular, which the present administration has pursued!

Fellow-citizens, we have all sober and important duties to perform. I have not addressed you to-day for the purpose of joining in a premature note of triumph, or raising a shout for anticipated victories. We are in the controversy, not through it. It is our duty to spare no pains to circulate information, and to spread the truth far and wide. Let us persuade those who differ from us, if we can, to hear both sides. Let us remind them that we are all embarked together, with a common interest and a common fate. And let us, without rebuke or unkindness, beseech them to consider what the good of the whole requires, what is best for them and for us.

There are two causes which keep back thousands of honest men from joining those who wish for a change. The first of these is the fear of reproach from former associates, and the pain which party denunciation is capable of inflicting. But, surely, the manliness of the American character is superior to this! Surely, no American citizen will feel himself chained to the wheels of any party, nor bound to follow it, against his conscience and his sense of the interest of the country. Resolution and decision ought to dissipate such restraints, and to leave men free at once to act upon their own convictions. Unless this can be done, party has entailed upon us a miserable slavery, by compelling us to act against our consciences on questions of the greatest importance.

The other cause is the constant cry that the party of the administration is the true democratic party, or the more popular party in the government and in the country. The falsity of this claim has not been sufficiently exposed. It should have been met, and should be now met, not only by denial, but by proof. If they mean the new democracy,--the cry against credit, against industry, against labor, against a man’s right to leave his own earnings to his own children,--why, then, doubtless, they are right; all this sort of democracy is theirs. But if by democracy they mean a conscientious and stern adherence to the true popular principles of the Constitution and the government, then I think they have very little claim to it. Is the augmentation of executive power a democratic principle? Is the separation of the currency of the government from the currency of the people a democratic principle? Is the imbodying a large military force, in time of peace, a democratic principle?

Let us entreat honest men not to take names for things, nor pretences for proofs. If democracy, in any constitutional sense, belongs to our adversaries, let them show their title and produce their evidence. Let the question be examined; and let not intelligent and well-meaning citizens be kept to the support of measures which in their hearts and consciences they disapprove, because their authors put forth such loud claims to the sole possession of regard for the people.

Fellow-citizens of the County of Saratoga, in taking leave of you, I cannot but remind you how distinguished a place your county occupies in the history of the country. I cannot be ignorant, that in the midst of you are many, at this moment, who saw in this neighborhood the triumph of republican arms in the surrender of General Burgoyne. I cannot doubt that a fervent spirit of patriotism burns in their breasts and in the breasts of their children. They helped to save their country amidst the storms of war; they will help to save it, I am fully persuaded, in the present severe civil crisis. I verily believe it is true, that, of all that are left to us from the Revolution, nine tenths are with us in the existing contest. If there be living a Revolutionary officer, or soldier, who has joined in the attacks upon General Harrison's military character, I have not met with him. It is not, therefore, in the county of Saratoga, that a cause sustained by such means is likely to prevail.

Fellow-citizens, the great question is now before the country. If, with the experience of the past, the American people think proper to confirm power in the hands which now hold it, and thereby sanction the leading policy of the administration, it will be your duty and mine to bow, with submission, to the public will; but, for myself, I shall not believe it possible for me to be of service to the country, in any department of public life. I shall look on, with no less love of country than ever, but with fearful forebodings of what may be near at hand.

But I do not at all expect that result. I fully believe the change is coming. If we all do our duty, we shall restore the government to its former policy, and the country to its former prosperity. And let us here, to-day, fellow-citizens, with full resolution and patriotic purpose of heart, give and take pledges, that, until this great controversy be ended, our time, our talents, our efforts, are all due, and shall all be faithfully given, to OUR COUNTRY.

Mr. Justice Story.

Your solemn announcement, Mr. Chief Justice, has confirmed the sad intelligence which had already reached us, through the public channels of information, and deeply afflicted us all.

Joseph Story, one of the Associate Justices of the Supreme Court of the United States, and for many years the presiding judge of this Circuit,

died on Wednesday evening last, at his house in Cambridge, wanting only a few days for the completion of the sixty-sixth year of his age.

This most mournful and lamentable event has called together the whole Bar of Suffolk, and all connected with the courts of law or the profession. It has brought you, Mr. Chief Justice, and your associates of the Bench of the Supreme Court of Massachusetts, into the midst of us; and you have done us the honor, out of respect to the occasion, to consent to preside over us, while we deliberate on what is due, as well to our own afflicted and smitten feelings, as to the exalted character and eminent distinction of the deceased judge. The occasion has drawn from his retirement, also, that venerable man, whom we all so much respect and honor, (Judge Davis,) who was, for thirty years, the associate of the deceased upon the same Bench. It has called hither another judicial personage, now in retirement, (Judge Putnam,) but long an ornament of that Bench of which you are now the head, and whose marked good fortune it is to have been the professional teacher of Mr. Justice Story, and the director of his early studies. He also is present to whom this blow comes near; I mean, the learned judge (Judge Sprague) from whose side it has struck away a friend and a highly venerated official associate. The members of the Law School at Cambridge, to which the deceased was so much attached, and who returned that attachment with all the ingenuousness and enthusiasm of educated and ardent youthful minds, are here also, to manifest their sense of their own severe deprivation, as well as their admiration of the bright and shining professional example which they have so loved to contemplate,--an example, let me say to them, and let me say to all, as a solace in the midst of their sorrows, which death hath not touched and which time cannot obscure.

Mr. Chief Justice, one sentiment pervades us all. It is that of the most profound and penetrating grief, mixed, nevertheless, with an assured conviction, that the great man whom we deplore is yet with us and in the midst of us. He hath not wholly died. He lives in the affections of friends and kindred, and in the high regard of the community. He lives in our remembrance of his social virtues, his warm and steady friendships, and the vivacity and richness of his conversation. He lives, and will live still more permanently, by his words of written wisdom, by the results of his vast researches and attainments, by his imperishable legal judgments, and by those juridical disquisitions which have stamped his name, all over the civilized world, with the character of a commanding authority. "Vivit, enim, vivetque semper; atque etiam latius in memoria hominum et sermone versabitur, postquam ab oculis recessit."

Mr. Chief Justice, there are consolations which arise to mitigate our loss, and shed the influence of resignation over unfeigned and heart-felt sorrow. We are all penetrated with gratitude to God that the deceased lived so long; that he did so much for himself, his friends, the country, and the world; that his lamp went out, at last, without unsteadiness or flickering. He continued to exercise every power of his mind without dimness or obscuration, and every affection of his heart with no abatement of energy or warmth, till death drew an impenetrable veil between us and him. Indeed, he seems to us now, as in truth he is, not extinguished or ceasing to be, but only withdrawn; as the clear sun goes down at its setting, not darkened, but only no longer seen.

This calamity, Mr. Chief Justice, is not confined to the bar or the courts of this Commonwealth. It will be felt by every bar throughout the land, by every court, and indeed by every intelligent and well informed man in or out of the profession. It will be felt still more widely, for his reputation had a still wider range. In the High Court of Parliament, in every tribunal in Westminster Hall, in the judicatories of Paris and Berlin, of Stockholm and St. Petersburg, in the learned universities of Germany, Italy, and Spain, by every eminent jurist in the civilized world, it will be acknowledged that a great luminary has fallen from the firmament of public jurisprudence.[1]

Sir, there is no purer pride of country than that in which we may indulge when we see America paying back the great debt of civilization, learning, and science to Europe. In this high return of light for light and mind for mind, in this august reckoning and accounting between the intellects of nations, Joseph Story was destined by Providence to act, and did act, an important part. Acknowledging, as we all acknowledge, our obligations to the original sources of English law, as well as of civil liberty, we have seen in our generation copious and salutary streams turning and running backward, replenishing their original fountains, and giving a fresher and a brighter green to the fields of English jurisprudence. By a sort of reversed hereditary transmission, the mother, without envy or humiliation, acknowledges that she has received a valuable and cherished inheritance from the daughter. The profession in England admits with frankness and candor, and with no feeling but that of respect and admiration, that he whose voice we have so recently heard within these walls, but shall now hear no more, was of all men who have yet appeared, most fitted by the comprehensiveness of his mind, and the vast extent and accuracy of his attainments, to compare the codes of nations, to trace their differences to difference of origin, climate, or religious or political institutions, and to exhibit, nevertheless, their concurrence in those great principles upon which the system of human civilization rests.

Justice, Sir, is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, and so long as it is duly honored, there is a foundation for social security, general happiness, and the improvement and progress of our race. And whoever labors on this edifice with usefulness and distinction, whoever clears its foundations, strengthens its pillars, adorns its entablatures, or contributes to raise its august dome still higher in the skies, connects himself, in name, and fame, and character, with that which is and must be as durable as the frame of human society.

All know, Mr. Chief Justice, the pure love of country which animated the deceased, and the zeal, as well as the talent, with which he explained and defended her institutions. His work on the Constitution of the United States is one of his most eminently successful labors. But all his writings, and all his judgments, all his opinions, and the whole influence of his character, public and private, leaned strongly and always to the support of sound principles, to the restraint of illegal power, and to the discouragement and rebuke of licentious and disorganizing sentiments. "Ad rempublicam firmandam, et ad stabiliendas vires, et sanandum populum,

omnis ejus pergebat institutio."

But this is not the occasion, Sir, nor is it for me to consider and discuss at length the character and merits of Mr. Justice Story, as a writer or a judge. The performance of that duty, with which this Bar will no doubt charge itself, must be deferred to another opportunity, and will be committed to abler hands. But in the homage paid to his memory, one part may come with peculiar propriety and emphasis from ourselves. We have known him in private life. We have seen him descend from the bench, and mingle in our friendly circles. We have known his manner of life, from his youth up. We can bear witness to the strict uprightness and purity of his character, his simplicity and unostentatious habits, the ease and affability of his intercourse, his remarkable vivacity amidst severe labors, the cheerful and animating tones of his conversation, and his fast fidelity to friends. Some of us, also, can testify to his large and liberal charities, not ostentatious or casual, but systematic and silent, --dispensed almost without showing the hand, and falling and distilling comfort and happiness, like the dews of heaven. But we can testify, also, that in all his pursuits and employments, in all his recreations, in all his commerce with the world, and in his intercourse with the circle of his friends, the predominance of his judicial character was manifest. He never forgot the ermine which he wore. The judge, the judge, the useful and distinguished judge, was the great picture which he kept constantly before his eyes, and to a resemblance of which all his efforts, all his thoughts, all his life, were devoted. We may go the world over, without finding a man who shall present a more striking realization of the beautiful conception of D'Aguesseau: "C'est en vain que l'on cherche a distinguer en lui la personne privØe et la personne publique; un mŒme esprit les anime, un mŒme objet les rØunit; l'homme, le pŁre de famille, le citoyen, tout est en lui consacrØ àla gloire du magistrat."

