

THE STATE OF THE COUNTRY.

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A DISCOURSE,

DELIVERED IN THE

First Presbyterian Church, Philadelphia,

*June 1, 1865.*

ON THE DAY APPOINTED AS A DAY OF "HUMILIATION AND  
MOURNING" IN VIEW OF THE DEATH OF THE  
PRESIDENT OF THE UNITED STATES,

BY ALBERT BARNES.

PHILADELPHIA:

HENRY B. ASHMEAD, BOOK AND JOB PRINTER,

Nos. 1102 AND 1104 SANSON STREET.

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THIS discourse was too long to be preached, and in fact a considerable portion of it was omitted in the delivery. Yet it was intended, in its preparation, that the views presented should be closely connected, and that each part should bear on the same general subject. It is, therefore, printed.

I cannot hope, and I do not expect, that the views presented will meet with universal approval, or even general approval, but I regard them as vital to liberty; to the proper interpretation of the Constitution; and to the future peace and prosperity of the country. Some of the sentiments expressed in the Discourse, if they had been uttered during the efforts made by the Government and the country to suppress the rebellion, might, perhaps, have been construed as designed to embarrass the Government, but, whether correct or not, no such construction could be put on them now. Great and valuable lessons are to come out of this terrible conflict of arms, and the occasion on which this Discourse was delivered seemed to me to be one in which it was proper to advert to these lessons. I have exercised the right which every man has, of expressing them.

ALBERT BARNES.

PHILADELPHIA, *June 2, 1865.*

THUS SAITH THE LORD THY REDEEMER, I AM THE LORD THAT MAKETH ALL THINGS ; THAT STRETCHETH FORTH THE HEAVENS ALONE ; THAT SPREADETH ABROAD THE EARTH BY MYSELF ; THAT FRUSTRATETH THE TOKENS OF THE LIARS, AND MAKETH DIVINERS MAD ; THAT TURNETH WISE MEN BACKWARD, AND MAKETH THEIR KNOWLEDGE FOOLISH ; THAT SAITH OF CYRUS, HE IS MY SHEPHERD, AND SHALL PERFORM ALL MY PLEASURE : EVEN SAYING TO JERUSALEM, THOU SHALT BE BUILT ; AND TO THE TEMPLE, THY FOUNDATION SHALL BE LAID.—*Isaiah* xlv. 24, 25, 28.

THE only use which I shall make of this text on this occasion, is as suggesting the idea that God raises up good and great men, and employs them as instruments in delivering the oppressed from bondage, and that, in doing this, he defeats the counsels and purposes of bad men. Cyrus was raised up to deliver the Hebrew people from their long captivity in Babylon, as Moses had been long before to deliver the ancestors of the same people from slavery in Egypt. The applicability of this thought to the circumstances of our country, I trust you will perceive as we advance. If the principle is correct, the hand of God should be recognized alike in the arrangements by which such men are raised up ; in the work which they accomplish ; in their removal, however that removal may occur ; and in the lasting benefits which he has conferred, through their instrumentality, on the oppressed, on a nation, or on the world at large.

In view of profound grief such as a nation never before experienced for the loss of a Chief Magistrate ; of deep horror felt for the crime by which he has been removed—a crime, in itself, among the darkest that man

ever commits, and in this case, aggravated the more its origin, and the purposes expected to be accomplished by it, and the spirit which prompted it, are understood—we have been summoned to the services of this day. No words can add to our sense of the loss, or our horror of the crime. The nation's sense of that loss has been expressed in tears, and prayers, and costly arrangements for committing to the earth, in a proper manner, all that was mortal of the murdered man, such as the world never saw on the fall of the Ruler of a people before, and the nation's horror of the crime by all the demands which a nation could utter for the severest punishment of those directly concerned in the assassination, and of all those in high places who have been connected with it. It is not for me to attempt to deepen this impression of loss, or to give a more distinct utterance to this feeling of horror. The deed is done. The work of the President is done. His character is fixed—unmistakably fixed, and honorable; his name will go down to future times as among the most cherished of those of our own country, or of any land, whose record the “world will not willingly let die.” The great event which will be seen to have mainly characterized his administration—the deliverance from bondage of four millions of human beings, and the establishment of perfect freedom throughout the land, will place his administration among those great epochs in human affairs which are most closely connected with the progress of the race.