Mr. Chief Justice, one may live as a conqueror, a king, or a magistrate; but he must die as a man. The bed of death brings every human being to his pure individuality; to the intense contemplation of that deepest and most solemn of all relations, the relation between the creature and his Creator. Here it is that fame and renown cannot assist us; that all external things must fail to aid us; that even friends, affection, and human love and devotedness, cannot succor us. This relation, the true foundation of all duty, a relation perceived and felt by conscience and confirmed by revelation, our illustrious friend, now deceased, always acknowledged.

He reverenced the Scriptures of truth, honored the pure morality which they teach, and clung to the hopes of future life which they impart. He beheld enough in nature, in himself, and in all that can be known of things seen, to feel assured that there is a Supreme Power, without whose providence not a sparrow falleth to the ground. To this gracious being he entrusted himself for time and for eternity; and the last words of his lips ever heard by mortal ears were a fervent supplication to his Maker to take him to himself. [2]

Biographical.

First Period: Law and Politics in New Hampshire.

1782 Born at Salisbury, New Hampshire, January 18.
Early Education.
1797 Enters Dartmouth College.
1805 Admitted to the Bar,
1805.
Practises in Boscawen.
1807 Removes to Portsmouth, New Hampshire.
1813 Elected to Congress from Portsmouth.
1814-15 The Hartford Convention.

Second Period: Leader at the Bar and in the Forum.

1816 Removes to Boston, Massachusetts.
1817 "The Defence of the Kennistons."
1818 "The Dartmouth College Case."
1820 Massachusetts Convention.

Third Period: Expounder and Defender of the Constitution.

1827 Elected to the Senate from Massachusetts.
1830 "The Reply to Hayne."
1833 "The Constitution not a Compact between Sovereign States."
1833-34 Removal of the Deposits from the United States Bank.
Rise of the Whig Party.
1835 Nominated to the Presidency by the Whigs of Massachusetts.
1837 Reception in New York.
1839 Visits England.
1840 Presidential Canvass.
1840-43 Secretary of State.
Ashburton Treaty.
Resigns the Department of State.
1844 Re-elected to the Senate from Massachusetts.
1845 "Eulogy on Justice Story."
Annexation of Texas.
1846 Banquet in Philadelphia.
1850 Seventh of March Speech.
Secretary of State under President Fillmore.
1852 Public Reception in Boston.
Last Illness and Death.

Notes.

DEFENCE OF THE KENNISTONS

April, 1817.

Mr. Webster had been elected to Congress from Portsmouth, New Hampshire, in 1813, and his term expired in March, 1816. In August of that year (1816) he removed his family to Boston, and decided to devote himself exclusively to the profession of the law. He had won a high position both in law and politics in New Hampshire. The change of residence marks an era in the life of Mr. Webster. Mr. Lodge says that there is a tradition that the worthies of the Puritan city were disposed at first to treat the newcomer somewhat cavalierly, but that they soon learned that it was worse than useless to attempt such a course with a man whose magnificent physical and intellectual bearing won the admiration of all who met him.

He now began a career of great professional distinction, and took a place at the Boston bar even more conspicuous than his friends had anticipated--that of an equal of the most famous of its members. His cases called him before the Massachusetts Supreme Court, the Circuit Court of the United States, and the United States Supreme Court. Among the first cases which came to him on his retirement from political life was the Goodridge Robbery Case, the argument in which was addressed to the jury at the term of the Supreme Judicial Court of Massachusetts held at Ipswich in April, 1817.

The singularly dramatic story of the prosecutor, the almost universal belief in the guilt of the accused, both by the public and by the members of the Essex bar, and the impossibility of accounting for the motive (self-robbery) assumed by the defence, make this exhibition of Mr. Webster's "acute, penetrating, and terrifying" power of cross-examination,--by which such a complicated and ingenious story was unravelled,--one of the most memorable in the history of the

Massachusetts bar. It is a model of close, simple, unadorned argument, adapted to the minds of the jurymen. In it there are no attempts to carry the jury off their feet by lofty appeals to their sense of justice, nor to cover the weak points in the case by fine oratory. The oft-repeated, "It is for the jury to determine," illustrates Mr. Webster's respect for the common sense of the jurymen before him and his reliance upon evidence to win the case. The following are the facts relating to the case:--Major Goodridge of Bangor, Maine, professed to have been robbed of a large sum of money at nine o'clock on the night of Dec. 19, 1816, while travelling on horseback, near the bridge between Exeter and Newburyport. In the encounter with the robbers he received a pistol wound in his left hand; he was then dragged from his horse into a field, beaten until insensible, and robbed. On recovering, he procured the assistance of several persons, and with a lantern returned to the place of the robbery and found his watch and some papers. The next day he went to Newburyport, and remained ill for several weeks, suffering from delirium caused by the shock. When he recovered he set about the discovery of the robbers. His story seemed so probable that he had the sympathy of all the country-folk. He at once

charged with the crime Levi and Laban Kenniston, two poor men, who lived in an obscure part of the town of Newmarket, New Hampshire, and finding some of his money (which he had previously marked) in their cellar, he had them arrested, and held for trial. By and by a few of the people began to doubt the story of Goodridge; this led him to renewed efforts, and he arrested the toll gatherer, Mr. Pearson, in whose house, by the aid of a conjurer, he found some of his money. On examination by the magistrate, Pearson was discharged. It now became necessary to find some accomplice of the Kennistons, and he arrested one Taber of Boston, whom he had seen (he said) on his way up, and from whom he had obtained his information against the Kennistons. In Taber's house was found some of the money; he was accordingly bound over for trial with the Kennistons. As none of these men lived near the scene of the robbery, Mr. Jackman, who, soon after the robbery, had gone to New York, was arrested, his house searched, and some of the money found in the garret. The guilt of these men seemed so conclusive that no eminent member of the Essex bar would undertake their defence. A few of those who mistrusted Goodridge determined to send to Suffolk County for counsel.

Mr. Webster had been well known in New Hampshire, and his services were at once secured; without having time to examine any of the details of the case--as he had arrived at Ipswich on the night before the trial--he at once undertook the defence of the Kennistons and secured their acquittal. The indictment against Taber was _nol prossed_. Later, he defended Jackman and secured his acquittal. Mr. Pearson brought action against Goodridge for malicious prosecution, and was awarded $2000, but Goodridge took the poor debtor's oath and left the State.

Cf. Curtis's _Life of Webster_, Ch. VIII.; Everett's _Memoir of Webster_, in Vol. I. of Webster's Works.

* * * * *

THE DARTMOUTH COLLEGE CASE.

March, 1818.

Within a year after the defence of the Kennistons, Mr. Webster was called upon to defend his Alma Mater against the acts of the Legislature of his native State.

The case was one of the most interesting ever argued before the Supreme Court of the United States, because there were involved in it certain constitutional questions which had never been tested. "Mr. Webster by his management of this case," says Edward Everett, "took the lead in establishing what might almost be called a new school of constitutional law." Not until within a few years has the complete history of the case been accessible. In 1879, a volume of "Dartmouth College Causes" was published by Mr. John M. Shirley, and in it we have, for the first time, a clear statement of all the points relating to the origin and development of the case.

Dartmouth College was originally a charity school, and was founded by

Eleazor Wheelock at Lebanon, Connecticut, in 1754. Afterwards private subscriptions were solicited in England, and the Earl of Dartmouth was a large donor and became one of the trustees. The site was soon moved to Hanover, New Hampshire, where large grants of land had been made by the proprietors. It was chartered by the Crown in 1769, and was created a perpetual corporation, with Dr. Wheelock as founder and President; he was empowered to name his own successor subject to the approval of the trustees, to whom was given power to fill vacancies in their own body and to make laws for the College subject to the Crown.

It seems that in his early days Dr. Wheelock had a controversy on religious matters with Dr. Bellamy. These men were graduates of Yale; the former was a Presbyterian, and the latter a Congregationalist. This religious war was carried on by the successors of these men, the son of Dr. Wheelock, and President of the College, and a pupil of Dr. Bellamy, who had been elected a trustee; it soon, however, became a political contest between factions of the trustees, one of which objected to what it called the "family dynasty." In 1809 this faction became a majority and opposed the other so vigorously that in 1815 the Wheelock party set forth its case in a lengthy pamphlet. Much ink was shed upon both sides as a result. Wheelock then sent a memorial to the Legislature charging the trustees with violation of trust and religious intolerance, and prayed for an investigation by a committee of the Legislature. The trustees were Federalists and Congregationalists, the ruling power in State and Church. Mr. Mason, Mr. Webster's old antagonist at the New Hampshire bar, was secured as counsel for the trustees. The Wheelock party made advances to Mr. Webster, but he saw that the case was fast assuming a political tone, and he declined the offer. Contrary to Mr. Mason's advice, the trustees removed President Wheelock, and appointed Rev. Francis Brown in his place. As a result all the Democrats and all religious orders, other than the Congregational, united against the trustees--and the political die was cast.

At the next election the Democrats carried the State, and the Governor in his message took occasion to declare against the trustees. The Legislature, in June, 1816, passed an act to reorganize the College, and under this law the new trustees were chosen; thus the College became a State institution. Woodward, the Secretary of the old board, had been removed, and became the Secretary of the newly constituted board. Suit was brought against him by the old board, for the College seal and other property, and the case in charge of Mr. Mason and Judge Smith came up for trial in May, 1817; it was argued and then went over to the September term of the same year at Exeter. It was at this stage of the proceedings that Mr. Webster joined the counsel for the College. He made the closing argument of such force and pathos as to draw tears from the crowd in the court-room. The decision was against the College.

In Mr. Mason's brief we find that there were three points made against the Acts of the Legislature: (1) that they were not within the power of that body; (2) that they violated the Constitution of New Hampshire; and (3) that they violated the Constitution of the United States, or the right of private contracts. The third point was not, however, pressed by the counsel, and was not considered as very important; they based their case

mostly upon the first point: that the College was founded by private parties, for special purposes, and that any quarrel of the trustees was a question for the courts to settle, and not for the Legislature. When it was decided against them, they removed the case to the Supreme Court of the United States on this one point, that the acts impaired the obligation of contracts. The friends of the College now desired Mr. Webster to take entire charge of the case; he consented, and selected as his assistant, Mr. Hopkinson, of Philadelphia. Mr. Holmes of Maine and Mr. Wirt conducted the defence.

The case was heard on March 10, 1818, and was opened by Mr. Webster. With the notes and minutes of the previous counsel Mr. Webster was familiar, and he said that the credit of the legal points and theories he set forth was due to them; he was only the arranger and reciter of what they had prepared. Mr. Webster had a remarkable power of selecting and using the material of other men, but he was always ready to give them the credit due.

With a skill and judgment which Chief Justice Marshall said he never saw equalled, Mr. Webster outlined the question at issue, and by his marvellous adroitness in arranging, and clearness in presenting the facts, together with that wealth of legal and historical illustration with which he was always so well endowed, he seemed to carry with him every man in the court-room. Such was the ease, grace, and fascination of his argument, that Justice Story, who sat, pen in hand, to take notes, was completely absorbed and forgot his pen and paper.

[1]P. 58, l. 15. I. Here, the argument being ended, Mr. Webster stood still for some time before the court, while every eye was fixed upon him, and then addressing the Chief Justice, he proceeded with that noble peroration which has become one of the masterpieces of eloquence, and which is an expansion of the closing argument which he delivered at the previous trial in New Hampshire. This does not appear in the printed argument; I have added it from the report of Dr. Goodrich.

[2]P. 59, l. 5. 1. I give the beautiful description which Dr. Goodrich wrote to Mr. Choate in 1853. "Here the feelings, which he had thus far succeeded in keeping down, broke forth. His lips quivered; his firm cheeks trembled with emotion; his eyes were filled with tears; his voice choked, and he seemed struggling to the utmost simply to gain that mastery over himself which might save him from an unmanly burst of feeling. I will not attempt to give you the few broken words of tenderness in which he went on to speak of his attachment for the college. The whole seemed to be mingled throughout with recollections of father, mother, brother, and all the privations and trials through which he had made his way into life. Every one saw that it was wholly unpremeditated, a pressure on his heart, which sought relief in words and tears." The court-room during these two or three minutes presented an extraordinary spectacle. Chief Justice Marshall, with his tall and gaunt figure, bent over as if to catch the slightest whisper, the deep furrows of his cheek expanded with emotion, and his eyes suffused with tears; Mr. Justice Washington at his side, with his small and emaciated frame, and countenance more like marble than I ever saw on any other human being--leaning forward with an eager troubled

look; and the remainder of the Court at the two extremities, pressing, as it were, toward a single point, while the audience below were wrapping themselves around in closer folds beneath the bench, to catch each look and every feature of the speaker's face. If a painter could give us the scene on canvas,--those forms and countenances, and Daniel Webster as he there stood in their midst,--it would be one of the most touching pictures in the history of eloquence. One thing it taught me, that the _pathetic_ depends not merely on the words uttered, but still more on the estimate we put upon him who utters them. There was not one among the strong-minded men of that assembly who could think it unmanly to weep, when he saw standing before him the man who had made such an argument, melted into the tenderness of a child. Mr. Webster had now recovered his composure, and, fixing his keen eye on the Chief Justice, in that deep tone with which he sometimes thrilled the heart of an audience, continued."[3] L. 10. 2. When Mr. Webster sat down, there was a stillness as of death in the court-room, and when the audience had slowly recovered itself the replies of the opposing counsel were made, but seemed weak indeed in comparison to what had just been heard. On the conclusion of the arguments, the Chief Justice announced that the Court could not agree, and that the case must be continued to the next term. During the interim, the utmost effort was used by the friends of the College, the press, and the Federalists, to bring the matter before the public, and to impress the judges with the condition of the public mind. The defence prepared to renew the contest, and able counsel was secured. At the next term, however, the Chief Justice ruled that the Acts of the Legislature were void, as they impaired the right of private contract. Of this argument Mr. Justice Story said: "For the first hour we listened with perfect astonishment; for the second hour with perfect delight; and for the third hour with perfect conviction."

Mr. Lodge says: "From the day when it was announced, to the present time, the Doctrine of Marshall in the Dartmouth College Case has continued to exert an enormous influence."

After the trial Mr. Hopkinson wrote to the President of the College and said: "I would have an inscription over the door of your building: 'Founded by Eleazor Wheelock, Refounded by Daniel Webster.'"

Cf. Curtis's _Life of Webster_, Ch. VIII.; Lodge's _Webster_, Ch. III.; Everett's _Memoir_, in Vol. I. of Webster's Works; Shirley's _Dartmouth College Causes; Correspondence of Webster_, Vol. I., pp. 266-70; Magruder's _Life of John Marshall_.

* * * * *

FIRST SETTLEMENT OF NEW ENGLAND.

December, 1820.

The "Old Colony Club," formed for social intercourse in 1769, was the first to celebrate Forefathers' Day. Although the club was dissolved in 1773, the anniversary celebrations were continued until 1780; between this time and 1820, when the "Pilgrim Society" was founded, they were held with

but few interruptions.

The foundation of the "Pilgrim Society" in 1820 gave a new impetus to the celebrations, and in that year Mr. Webster was chosen to give the address.

[1]P. 64, l. 17. 1. The allusion is to the painting by Sargent; it was presented by him to the Society in 1824.

[2]L. 22. 2. Cf. Collections of the Massachusetts Historical Society.

[3]L. 30. 3. Cf. the report of the Pilgrim Society on the correct date of the landing of the Pilgrims. The 21st is now considered to be the date.

[4]P. 66, l. 31. 1. Cf. _Herodotus_, Ch. VI., § 109.

[5]P. 70, l. 23. 1. Cf. "The Start from Delfshaven," by Rev. D. Van Pelt, in the _New England Magazine_, November, 1891. For a through treatment of the whole subject read Chapter II., "The Puritan Exodus" in _Beginnings of New England_, by John Fiske.

[6]P. 77, l. 13. 1. Cf. _Beginnings of New England_, by John Fiske, pp. 12-20, "The Roman Method of Nation-Making."

[7]P. 81, l. 18. 1. Cf. _Beginnings of New England_, pp. 20-49, "The English Method of Nation-Making."

[8]P. 82, l. 30. 1. Cf. Hutchinson's _History_, Vol. II., App. I.
"The men who wrote in the cabin of the _Mayflower_ the first charter of freedom, were a little band of protestants against every form of injustice and tyranny. The leaven of their principles made possible the Declaration of Independence, liberated the slaves, and founded the free Commonwealths which form the Republic of the United States."--C. M. DEPEW, Columbian oration.

[9]P. 83, l. 15. 1. Cf. _Germanic Origin of New England Towns_, H. B. Adams.

[10]P. 108, l. 7. 1. Cf. Cicero's _Oratio pro Flacco_, § 7.

[11]L. 29. 2. The first free public school established by law in Plymouth Colony was in 1670.

[12]P. 111, l. 17. 1. Cf. _Beginnings of New England_, p. 110, "Founding of Harvard College." Lowell's "Harvard Anniversary."

In 1647 the Colony of Massachusetts Bay passed the law requiring every town of one hundred families to set up a grammar school which should prepare youth for the university.

If Mr. Webster by his handling of the Dartmouth College Case founded a new school of constitutional law, by the Plymouth Oration he founded a new school of oratory. This field of occasional oratory was a new and peculiar one for him. He had never before spoken upon a great historical subject

demanding not only wealth of imagination, but the peculiar quality of mind and heart which unites dignity and depth of thought with ease and grace of manner. But he was equal to the task. The simplicity and beauty of the thought, the grand and inspiring manner of presentation, gave evidence of commanding genius, and gave Mr. Webster a place in the front rank of orators and stylists.

"I never saw him," says Mr. Ticknor, "when he seemed to me to be more conscious of his own powers, or to have a more true and natural enjoyment from their possession."

John Adams, who had heard Pitt and Fox, Burke and Sheridan, says: "It is the effort of a great mind, richly stored with every species of information. If there be an American who can read it without tears, I am not that American. Mr. Burke is no longer entitled to the praise--the most consummate orator of modern times. What can I say of what regards myself? To my humble name '_Exegisti monumentum æe perennius_.' The oration ought to be read at the end of every century."

"It is doubtful," says Edward Everett, "whether any extra-professional literary effort by a public man has attained equal celebrity."

Cf. Curtis's _Life of Webster_, Ch. IX.; Lodge's _Webster_, Ch. IV.; De Tocqueville's _Democracy in America_, Vol. I.; Whipple's _American Literature_, "Webster as a Master of English Style"; Bancroft's _History of the United States_, Vol. I., Chs. XII., XIII., XIV.; Burke's _Orations on the American War_, edited by A. J. George; Fiske's _Beginnings of New England_.

* * * * *

THE BUNKER HILL MONUMENT.

June, 1825.

As early as 1776, the Massachusetts Lodge of Masons, over which General Warren had presided, asked the Government of Massachusetts for permission to take up his remains, which were buried on the hill the day after the battle, and bury them with the usual solemnities. The request was granted on condition that the government of the colony should be permitted to erect a monument to his memory.

The ceremonies of burial were performed, but no steps were taken to build the monument. General Warren was, at the time of his death, Grand Master of the Masonic Lodges of America, and as nothing had been done toward erecting a memorial, King Solomon's Lodge of Charlestown voted to erect a monument. The land was purchased, and a monument dedicated by the Lodge Dec. 2, 1794. It was a wooden pillar of Tuscan order, eighteen feet high, raised on a pedestal ten feet in height. The pillar was surmounted by a gilt urn. An appropriate inscription was placed on the south side of the pedestal.

The half-century from the date of the battle was at hand, and, despite a

resolution of Congress and the efforts of a committee of the Legislature of Massachusetts, no suitable monument had been erected by the people. It was then that, at the suggestion of William Tudor, the matter was taken up in earnest and an association was formed known as the Bunker Hill Monument Association. Ground was broken for the monument June 7, 1825. On the morning of the 17th of June, 1825, the ceremonies of laying the corner-stone of the monument took place. It was a typical June day, and thousands flocked to see the pageant and to hear the greatest orator in the land.