It will be appropriate in the observance of this day, if since nothing can be said to deepen the impression of the nation's grief; nothing added to increase the sense of the horror of the crime; and nothing in regard to the character of the murdered President which has not been

already many times said, we turn our thoughts to the state of the country at his death, to the things which have been done as the result of his administration, and to those which remain to be done that future perils may be avoided, and that our country, carrying out the purposes of our fathers, may occupy its appropriate place among the nations of the earth.

Our Constitution has not made it, as is done in monarchical countries, *treason* to “compass or imagine the death” of the chief magistrate of the nation, or of any individual in the land. In England, and in all countries under a monarchy, the act which has been performed here would have been treason.\* But it was a main purpose of the founders of our Republic to avoid alike in name, in authority, in hereditary rank, in titles of nobility, and in corruption of blood, all that has been engrafted on the idea of royalty; all that could suggest the idea of a monarchy. To have designated such a crime as that which has been committed *treason*, therefore, would have been to introduce an idea into the constitution entirely foreign to all our notions of government. Hence, under our laws, the assassination even of the President of the United States, whether the act of an individual without concert with others, or whether the result of a wide-spread conspiracy; whether an act performed by a man accustomed to mimic tragedies and scenes of blood, or whether the result of a plot laid by men that have conspired against the life of the Republic, and who have formed the plot as the consummation of the work of rebellion; whether it be the mere indulgence of private malignant feeling, or whether it be the legiti-

\* Blackstone, iv. 74, *seq.*

mate result of a barbarous system of slavery, culminating in a crime so horrid, is, in the eye of the law, simply *murder*, as it would be in respect to the lowest citizen of the Republic, and to be tried and punished in the same way. The punishment due to treason could not enter into the sentence of the individual assassin, or of those who employed him. Yet though not *treason*, but murder, in the eye of the law, it is no ordinary act of murder. It is a crime against the state; against the constitution; against the entire people of the land; against liberty. For even in a sense which does not occur under a hereditary monarchy, the honor of the nation is entrusted to the President of the United States, and he is more directly the representative of the principles of its liberties and its laws. As one of the people, not by a hereditary claim, he is placed in that high office by their own direct act; he is clothed with authority solely by their choice; he is exalted by their will to be at the head of the army and the navy; he is appointed to execute the laws of the land; he is entrusted, with his constitutional advisers, to regulate the intercourse of the nation with the other nations of the earth. Never, in any country, has so much been permanently entrusted to a public ruler by the direct will of the people as is entrusted to a President of the United States; in no other land can a prince, potentate, emperor, king, czar, sultan, shah, feel that he has been made so directly the depository of honor and power as a President of the United States. In a sense then which could not occur even in the assassination of shah, sultan, king, emperor, or czar, even though it *be* technically called "treason," there is in the murder of a President of the United States a malignity and atrocity; an offence against a

nation ; a *personal* offence against every individual of the nation, which could not occur elsewhere. Technically it is not treason ; morally, such an act is blacker than that by which Henry of Navarre fell, and is only to be compared with that in which William of Orange was consigned to the grave.

The world is always shocked at the assassination of the supreme Magistrate of a nation. So even in Russia, the government of which has been defined to be “an absolute despotism, limited by the right of assassination.” So when Henry IV, and William the Silent were murdered ; so even in the multiplied assassinations of the successors of the Antonines in the Roman empire, where in the ninety-two years that followed the reign of Commodus, himself assassinated, “thirty-two emperors, and twenty-seven pretenders to the empire alternately hurled each other from the throne”<sup>\*</sup>—when Commodus, Pertinax, Caracalla, Eliogobalus, Severus, Maximus, Balbinus, Gordian perished by assassination ; so under Oriental despotism ; so in the attempts made on the lives of the First and the Third Napoleons ; and so the attempts made on the life of the present Queen of England. In a monarchy such an act may unsettle and derange the whole government, and change the succession as it may be intenced to do ; it may lead to the horrors of civil war ; it may deluge a land in blood. In our own country, such is the felicity above other nations of our civil institutions, that such an act, bloody and horrible as it is, does not arrest the wheels of government for a moment ; lays a foundation for no hope in rebellion ; does not disturb the peaceful relations to foreign powers, and