The procession started from the State House at ten o'clock. The military led the van. About two hundred veterans of the Revolution rode in carriages, and among them were forty survivors of the battle. Some wore their old uniform, others various decorations of their service, and some bore the scars of honorable wounds. Following the patriots came the Monument Association, and then the Masonic fraternity to the number of thousands. Then came the noble Frenchman, Lafayette, the admiration of all eyes. Following him were numerous societies with banners and music. The head of the procession touched Charlestown Bridge before the rear had left the State House, and the march was a continual ovation. Arriving at Breed's Hill, the Grand Master of the Masons, Lafayette, and the President of the Monument Association laid the corner-stone, and then moved to the spacious amphitheatre on the northern side of the hill, where the address was delivered by Mr. Webster.

[1]P. 122, l. 7. 1. An account of the voyage of the emigrants to the Maryland Colony is given by the report of Father White, written soon after the landing at St. Mary's. The original in Latin is still preserved by the Jesuits at Rome.

The _Ark_ and the _Dove_ occupy the same place of interest in the memory of the descendants of the colony as does the _Mayflower_ with us.

[2]L. 18. 2. Mr. Webster was at this time President of the Monument Association.

[3]P. 125, l. 13. 1. Even the poetical nature of Webster would not have been equal to the conception, that within the century the number would reach sixty million.

[4]L. 16. 2. "The first railroad on the continent was constructed for the purpose of accelerating the erection of this monument."--EVERETT.

[5]P. 127, l. 15. 1. The allusion is, of course, to the ships about the Charlestown Navy Yard, which is located at the base of Breed's Hill. [6]L. 21. 2. This magnificent address to the "Venerable Men" was composed while Mr. Webster was fishing in Marshpee brook.

[7]P. 128, l. 4. 1. Milton's _Paradise Lost_, V.

[8]L. 17. 2. Cf. Bancroft's _History of the United States_, Vol. IV., p. 133. A prelude to Warren's patriotism at Bunker Hill is well illustrated in his oration at the old South Meeting House, commemorating

the Boston Massacre; in the presence of British soldiers he said: "Our streets are again filled with armed men, our harbour is crowded with ships of war; but these cannot intimidate us; my fellow-citizens, you will maintain your rights or perish in the generous struggle."

[9]P. 130, l. 9. 1. Cf. Burke's _Orations on the American War_, edited by A. J. George.

[10]P. 131, l. 32. 1. Virgil's _Aeneid_, VI. 726. Compare Burke's use of this same quotation in his speech on American Taxation, page 13, line 13. Edited by A. J. George.

[11]P. 133, l. 9. 1. Cf. Bancroft's _History of the United States_, Vol. IV., Ch. XIV.

[12]L. 22. 2. General Lafayette had arranged his progress through the other States so that he might be present on the 17th.

[13]P. 140, l. 22. 1. Homer's _Iliad_, Book XVII.

[14]P. 141, l. 13. 1. Cf. account of Webster's speech on the Revolution in Greece, made on the 19th of January, 1824, in Everett's _Memoir_, Vol. I. of Webster's Works.

Great as the Plymouth Oration was acknowledged by all to be, the Bunker Hill Address was a distinct advance upon it, both in the scope of the ideas and in the skill with which they are wrought into an organic whole. It is more compact, more picturesque, more vigorous, more finished. In this field of oratory he probably has never had any equal in the English-speaking world.

Mr. Everett said of the Address: "From such an orator as Mr. Webster, on such a platform, on such a theme, in the flower of his age, and the maturity of his faculties, discoursing upon an occasion of transcendent interest, and kindling with the enthusiasm of the day and the spot, it might well be regarded as an intellectual treat of the highest order. Happy the eyes that saw that most glorious gathering! Happy the ears that heard that heart-stirring strain!"

Lafayette wrote to Webster on the 28th of December, 1825, from La Grange, saying: "Your Bunker Hill has been translated into French, and other languages, to the very great profit of European readers."

Mr. Hillard, in his Eulogy on Webster, says: "His occasional discourses rise above the rest of their class, as the Bunker Hill Monument soars above the objects around it."

Mr. Choate, in his address to the students of Dartmouth College in 1853, in that sublime paragraph in which he reviews the history of oratory and contrasts the eloquence of despair with the eloquence of hope, says: "Let the downward age of America find its orators, and poets, and artists, to erect its spirit, or grace and soothe its dying; be it ours to go up with Webster to the rock, the monument, the capitol, and bid the distant

generations hail."

Cf. Curtis's _Life of Webster_, Ch. XI.; Everett's _Memoir_, in Vol. I. of Webster's Works; Lodge's _Webster_, Ch. IV.; Memorial of Webster; Mr. Hillard's and Mr. Choate's Address; J. Fiske's _The American Revolution_.

* * * * *

THE REPLY TO HAYNE.

January, 1830.

The third period of Mr. Webster's life and work may be said to begin with his new honor--his election to the United States Senate in 1827, and his changed attitude toward the question of the tariff as seen in his great speech on the tariff of 1828.

To understand Mr. Webster's position on the question of the tariff, one must remember that he insisted upon the principle that the question of the tariff was purely a business question, and that it was to be determined by the conditions affecting business. Up to this time Webster had opposed Protection, but now as the business of New England required assistance, he boldly stood forth as the champion of a Protective Tariff. It was in connection with the tariff legislation of 1816, 1824, and 1828 that the monster Nullification--carefully disguised until 1830--had its birth. In this year it was found stalking abroad, and in the halls of Congress menacing the bulwark of our liberties--the Constitution of the country. It fell to the lot of Mr. Webster to grapple with this monster and to strangle it in his giant grasp.

On the 29th of December, 1829, Senator Foot of Connecticut moved a resolution in regard to the Public Lands, and a long and weary discussion followed until Mr. Hayne, a Senator from South Carolina, on June 19, 1830, took part and introduced a new element into the discussion by making an elaborate attack on the New England States. Mr. Webster had taken no special interest in the question, and on the day in which Mr. Hayne began his speech he was engaged in the Supreme Court, but came into the Senate in season to hear the closing paragraphs. Thinking that such an attack upon New England required a reply, Mr. Webster at once rose, but yielded to a motion to adjourn. On the next day, the 20th, Mr. Webster proceeded with his reply, in which he showed the absurdity of Hayne's accusations and by which he completely shattered his whole elaborate argument. There was hardly an allusion in Mr. Webster's speech to the question of the tariff as it concerned South Carolina, but so aroused was Hayne by Webster's defence of New England, that on the following day he spoke a second time and in a tone of even greater severity and bitterness than that which marked his previous speech; he indulged in personal allusion to Mr. Webster, and strove to bring odium upon him and the State which he represented; he openly espoused the cause of Nullification and declared war upon the tariff. Before he concluded the Senate adjourned until the 25th, when he completed his speech; Mr. Webster immediately rose to reply, but as it was late yielded to a motion to adjourn. Mr. Hayne's speech had

caused the greatest alarm throughout the North; many were afraid that it was unanswerable. This was an evidence that the true nature of the Constitution was not thoroughly understood. "It is a critical moment," said Mr. Bell of New Hampshire to Mr. Webster on the morning of the 26th, "and it is time, it is high time, that the people of this country should know what this Constitution _is_." "Then," said Mr. Webster, "by the blessing of Heaven, they shall learn, this day, before the sun goes down, what I understand it to be." With this utterance upon his lips, he entered the Senate Chamber, which was already crowded. Every seat on the floor and in the galleries was occupied; the House of Representatives was deserted; the lobbies and staircases were packed. The vast audience was composed, on the one hand, of those who feared and trembled lest the rushing tide of hostility to the Constitution and the Union should sweep over the country; and on the other, of those who believed that New England had no champion strong enough to stand in the breach. This scene in the Senate Chamber is rivalled only by that in the House of Commons, when Burke, in 1774, stood forth as the defender of the American colonies. Such was the anxiety to hear the speech that all the ordinary preliminaries of senatorial action were postponed, and Mr. Webster began his "Second Speech on Foot's Resolution," better known as "The Reply to Hayne."

[1]P. 146, l. 10. 1. Mr. Webster rose with great calmness, and in the majesty of that personal presence which could cause the English navvy to shout as he saw him, "By Jove, there goes a king!" with a confidence in his own resources which was the result of experience, in a clear, calm, and firm tone pronounced this magnificent exordium which was such a piece of consummate art that its effect was electric; all who feared, and all who hated, knew that he was master of the situation.

[2] P. 147, l. 27. 1. When on the 21st Mr. Chambers asked that there be a delay to enable Mr. Webster, who had engagements out of the house, to be present, Mr. Hayne was unwilling to grant the request, saying that the gentleman (Mr. Webster) has discharged his fire in the presence of the Senate, and he wanted an opportunity to return it. Mr. Webster said, "Let the discussion proceed: I am ready now to receive the gentleman's fire."

[3] P. 149, l. 8. 1. The notes, covering only five sheets of ordinary letter paper, from which Webster developed the entire speech of seventy pages, contain no hint of the exordium, but begin with

"No man hurt. If his 'rankling' is relieved, glad of it."

"I have no 'rankling' fear, anger, consciousness of refutation."

"No 'rankling,' original, or received--bow not strong enough."

[4]L. 12. 2. Mr. Benton.

[5]L. 27. 3. Mr. Webster's preparation for this reply lay in the nature of his thought and reading from his first entrance into public life, and especially from the nature of the constitutional questions which he has argued before the Supreme Court of the United States.

[6]P. 152, l. 1. 1. Should not this be "_more_"?

[7]L. 24. 2. This was a political cry raised against President Adams, who was elected by the House of Representatives. Clay had been a candidate, and because Adams gave him a seat in his Cabinet, a cry went up that they had made a bargain, by which Mr. Clay's friends were to vote for Adams in the House, and in return Clay was to receive a Cabinet position. This was a piece of political clap-trap. Cf. _American Politics_, Johnston, Ch. XI.

[8]P. 155, l. 5. 1. If there had been a coalition and it was killed, it was killed by Calhoun, who threw all his influence against Adams and for Jackson. But at the time of this speech Calhoun was treated somewhat cavalierly by Jackson, and had not much reward in party succession.

[9]P. 157, l. 13. 1. "The Missouri Compromise." Cf. _American Politics_, Johnston, Ch. VIII.

[10]P. 162, l. 22. 1. This Convention of 1814 was composed of men of the old Federal party, strongly opposed to war with Great Britain. Cf. _American Politics_, Johnston, Ch. VIII.

[11]P. 170, l. 3. 1. The "South Carolina Canal & Railroad Company" had on Jan. 9, 1830, asked Mr. Webster to present its claims to government assistance.

[12]P. 179, l. 5. 1. Calhoun, Vice-President, and President of Senate.

[13]P. 180, l. 5. 1. Mr. Forsyth.

[14]L. 25. 2. Cf. Calhoun's speech in the House of Representatives in April, 1816.

[15]P. 182, l. 6. 1. Mr. McDuffie.

[16]P. 186, l. 12. 1. Letter of the Federal Convention to the Congress of the Confederation transmitting the plan of the Constitution.

[17]P. 188, l. 4. 1. Cf. Lodge's _Webster_, Ch. VI.

[18]P. 197, l. 1. 1. President Jackson, who had been an avowed Federalist all his life.

[19]L. 15. 2. A Portuguese prince, who led the revolutionists against the constitutional government.

[20]P. 198, l. 1. 1. A body of Federalists in Essex County, Massachusetts, strongly opposing the Embargo of 1807, and the War of 1812.

[21]P. 199, l. 24. 1. After the passage of the Tariff of 1828, the legislature of South Carolina set forth a "Protest" asserting the principle of Nullification.

[22]P. 203, l. 29. 1. "At the conclusion of this paragraph there was scarcely a dry eye in the Senate, the Massachusetts men shed tears like girls," _Reminiscence of Congress_, March.

[23]P. 205, l. 28. 1. A toast proposed at a Democratic dinner, April 30, 1830, in New York, in honor of Jefferson's birthday.

[24]P. 212, l. 16. 1. Senator Hillhouse of Connecticut.

[25]P. 214, l. 8. 1. The purpose of this Embargo was to retaliate on both Great Britain and France. In the commercial war waged by those two countries, the foreign trade of the United States was cut off. The Embargo fell with crushing weight upon New England.

[26]P. 227, l. 11. 1. _Paradise Lost_, Bk. I., l. 540.

[27]P. 228, l. 9. 1. The leader of the Whiskey Rebellion in Pennsylvania.

[28]P. 234, l. 9. 1. This celebrated peroration was entirely unpremeditated, there is no allusion to it in the "notes" of Mr. Webster. Mr. March says, "The exulting rush of feeling with which he went through the peroration threw a glow over his countenance like inspiration. Eye, brow, each feature, every line of the face, seemed touched as with celestial fire.... His voice penetrated every recess or corner of the Senate,--penetrated even the anterooms and stairways." Mr. Webster himself said: "I never spoke in the presence of an audience so eager and so sympathetic." Mr. Everett says: "Of the effectiveness of Mr. Webster's manner in many parts, it would be in vain to attempt to give any one not present the faintest idea. It has been my fortune to hear some of the ablest speeches of the greatest living orators on both sides of the water, but I must confess I never heard anything which so completely realized my conception of what Demosthenes was when he delivered the Oration for the Crown."

Mr. Lodge in his excellent review of the speech says: "The speech as a whole has all the qualities which made Mr. Webster a great orator. An analysis of the Reply to Hayne, therefore, gives us all the conditions necessary to forming a correct idea of Mr. Webster's eloquence, of its characteristics, and its value." Cf. Ch. VI., _Webster_, American Statesman Series. This book should be a constant companion of the student while reading these selections.

Dr. Francis Lieber wrote: "To test Webster's oratory, I read a portion of my favorite speeches of Demosthenes, and then read, always aloud, parts of Webster; then returned to the Athenian; and Webster stood the test." As a result of this great effort, Mr. Webster was overwhelmed with congratulations from all parts of the land. The speech was the universal theme of conversation, and there was a general demand for the printed copy. Probably no speech in history has had so many readers as the Reply to Hayne.

Cf. Healey's historical painting of the scene of this great debate, in Faneuil Hall; Curtis's _Life of Webster_, Ch. XVI.; Everett's

Memoir, Vol. I. of Webster's Works; _Correspondence of Webster_, Vol. I., p. 488.

* * * * *

THE MURDER OF CAPTAIN JOSEPH WHITE.

August, 1830.

Almost immediately after the Reply to Hayne, Mr. Webster was engaged with the Attorney-General of Massachusetts in one of the most remarkable criminal cases on record, and on August 3d made the argument in the trial of John Francis Knapp for the murder of Captain Joseph White.

The following is a summary of the facts: On the night of the 6th of April, 1830, the town of Salem was visited by a desperado who entered the house of Joseph White, a wealthy and respectable citizen, and murdered him in his bed. The citizens formed a vigilance committee and worked without avail until there came a rumor that a prisoner in the New Bedford jail knew something of the affair. He was accordingly brought up before the grand jury, and on his testimony Richard Crowningshield, of Danvers, was indicted. A few weeks later Captain Joseph Knapp, a shipmaster of good character, received a strange note from Belfast, Maine, which was signed by Charles Grant, Jr. This note threatened exposure unless money was forwarded. Knapp could not understand it. He showed it to his sons, Francis and Joseph, Jr., who resided in Wenham. The wife of the latter was a niece of the late Mr. White, and was his housekeeper prior to the murder. When Joseph saw the letter he said it contained trash, and told his father to hand it to the vigilance committee. When they received the letter they sent to Belfast to find the writer. This proved to be one Palmer, who had been in state prison and who was intimate with Crowningshield. He said he saw, on the 2nd of April, Frank Knapp and a man, Allen, in company with Crowningshield, and that he heard the latter say that Frank Knapp wished them to kill Mr. White, and that Joseph Knapp would pay them one thousand dollars.

After the murder the Knapps reported that, on the 27th of April, they had been attacked by robbers on their way from Salem to Wenham. The purpose of this will be seen in what follows. On the testimony of Palmer the Knapps were held for investigation, and on the third day Joseph made a full confession of the murder and of the fabrication of the robbery story. He had found that Mr. White intended to leave his (Knapp's) wife but fifteen thousand dollars by will, and he thought that if he died intestate she would come in for one-half of the estate, as the sole representative of Mr. White's sister. Under this impression he determined to destroy the will. Frank agreed to hire the assassin, and he (Joseph) was to pay one thousand dollars for the deed. Crowningshield was hired; he entered the house by a window and committed the murder. So cool was he that, as he said, he paused to feel the pulse of the old man to be sure he was dead. Frank was waiting the issue, while Joseph, who had got the will, was in Wenham at his home. When Crowningshield heard that the Knapps were in custody, and that Joseph had confessed, he committed suicide in his cell.

At a special term of the Supreme Court at Salem, July 20th, indictments for murder were found against Francis Knapp as principal, and Joseph Knapp and George Crowningshield (a companion of Richard) as accessories. The trial of Francis took place August 3d, with Mr. Franklin Dexter and Mr. W. H. Gardner for the defence, and Mr. Webster assisting the Attorney-General in the prosecution.

[1]P. 239, l. 13. 1. Mr. Lodge says that this account of the murder and analysis of the workings of a mind, haunted with the remembrance of the horrid crime, must be placed among the very finest masterpieces of modern oratory. "I have studied this famous exordium," he says, "with extreme care, and I have sought diligently in the works of all the great modern orators, and of some of the ancient as well, for similar passages of higher merit. My quest has been in vain."

[2]P. 241, l. 23. 1. Mr. Webster's appearance for the prosecution gave rise to some complaints on the part of the defence, who intimated that he was in the interest of Mr. Stephen White, a residuary legatee of the murdered man. The fact was that both the Attorney-General and the Solicitor-General were old men, and had asked for Mr. Webster's assistance.

[3]P. 243, l. 20. 1. Chief Justice Parker.

[4]P. 248, l. 10. 1. Mr. Webster's presentation of the evidence is omitted. Cf. Webster's Complete Works, Vol. VI., p. 61.

Knapp was convicted as principal and sentenced to death. At the November term Joseph was convicted as accessory and sentenced to share the same fate. George Crowningshield proved an _alibi_, and was acquitted. The argument in the Goodridge case stands in marked contrast to this; and it must be conceded that, as a presentation of the law and the evidence, with no attempt to work upon the feelings of the jurymen, it is a work of higher quality. As a specimen of eloquence, of dramatic setting forth of the horror of such a deed, of the experiences of the criminal, and of the certainty that "murder will out," the argument has no equal in the language.

For a remarkable analysis of Mr. Webster's career as a lawyer, see Rufus Choate's address before the students of Dartmouth College in 1853 in "Memorial of Daniel Webster from the City of Boston."

* * * * *

THE CONSTITUTION NOT A COMPACT.

February, 1833.

Mr. Webster had intimated in his Reply to Hayne that South Carolina was playing a high game. There were some at that time who thought that he had sounded the note of alarm in too loud a strain; but when in November, 1832, the State Convention, assembled at Columbia, South Carolina, adopted an ordinance declaring the revenue laws of the United States null and

void, the voice of the croakers ceased to be heard in the general excitement that filled the country. The Legislature assembled on the 27th, and the governor in his message said that "the die has been at last cast," and that the Legislature was called upon to make "such enactments as would make it utterly impossible to collect within our limits the duties imposed by the protective tariffs thus nullified." The Legislature passed acts providing that any one who should attempt to collect the revenue should be punished, and made it lawful to use the military force of the State to resist any attempt of the United States to enforce the tariff laws. Mr. Webster now had a very difficult and delicate task before him; he was bound to criticise the general tone of the administration of Jackson, for he believed that it had not met the needs of the country, and yet he was equally bound not to put himself in such antagonism as to prevent him from aiding the administration, should his aid be sought, against those who were determined to destroy the laws of the land. In the then impending presidental canvass he took the ground that President Jackson was in hostility to the idea of protection, and that therefore he could not be safely trusted with the executive power. But President Jackson, whatever had been his record on the question of the tariff, showed that he had no desire to shirk his duty, for he at once issued a proclamation, which embodied the principles maintained by Mr. Webster in his Reply to Hayne, and warned the authorities of South Carolina that all opposition to the laws of the United States would be put down. He thus served notice that treason was not to win by default of the President. Calhoun had resigned the vice-presidency and had taken his seat in the Senate, and it was known that such an act meant the attempt to raise the flag of nullification high in the Senate-chamber.