<sup>\*</sup> Sismondi.



may be followed, as soon as the oath of office can be administered, by efficient efforts to bring to punishment the immediate murderers, and all those who have in any way been concerned in planning and promoting the crime. We were appalled by the crime; we mourned as no nation ever mourned; but the operations of the Government were not suspended for a single day, or even for an hour.

The crime of assassination, however, great as it is in itself, and aggravated as it may be by the position and office of the murdered man, may be aggravated by peculiar circumstances in regard to his character, to the work which he is engaged in performing, to the service which he has rendered or is rendering to his country, to the sacrifices which he has made, and to his near approach to triumph, and honor, and peace. In a passage in the great dramatist which will occur to every one as applicable to the event which we mourn, and which probably, in reference to that event, has been more frequently in the minds of men, or more frequently quoted than any other, these circumstances are referred to with all the beauty of poetry, and with all the tenderness of appeal of which our language is capable :

Treason has done his worst; nor steel, nor poison,  
Malice domestic, foreign levy, nothing  
Can touch him further.—He  
Hath born his faculties so meek, hath been  
So clear in his great office, that his virtues  
Will plead like angels, trumpet-tongued, against  
The deep damnation of his taking off;  
And pity, like a naked, new-born babe,  
Striding the blast, or heaven's cherubim, horsed  
Upon the sightless couriers of the air,  
Shall blow the horrid deed in every eye,  
That tears shall drown the wind.

The assassination of Washington would at any time have filled the world with horror. But suppose it had occurred just at the close of the war of the Revolution—on his way to Yorktown—and in full prospect of the capture of Cornwallis, and of the end of the conflict: after all the struggles, and trials, and sacrifices, and toils of seven years' war; after the scenes at Valley Forge, and the retreats which he had been compelled to make, and the days of darkness so long and so gloomy, and now when light was dawning, and the war was ending, and the wisdom of his plans was about to be manifested to the world, and the world was about to do him homage as among the greatest of its captains, and the purest of its patriots, and he had the prospect of reposing many years the honored of mankind in his own quiet home, suppose that then the assassin's dirk had laid him low in death. What is the assassination of a despot, a hereditary prince, a man who has nothing but a hereditary rank to entitle him to the notice of the world, as compared with such a deed!

Our late President was murdered just as the war was ending, and as the results of his plans were about to be apparent. No man ever entered on an office in such circumstances as he did; no man ever had more difficulties to contend with; no man ever had more perplexing questions to solve; no man was ever placed in circumstances when there was so little in the past to guide him; no man ever entered on an office with more decided, bitter, keen-eyed, suspicious, relentless, powerful enemies; no man, in so high a position, with so little of personal experience, or with so little in his previous history to enable a nation to determine what would be his course, whether one of wisdom or folly, success or failure. No

man ever passed four years of more anxious care, and of patient trial; of disappointments, reverses, and disasters; of uncertainty as to the result; of things that try a man's soul and all that there is in man of patience, kindness, firmness, patriotism, wisdom, justice, and mercy. The end was reached. The dark days were passed. The war was closing. The object was about to be accomplished, and honor, shall any one say inferior to that which awaited Washington when Cornwallis surrendered, awaited him, and he fell. So if Moses had fallen when he saw the promised land, after the forty years' wandering in the wilderness; if Tell, or Bruce, or Wallace had thus fallen, shall we say that the world would have been more shocked, or that succeeding ages would have regarded the crime as more atrocious, or the murdered man as worthy of a more cherished remembrance?