Mr. Webster was on his way to Washington when he heard of the prompt and decisive action of the President. At Philadelphia he met Mr. Clay, who told him that he had a plan for settling the difficulty by gradually reducing the tariff, and for levying duties "without regard to protection or encouragement of any branch of domestic industry." When Mr. Clay brought in his bill, it was not so strong as the one he had submitted to Mr. Webster a short time before, but yet Mr. Webster could not think of taking any step at such a time that would look like concession. The first thing to be done was to enforce the existing laws and sustain the administration by suitable legislation. There was to be no surrender of constitutional power. At the opening of the session the President asked Congress for the power to use the land and naval forces if necessary to enforce the laws. The committee to which the message was referred reported what is known as the "Force Bill," which granted the President the powers asked for. Some of the senators doubted that the President had such "daring effrontery" as to ask for such power. Mr. Webster said, "I will tell you gentlemen that the President _has_ had the ’daring effrontery’ to ask for these powers, no matter how high may be the offence."

President Jackson had used very strong language against the leaders of Nullification, and this made many of the (Southern) administration senators hostile to the measures of the "Force Bill." When it was found that the President had called for the assistance of Mr. Webster, Mr. Calhoun became very uneasy, and at once sought for Mr. Clay, who promised

to bring in his bill for reducing the tariff. On the 8th of February, Mr. Clay introduced the measure and claimed that its purpose was to save the tariff, which he considered to be in imminent danger. Mr. Webster, as was expected, opposed the bill and introduced a series of resolutions. On the two following days he was prevented from addressing the Senate on his resolutions because of the discussion of the "Force Bill," when Mr. Calhoun took the opportunity to expound the theory and practice of Nullification. The speech was in Mr. Calhoun's very best style of close, logical argument, with but little that made for eloquence. Calhoun was a master of logical method, and such was his skill in dovetailing together the elements of his speculations that he was a powerful antagonist. He had waited until most of the senators in opposition had spoken and then broke upon them and tore their arguments into shreds. It was an able supplement to the speech of Hayne and was likely to produce quite as much alarm, unless its position could be turned. Here were sown the seeds of secession which grew into that frightful civil war. By establishing the principle of the Union as but a confederacy of States the right of secession was assured.

Mr. Webster felt the importance of the occasion; he saw clearly the direction in which such appeals were sure to lead the people, and he at once determined to throw himself into the conflict. The doctrines which he had maintained in the Reply to Hayne had now taken strong hold of the people of the Central and Western States, and of many of the strongest public men of both parties; it was from this vantage ground that (on the 16th) he began his great speech known as "The Constitution not a Compact between Sovereign States."

[1]P. 275, l. 9. 1. Mr. Rives.

[2]P. 326, l. 27. 1. "The vital question went to the great popular jury. The world knows what the verdict was, and will never forget that it was largely due to the splendid eloquence of Daniel Webster when he defended the cause of nationality against the slave-holding separatists of South Carolina."--HENRY CABOT LODGE.

"Whoever," says Mr. Curtis, "would understand that theory of the Constitution of the United States which regards it as the enactment of a fundamental law must go to this speech to find the best and clearest exposition."

"Then and there," says Dr. Hudson, "it was that real battles of the Union were fought and won. For the cause had to be tried in the courts of legislative reason before it could come to trial on field of battle."

This speech is much less rhetorical than the Reply to Hayne. The subject was not a new one, nor was the condition of the public mind so feverish as in 1830; consequently the case required not so much an appeal to the emotions as to the reason. It has always been considered as the most compact, close, logical, and convincing of all Mr. Webster's speeches. The people have relied upon it from that day to this to teach them the principles of the Constitution: in it they find the origin, the history, and the purpose of our great national fabric. By this speech Webster

placed himself upon the highest pinnacle of fame, and added to his title of first orator that of the greatest statesman of his time, winning the proud distinction of "Expounder, Commentator, and Defender of the Constitution." On the 12th of October, 1835, the citizens of Boston presented to Mr. Webster a massive silver vase in testimony of their gratitude for his services in defence of the Constitution against South Carolina Nullification.

It contained the following inscription:--

PRESENTED TO
DANIEL WEBSTER,
The Defender of the Constitution,
BY THE CITIZENS OF BOSTON,
Oct. 12, 1835.

In reply to the address of presentation Mr. Webster said:--

"In one respect, Gentlemen, your present oppresses me. It assigns to me a character of which I feel I am not worthy. 'The Defender of the Constitution' is a title quite too high for me. He who shall prove himself the ablest among the able men of the country, he who shall serve it longest among those who may serve it long, he on whose labors all the stars of benignant fortune shall shed their selectest influence, will have praise enough, and reward enough, if, at the end of his political and earthly career, though that career may have been as bright as the track of the sun across the sky, the marble under which he sleeps, and that much better record, the grateful breasts of his living countrymen, shall pronounce him 'the Defender of the Constitution.' It is enough for me, Gentlemen, to be connected, in the most humble manner, with the defence and maintenance of this great wonder of modern times, and this certain wonder of all future times. It is enough for me to stand in the ranks, and only to be counted as one of its defenders."

Cf. Curtis's _Life of Webster_, Ch. XIX.; Lodge's _Webster_, Ch. VII.; Address of Dr. Hudson on the Hundredth Anniversary of the Birth of Daniel Webster, June 18, 1882.

* * * * *

SPEECH AT SARATOGA.

August, 1840.

Mr. Webster had been in almost continual public service since 1813, and during that period the two great questions which demanded the attention of statesmen were the tariff and the currency. The history of the former is to be found in the Reply to Hayne and the Reply to Calhoun; the history of the latter, in that memorable series of speeches during the session of 1831-1833 on the policy of President Jackson regarding the United States Bank. Out of this great controversy the Whig party arose, and its first nominee for the presidency was William Henry Harrison in 1835, but the friends of Jackson were strong, and Van Buren was elected. He continued

the financial policy of his predecessor, or at least made no effort to remedy the evils which it had brought upon the country. Mr. Webster gave himself to the task of exposing the financial heresies of the administration and of preventing further injurious legislation. In the summer of 1839 he visited England for rest, and was everywhere received with the honor due to his high position and his distinguished attainments; he received courtesies usually confined to ambassadors and foreign ministers. On his return he found that the Whigs had again nominated Harrison. Although he had reason to expect his own nomination, for this was the desire of _the people_, he at once threw himself into the campaign in support of the nominee. The people from all sections of the country wished to hear and see the man who had done such noble service for them in Congress. His speeches during this campaign are a fit supplement to those which he had just completed on the subject of the bank. The theme was essentially the same, but the audience was in many respects a more difficult one to reach. In the familiarity with financial questions Mr. Webster had shown himself second only to Hamilton himself, and in presenting the subject to a popular audience he reached the high-water mark of political oratory; there is no cant, no bluster, no personal abuse, but the dignity and simplicity of the simple and dignified friend of the people.

On the 19th of August, 1840, he addressed the citizens of New York in a mass meeting at Saratoga. Of all the great speeches of this campaign this best represents the mind and art of Mr. Webster, and is especially interesting in this year (1892) when essentially the same questions--the tariff and the currency--are before the people, and when the nominee of the party, which is the child of the old Whig party, is Benjamin Harrison.

[1]P. 331, l. 28. 1. The history of banking in the United States is interesting as a chapter in the general history of banking. It began with that great financier, Alexander Hamilton. When Secretary of the Treasury he conceived the plan of a great national bank, which should take charge of the disbursement of the revenues, and which should furnish a paper circulation,--founded on national resources,--which should be current all over the country. After a prolonged opposition by the Anti-federalists, who claimed that the establishment of such a bank would be unconstitutional, he prevailed upon Washington to sign the bill of incorporation, and in 1791 the bank began its work. It continued its existence until 1811, when the Anti-federalists refused to recharter it. Owing to the disordered currency resulting from the War of 1812, Mr. Madison brought the matter before Congress in his message, and in 1816 the second Bank of the United States was established.

[2]P. 333, l. 27. 1. Cf. Sumner's _Life of Andrew Jackson_, Chs. XIII., XIV.

[3]P. 334, l. 20. 1. In the session of 1831-1832 the bank applied for a new charter, and here began the great struggle with President Jackson. The bill to recharter the bank passed both Houses in 1832, and was vetoed by the President. Mr. Webster made a notable speech against the veto, and at once took the lead as an authority on questions of finance. The following year the President struck his hardest blow against the bank, by ordering

the removal of the deposits. The Senate passed resolutions condemning the act, and Mr. Webster, on presenting resolutions to the same effect from Boston, made a most powerful speech in which he depicted the great commercial distress resulting from the removal and from the institution of State banks. Between the time of this speech and the close of the session he spoke on the subject of the bank and national finance over sixty times. No other such exhibition of intellectual power and grasp of intricate problems, united with commanding eloquence, has ever been made in our history. As a result of the censure by the Senate, the President sent a protest in which he argued that the Senate had exceeded its power. Mr. Webster replied to this in what is now considered the greatest of all his speeches during the great struggle.

[4]P. 335, l. 26. 1. After the removal of the deposits, effected by Jackson, State banks were formed in large numbers, and certain of these became deposit banks. The notes of State banks were used for the purchase of public lands from the United States, and the treasury was thus accumulating paper currency of doubtful value. The Secretary of the Treasury (1836) issued the so-called "Specie Circular," ordering the government agents to receive in future only gold and silver. Only those banks which held government revenue deposits could furnish coin, and widespread bankruptcy was the result.

[5]P. 337, l. 17. 1. Cf. Gay's _Life of James Madison_.

[6]P. 339, l. 9, 1. Jackson had never questioned the right of the government to regulate the currency, but had asserted it when he made certain State banks banks of deposit. Van Buren was obliged either to return to the policy of a national bank, or to renounce all rights of the Government to regulate the currency. He chose the latter, and by means of the "Sub-Treasury Scheme" completed the separation of "bank and State." The speech of Mr. Webster on the "Sub-Treasury" is the most complete and convincing of all his speeches on the right of the Government to regulate the currency.

[7]P. 346, l. 24. 1. Mr. Webster was living at this time at Marshfield, Massachusetts.

Cf. Curtis's _Life of Webster_, Chs. XIX.-XXIII.; Lodge's _Webster_, Ch. VII.; _Works of Daniel Webster_, Vols. III., IV.; _Private Correspondence of Daniel Webster_, Vol. II., p. 83.

* * * * *

MR. JUSTICE STORY.

September, 1845.

Of the many friends of Webster during his long political career, there was no one more constant in his attentions, more sympathetic in his judgments, or more helpful in his counsels than was Mr. Justice Story. Ever since they had acted together in the Massachusetts Convention in 1820 they had maintained for each other's character and attainments the most generous

and cordial enthusiasm. The death of Mr. Story on the 10th of September, 1845, was a great affliction to Mr. Webster, and cast a gloom over his Marshfield home, where they had passed so many delightful hours together.

At a meeting of the Suffolk Bar held in the Circuit Court Room, on the morning of the 12th of September, the day of the funeral, Chief Justice Shaw having taken the chair and announced the object of the meeting, Mr. Webster pronounced the following noble and beautiful eulogium.

The following letter of dedication to the mother of Judge Story accompanied these remarks in the original edition:--

"BOSTON, September 15, 1845.

"Venerable Madam,--I pray you to allow me to present to you the brief remarks which I made before the Suffolk Bar, on the 12 instant, at a meeting occasioned by the sudden and afflicting death of your distinguished son. I trust, dear Madam, that as you enjoyed through his whole life constant proofs of his profound respect and ardent filial affection, so you may yet live long to enjoy the remembrance of his virtue and his exalted reputation.

"I am with very great regard, your obedient servant,

"DANIEL WEBSTER.

"To Madam Story."

[1]P. 358, l. 28. 1. Cf. _Life and Works of Judge Story_.

[2]P. 362, l. 10. 1. The following inscription, which Mr. Webster wrote with his own hand a short time before his death, and which he desired to have placed on his monument, is interesting in connection with these closing words of the eulogy:--

"LORD, I BELIEVE; HELP THOU
MINE UNBELIEF."

Philosophical
argument, especially
that drawn from the vastness of
the Universe, in comparison with the
apparent insignificance of this globe, has some-
times shaken my reason for the faith which is in me;
but my heart has always assured and reassured me, that the
Gospel of Jesus Christ must be a Divine Reality. The
Sermon on the Mount cannot be a merely human
production. This belief enters into the
very depth of my conscience.
The whole history of man
proves it.

DANIEL WEBSTER.

When he wrote the above, he said to a friend: "If I get well and write a book on Christianity, about which we have talked, we can attend more fully to this matter; but if I should be taken away suddenly, I do not wish to leave any duty of this kind unperformed. I want to leave somewhere a declaration of my belief in Christianity."

It was not Mr. Webster's custom to make a parade of his religious beliefs; he was simple, sincere, and unaffected in his religious life. That he was a lover and student of our English Bible, no one familiar with his thought and style needs to be told. Mr. Choate, in speaking of Webster's models in the matter of style, mentions Cicero, Virgil, our English Bible, Shakespeare, Addison, and Burke.

For the latest estimates of Webster's work the student should consult the following:

The Proceedings of the Webster Centennial, Dartmouth College (1902).

Address of Hon. Henry Cabot Lodge at the unveiling of the Webster Memorial in Washington, in the volume _The Fighting Frigate_ and other essays.

John B. McMaster's Life of Daniel Webster.

End of the Project Gutenberg EBook of Select Speeches of Daniel Webster
by Daniel Webster

*** END OF THE PROJECT GUTENBERG EBOOK SELECT SPEECHES OF DANIEL WEBSTER ***

This file should be named 8sweb10.txt or 8sweb10.zip
Corrected EDITIONS of our eBooks get a new NUMBER, 8sweb11.txt
VERSIONS based on separate sources get new LETTER, 8sweb10a.txt

Produced by Charles Aldarondo, Tiffany Vergon, Jerry Fairbanks
and the Online Distributed Proofreading Team.

Project Gutenberg eBooks are often created from several printed editions, all of which are confirmed as Public Domain in the US unless a copyright notice is included. Thus, we usually do not keep eBooks in compliance with any particular paper edition.

We are now trying to release all our eBooks one year in advance of the official release dates, leaving time for better editing. Please be encouraged to tell us about any error or corrections, even years after the official publication date.

Please note neither this listing nor its contents are final til midnight of the last day of the month of any such announcement. The official release date of all Project Gutenberg eBooks is at

Midnight, Central Time, of the last day of the stated month. A preliminary version may often be posted for suggestion, comment and editing by those who wish to do so.

Most people start at our Web sites at:
http://gutenberg.net or
http://promo.net/pg

These Web sites include award-winning information about Project Gutenberg, including how to donate, how to help produce our new eBooks, and how to subscribe to our email newsletter (free!).

Those of you who want to download any eBook before announcement can get to them as follows, and just download by date. This is also a good way to get them instantly upon announcement, as the indexes our cataloguers produce obviously take a while after an announcement goes out in the Project Gutenberg Newsletter.

http://www.ibiblio.org/gutenberg/etext03 or
ftp://ftp.ibiblio.org/pub/docs/books/gutenberg/etext03

Or /etext02, 01, 00, 99, 98, 97, 96, 95, 94, 93, 92, 92, 91 or 90

Just search by the first five letters of the filename you want, as it appears in our Newsletters.

Information about Project Gutenberg (one page)

We produce about two million dollars for each hour we work. The time it takes us, a rather conservative estimate, is fifty hours to get any eBook selected, entered, proofread, edited, copyright searched and analyzed, the copyright letters written, etc. Our projected audience is one hundred million readers. If the value per text is nominally estimated at one dollar then we produce $2 million dollars per hour in 2002 as we release over 100 new text files per month: 1240 more eBooks in 2001 for a total of 4000+
We are already on our way to trying for 2000 more eBooks in 2002
If they reach just 1-2% of the world's population then the total will reach over half a trillion eBooks given away by year's end.

The Goal of Project Gutenberg is to Give Away 1 Trillion eBooks! This is ten thousand titles each to one hundred million readers, which is only about 4% of the present number of computer users.

Here is the briefest record of our progress (* means estimated):

eBooks Year Month

1 1971 July
10 1991 January
100 1994 January

 1000 1997 August
 1500 1998 October
 2000 1999 December
 2500 2000 December
 3000 2001 November
 4000 2001 October/November
 6000 2002 December*
 9000 2003 November*
10000 2004 January*

The Project Gutenberg Literary Archive Foundation has been created to secure a future for Project Gutenberg into the next millennium.

We need your donations more than ever!

As of February, 2002, contributions are being solicited from people and organizations in: Alabama, Alaska, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

We have filed in all 50 states now, but these are the only ones that have responded.

As the requirements for other states are met, additions to this list will be made and fund raising will begin in the additional states. Please feel free to ask to check the status of your state.

In answer to various questions we have received on this:

We are constantly working on finishing the paperwork to legally request donations in all 50 states. If your state is not listed and you would like to know if we have added it since the list you have, just ask.

While we cannot solicit donations from people in states where we are not yet registered, we know of no prohibition against accepting donations from donors in these states who approach us with an offer to donate.

International donations are accepted, but we don’t know ANYTHING about how to make them tax-deductible, or even if they CAN be made deductible, and don’t have the staff to handle it even if there are ways.

Donations by check or money order may be sent to:

Project Gutenberg Literary Archive Foundation

PMB 113
1739 University Ave.
Oxford, MS 38655-4109

Contact us if you want to arrange for a wire transfer or payment
method other than by check or money order.

The Project Gutenberg Literary Archive Foundation has been approved by
the US Internal Revenue Service as a 501(c)(3) organization with EIN
[Employee Identification Number] 64-622154. Donations are
tax-deductible to the maximum extent permitted by law. As fund-raising
requirements for other states are met, additions to this list will be
made and fund-raising will begin in the additional states.

We need your donations more than ever!

You can get up to date donation information online at:

http://www.gutenberg.net/donation.html

***

If you can't reach Project Gutenberg,
you can always email directly to:

Michael S. Hart <hart@pobox.com>

Prof. Hart will answer or forward your message.

We would prefer to send you information by email.

The Legal Small Print

(Three Pages)

START**THE SMALL PRINT!**FOR PUBLIC DOMAIN EBOOKS**START
Why is this "Small Print!" statement here? You know: lawyers.
They tell us you might sue us if there is something wrong with
your copy of this eBook, even if you got it for free from
someone other than us, and even if what's wrong is not our
fault. So, among other things, this "Small Print!" statement
disclaims most of our liability to you. It also tells you how
you may distribute copies of this eBook if you want to.

BEFORE! YOU USE OR READ THIS EBOOK
By using or reading any part of this PROJECT GUTENBERG-tm
eBook, you indicate that you understand, agree to and accept
this "Small Print!" statement. If you do not, you can receive
a refund of the money (if any) you paid for this eBook by
sending a request within 30 days of receiving it to the person

you got it from. If you received this eBook on a physical
medium (such as a disk), you must return it with your request.

ABOUT PROJECT GUTENBERG-TM EBOOKS
This PROJECT GUTENBERG-tm eBook, like most PROJECT GUTENBERG-tm eBooks,
is a "public domain" work distributed by Professor Michael S. Hart
through the Project Gutenberg Association (the "Project").
Among other things, this means that no one owns a United States copyright
on or for this work, so the Project (and you!) can copy and
distribute it in the United States without permission and
without paying copyright royalties. Special rules, set forth
below, apply if you wish to copy and distribute this eBook
under the "PROJECT GUTENBERG" trademark.

Please do not use the "PROJECT GUTENBERG" trademark to market
any commercial products without permission.

To create these eBooks, the Project expends considerable
efforts to identify, transcribe and proofread public domain
works. Despite these efforts, the Project’s eBooks and any
medium they may be on may contain "Defects". Among other
things, Defects may take the form of incomplete, inaccurate or
corrupt data, transcription errors, a copyright or other
intellectual property infringement, a defective or damaged
disk or other eBook medium, a computer virus, or computer
codes that damage or cannot be read by your equipment.

LIMITED WARRANTY; DISCLAIMER OF DAMAGES
But for the "Right of Replacement or Refund" described below,
[1] Michael Hart and the Foundation (and any other party you may
receive this eBook from as a PROJECT GUTENBERG-tm eBook) disclaims
all liability to you for damages, costs and expenses, including
legal fees, and [2] YOU HAVE NO REMEDIES FOR NEGLIGENCE OR
UNDER STRICT LIABILITY, OR FOR BREACH OF WARRANTY OR CONTRACT,
INCLUDING BUT NOT LIMITED TO INDIRECT, CONSEQUENTIAL, PUNITIVE
OR INCIDENTAL DAMAGES, EVEN IF YOU GIVE NOTICE OF THE
POSSIBILITY OF SUCH DAMAGES.

If you discover a Defect in this eBook within 90 days of
receiving it, you can receive a refund of the money (if any)
you paid for it by sending an explanatory note within that
time to the person you received it from. If you received it
on a physical medium, you must return it with your note, and
such person may choose to alternatively give you a replacement
copy. If you received it electronically, such person may
choose to alternatively give you a second opportunity to
receive it electronically.