In comparing the public life of Mr. Lincoln with that of his predecessors in that great office, as must and will be done, we cannot now see that any one of them, even the greatest, would have accomplished the work demanded in his circumstances in a better manner. We can be in no uncertainty as to what the majority at least of those men would have attempted; of some of them we can have no doubt as to what would have been the result. Few of them, indeed, were placed in circumstances which would enable us to determine from what they *did* as to what they *would have done* in our time. But the circumstances were such that we know what Washington and Jackson would have attempted; for that which, under the blessing of God, they *did*, would lead us to entertain no doubt of what, under the same blessing of God, they would have done now. Of Washington we know what he would have done. He

who made arrangements to suppress the "Insurrection" in Pennsylvania, and to bring "Shay's Rebellion" in Massachusetts to an end, would not have hesitated to call forth all a nation's strength to suppress a much greater "insurrection," and to annihilate a much more formidable "rebellion." Of Jackson, too, we know what he would have done. Of him who issued that proclamation which the world will never forget in reference to the Acts of Nullification in South Carolina; of him who was informed by the Governor of Virginia that he would never permit the President of the United States to send an army through that State to suppress an insurrection in South Carolina, and who is reported to have said to those who conveyed the message, "Go and tell the Governor of Virginia that I shall not *send* an army but *lead* it," we cannot doubt what he would have attempted, or what he would have done in this rebellion—the development—the culmination—the climax—the appropriate ending of the doctrine of nullification, and of the life and labors of its great author John C. Calhoun. Under God, the conqueror of Cornwallis, and the hero of New Orleans, would have suppressed *this* "insurrection," and brought *this* "rebellion" to a close.

Without any disparagement, however, to the memory of those great men, it may be doubted whether either of them would have accomplished the work to be done in suppressing this great rebellion, and in restoring the Union of these States, in a better manner than has been done by him who has been so suddenly taken from the nation. He had not indeed their military ability. He had had little experience in public life. He had not been tried in any position that determined his fitness for the emergency; but he had a character of thorough

honesty and integrity. He had been formed to habits of patient industry and incorruptible virtue. He was eminently a man of good sense and far-seeing sagacity. He was distinguished for kindness, for large-heartedness, for a regard for the rights of all. He was a man who felt his way; who studied events; who adapted his measures to the course of things. He had an object; but he had no inflexible theory in regard to the measures in which the object was to be reached. That object was to preserve the government; to restore the Union; to suppress the insurrection. From that he never swerved, and every measure of the administration tended to that end. In that he was firm, immovable, unchanging. At first, it was to restore the Union, expecting that slavery would continue to exist as before; then, to restore the Union *with* slavery, if that could be done, or *without* slavery, if it should be necessary to abolish it in order to that restoration; and then, when it became apparent that the rebellion was for the support of slavery, and was sustained by slavery, that the Union should be restored, and that slavery should be abolished altogether, by the progress of the army; by a proclamation of freedom; and by a fixed and permanent amendment of the Constitution.

A man more confident in regard to the measures to be pursued—with a theory to be carried out at all hazards—would not have studied events; a man more stern, severe, harsh, unforgiving, would have irritated the enemies of the government, and produced a more bitter hostility; a man less genial, kind, affable, accessible, could not have secured the warm affection of the great mass of the nation; for a man of mere intellectual power, or military ability, or great qualities as a statesman, if distinguished

only for these things, the nation would not have wept as this nation did when he died; for of no other ruler of any nation, probably, could it have been said after four years of such a war, after summoning more than half a million of men to break up the confederacy, to put down the rebellion, and even to abolish slavery, that "the South had lost its best friend." As much as any man in this nation, perhaps as much as any man in any country, he has shown that he had talents equal to the emergency; and this is after all the best tribute that can be paid to human ability.

There was an impression quite prevalent in the nation when he died that was not justified by anything that had occurred in his life, and the justice of which history will not sanction. Men at once, as they generally do on such occasions, began to be wise, and to speculate on the designs of Providence in such an event, and became prophets in interpreting the designs of Providence in his removal. The theory of interpretation was, that he was too mild, too kind, too gentle for the emergency; that his heart was too full of clemency to meet what was demanded in the punishment of the authors of the public calamities; that in his nature mercy and justice were not blended in proper proportions; rebellion and treason, under him would have little to fear; that the great ends of justice would be defeated, and that, therefore, it was necessary that he should be removed, even by the hand of an assassin, that the interests of justice might be lodged in hands that would more sternly execute the laws. Had it required no firmness to maintain one steady course through four years of unequalled war, and when all the experiences of other wars failed to instruct the nation? Did it indicate no sense of the majesty and authority of