THIS EBOOK IS OTHERWISE PROVIDED TO YOU "AS-IS". NO OTHER
WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ARE MADE TO YOU AS
TO THE EBOOK OR ANY MEDIUM IT MAY BE ON, INCLUDING BUT NOT
LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A
PARTICULAR PURPOSE.

Some states do not allow disclaimers of implied warranties or the exclusion or limitation of consequential damages, so the above disclaimers and exclusions may not apply to you, and you may have other legal rights.

INDEMNITY

You will indemnify and hold Michael Hart, the Foundation, and its trustees and agents, and any volunteers associated with the production and distribution of Project Gutenberg-tm texts harmless, from all liability, cost and expense, including legal fees, that arise directly or indirectly from any of the following that you do or cause: [1] distribution of this eBook, [2] alteration, modification, or addition to the eBook, or [3] any Defect.

DISTRIBUTION UNDER "PROJECT GUTENBERG-tm"

You may distribute copies of this eBook electronically, or by disk, book or any other medium if you either delete this "Small Print!" and all other references to Project Gutenberg, or:

[1] Only give exact copies of it. Among other things, this requires that you do not remove, alter or modify the eBook or this "small print!" statement. You may however, if you wish, distribute this eBook in machine readable binary, compressed, mark-up, or proprietary form, including any form resulting from conversion by word processing or hypertext software, but only so long as *EITHER*:

[*] The eBook, when displayed, is clearly readable, and does *not* contain characters other than those intended by the author of the work, although tilde (~), asterisk (*) and underline (_) characters may be used to convey punctuation intended by the author, and additional characters may be used to indicate hypertext links; OR

[*] The eBook may be readily converted by the reader at no expense into plain ASCII, EBCDIC or equivalent form by the program that displays the eBook (as is the case, for instance, with most word processors); OR

[*] You provide, or agree to also provide on request at no additional cost, fee or expense, a copy of the eBook in its original plain ASCII form (or in EBCDIC or other equivalent proprietary form).

[2] Honor the eBook refund and replacement provisions of this "Small Print!" statement.

[3] Pay a trademark license fee to the Foundation of 20% of the gross profits you derive calculated using the method you already use to calculate your applicable taxes. If you don't derive profits, no royalty is due. Royalties are payable to "Project Gutenberg Literary Archive Foundation" the 60 days following each date you prepare (or were legally required to prepare) your annual (or equivalent periodic) tax return. Please contact us beforehand to let us know your plans and to work out the details.

WHAT IF YOU *WANT* TO SEND MONEY EVEN IF YOU DON'T HAVE TO?
Project Gutenberg is dedicated to increasing the number of public domain and licensed works that can be freely distributed in machine readable form.

The Project gratefully accepts contributions of money, time, public domain materials, or royalty free copyright licenses. Money should be paid to the:
"Project Gutenberg Literary Archive Foundation."

If you are interested in contributing scanning equipment or software or other items, please contact Michael Hart at:
hart@pobox.com

[Portions of this eBook's header and trailer may be reprinted only when distributed free of all fees. Copyright (C) 2001, 2002 by Michael S. Hart. Project Gutenberg is a TradeMark and may not be used in any sales of Project Gutenberg eBooks or other materials be they hardware or software or any other related product without express permission.]

*END THE SMALL PRINT! FOR PUBLIC DOMAIN EBOOKS*Ver.02/11/02*END*

SMALL PRINT! FOR PUBLIC DOMAIN EBOOKS*Ver.02/11/02*END*

dited, copyright

searched and analyzed, the copyright letters written, etc. Our

projected audience is one hundred million readers. If the value

per text is nominally estimated at one dollar then we produce $2

million dollars per hour in 2002 as we release over 100 new text

files per month: 1240 more eBooks in 2001 for a total of 4000+

We are already on our way to trying for 2000 more eBooks in 2002

If they reach just 1-2% of the world's population then the total

will reach over half a trillion eBooks given away by year's end.

The Goal of Project Gutenberg is to Give Away 1 Trillion eBooks!

This is ten thousand titles each to one hundred million readers,

which is only about 4% of the present number of computer users.

Here is the briefest record of our progress (* means estimated):

eBooks Year Month

1 1971 July

10 1991 January

100 1994 January

1000 1997 August

1500 1998 October

2000 1999 December

2500 2000 December

3000 2001 November

4000 2001 October/November

6000 2002 December*

9000 2003 November*

10000 2004 January*

The Project Gutenberg Literary Archive Foundation has been created

to secure a future for Project Gutenberg into the next millennium.

We need your donations more than ever!

As of February, 2002, contributions are being solicited from people and organizations in: Alabama, Alaska, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

We have filed in all 50 states now, but these are the only ones that have responded.

As the requirements for other states are met, additions to this list will be made and fund raising will begin in the additional states. Please feel free to ask to check the status of your state.

In answer to various questions we have received on this:

We are constantly working on finishing the paperwork to legally request donations in all 50 states. If your state is not listed and you would like to know if we have added it since the list you have, just ask.

While we cannot solicit donations from people in states where we are not yet registered, we know of no prohibition against accepting donations from donors in these states who approach us with an offer to donate.

International donations are accepted, but we don’t know ANYTHING about how to make them tax-deductible, or even if they CAN be made deductible, and don’t have the staff to handle it even if there are ways.

Donations by check or money order may be sent to:

Project Gutenberg Literary Archive Foundation

PMB 113

1739 University Ave.

Oxford, MS 38655-4109

Contact us if you want to arrange for a wire transfer or payment method other than by check or money order.

The Project Gutenberg Literary Archive Foundation has been approved by the US Internal Revenue Service as a 501(c)(3) organization with EIN [Employee Identification Number] 64-622154. Donations are tax-deductible to the maximum extent permitted by law. As fund-raising requirements for other states are met, additions to this list will be made and fund-raising will begin in the additional states.

We need your donations more than ever!

You can get up to date donation information online at:

http://www.gutenberg.net/donation.html

***

If you can’t reach Project Gutenberg,

you can always email directly to:

Michael S. Hart <hart@pobox.com>

Prof. Hart will answer or forward your message.

We would prefer to send you information by email.

The Legal Small Print

(Three Pages)

START**THE SMALL PRINT!**FOR PUBLIC DOMAIN EBOOKS**START

Why is this "Small Print!" statement here? You know: lawyers.

They tell us you might sue us if there is something wrong with
your copy of this eBook, even if you got it for free from
someone other than us, and even if what's wrong is not our
fault. So, among other things, this "Small Print!" statement
disclaims most of our liability to you. It also tells you how
you may distribute copies of this eBook if you want to.

BEFORE! YOU USE OR READ THIS EBOOK
By using or reading any part of this PROJECT GUTENBERG-tm
eBook, you indicate that you understand, agree to and accept
this "Small Print!" statement. If you do not, you can receive
a refund of the money (if any) you paid for this eBook by
sending a request within 30 days of receiving it to the person
you got it from. If you received this eBook on a physical
medium (such as a disk), you must return it with your request.

ABOUT PROJECT GUTENBERG-TM EBOOKS
This PROJECT GUTENBERG-tm eBook, like most PROJECT GUTENBERG-tm eBooks,
is a "public domain" work distributed by Professor Michael S. Hart
through the Project Gutenberg Association (the "Project").
Among other things, this means that no one owns a United States copyright
on or for this work, so the Project (and you!) can copy and
distribute it in the United States without permission and
without paying copyright royalties. Special rules, set forth
below, apply if you wish to copy and distribute this eBook
under the "PROJECT GUTENBERG" trademark.

Please do not use the "PROJECT GUTENBERG" trademark to market

any commercial products without permission.

To create these eBooks, the Project expends considerable

efforts to identify, transcribe and proofread public domain

works. Despite these efforts, the Project's eBooks and any

medium they may be on may contain "Defects". Among other

things, Defects may take the form of incomplete, inaccurate or

corrupt data, transcription errors, a copyright or other

intellectual property infringement, a defective or damaged

disk or other eBook medium, a computer virus, or computer

codes that damage or cannot be read by your equipment.

LIMITED WARRANTY; DISCLAIMER OF DAMAGES

But for the "Right of Replacement or Refund" described below,

[1] Michael Hart and the Foundation (and any other party you may

receive this eBook from as a PROJECT GUTENBERG-tm eBook) disclaims

all liability to you for damages, costs and expenses, including

legal fees, and [2] YOU HAVE NO REMEDIES FOR NEGLIGENCE OR

UNDER STRICT LIABILITY, OR FOR BREACH OF WARRANTY OR CONTRACT,

INCLUDING BUT NOT LIMITED TO INDIRECT, CONSEQUENTIAL, PUNITIVE

OR INCIDENTAL DAMAGES, EVEN IF YOU GIVE NOTICE OF THE

POSSIBILITY OF SUCH DAMAGES.

If you discover a Defect in this eBook within 90 days of

receiving it, you can receive a refund of the money (if any)

you paid for it by sending an explanatory note within that

time to the person you received it from. If you received it

on a physical medium, you must return it with your note, and

such person may choose to alternatively give you a replacement

copy. If you received it electronically, such person may

choose to alternatively give you a second opportunity to

receive it electronically.

THIS EBOOK IS OTHERWISE PROVIDED TO YOU "AS-IS". NO OTHER

WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, ARE MADE TO YOU AS

TO THE EBOOK OR ANY MEDIUM IT MAY BE ON, INCLUDING BUT NOT

LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A

PARTICULAR PURPOSE.

Some states do not allow disclaimers of implied warranties or

the exclusion or limitation of consequential damages, so the

above disclaimers and exclusions may not apply to you, and you

may have other legal rights.

INDEMNITY

You will indemnify and hold Michael Hart, the Foundation,

and its trustees and agents, and any volunteers associated

with the production and distribution of Project Gutenberg-tm

texts harmless, from all liability, cost and expense, including

legal fees, that arise directly or indirectly from any of the

following that you do or cause: [1] distribution of this eBook,

[2] alteration, modification, or addition to the eBook,

or [3] any Defect.

DISTRIBUTION UNDER "PROJECT GUTENBERG-tm"

You may distribute copies of this eBook electronically, or by disk, book or any other medium if you either delete this "Small Print!" and all other references to Project Gutenberg, or:

[1] Only give exact copies of it. Among other things, this requires that you do not remove, alter or modify the eBook or this "small print!" statement. You may however, if you wish, distribute this eBook in machine readable binary,