law that all this array of forces was called forth to re-establish law, and to maintain its authority? Did it require no firmness to remove men from high places in civil life, in the army, in the navy, and to call others to their places when they were found incompetent, or when it was seen that the public service required men that would more vigorously prosecute the war? Those who have thought that he was removed by death for want of that firmness which would have promoted the ends of justice, cannot have carefully reflected on the comparative firmness required to remove a military commander at the head of a hundred thousand men, the idol of the army, in a great emergency when the result of the conflict was at stake, and even on a march towards a fearful battle, placing another, as yet untried, in command, and that kind of firmness required to prosecute great criminals by the slow and careful processes of law, and to punish men of enormous and acknowledged crimes. When the whole history of this administration shall have been written, it will be found that the controlling element of the character of the man who was placed at the head of it, was not *mere* gentleness and compassion; was not levity and trifling; was not kindness at the expense of the public good; was not mercy regardless of justice; and that those prophets have been mistaken who have supposed that God removed him in order that the affairs of justice might pass into sterner hands.

At the commencement of the administration of the late President, a conflict of arms on a scale unparalleled in this country, and almost in the world, was inevitable. There was no way in which it could be avoided, but by abandoning the Constitution, the Union, and the idea of government itself; by admitting that the Union under the

constitution was a mere confederacy, held together by no sacred tie, and to be dissolved at the pleasure of any one of the States. No one saw what would be the magnitude of the conflict, yet no one could be ignorant that it must be on a large scale when eleven of the States should rise in arms against the rest of the Union. It was called "*war*," and was in certain senses regarded as "*war*," though the true name which should have been given to it, and the name which posterity will give to it, was "*insurrection*" and "*rebellion*." In the future records of the history of this country it will be placed beside the "Whiskey Insurrection" in Pennsylvania, and "Shay's Rebellion" in Massachusetts. It was the *magnitude* of the attempt, and not its *nature*, that exalted it into the dignity of war, as far as there can be dignity in war, and that made it necessary that it should be conducted, in some measure, in accordance with the recognized rules of warfare, as between independent nations. Yet this very recognition, at home and abroad, and all the acts consequent on it, always implied a falsehood, and was based on a false idea—an idea which the events of the last two months have shown to be false. War is a conflict between real governments; between independent powers; between governments and people that have the right to regulate their own affairs by land and by sea. The application of the term "*war*" to this insurrection and rebellion implied, so far as that term went, that there was such a government as the Southern Confederacy; that it ought to be recognized as such; that those engaged in its service ought to be treated as belligerents, and not as traitors and rebels; that its acts were entitled to honorable notice as acts between nations; and that peace was somehow to be made by negotiation with that power



considered as a government. It is much to be regretted that the necessity of the case, as was supposed, made it unavoidable to regard this as war, and not simply as insurrection and rebellion; and that the preservation of peace with foreign nations, who at once recognized the North and the South as *alike* "belligerents," demanded that the false idea should be kept before the world. Posterity will correct the indispensable and inevitable mistake.

I have always been opposed to war, as war. I have preached much against it, and have never uttered one word in favor of it, and never shall. I have held it to be barbarous; to be contrary to the spirit of Christianity; to be attended with innumerable curses to mankind; to be unjust in principle, and commonly ineffectual in securing the object in view. The "pride, pomp, and circumstance of war" has, for me, never had any attraction or excited any interest; and I have looked and hoped for the time when, as the brightest day in the world's history, on the whole earth, "wars and rumors" of wars should cease; and have believed, and still believe, that when the Gospel shall pervade the earth, war will be forever at an end. I lifted up my voice, in my place, against the Mexican war; nor did I ever see or feel, nor do I now, that that war was in any way necessary, or that it tended to promote the honor, the peace, or the permanent prosperity of the nation. I believed then, as I do now, that it was a war prompted by slavery; wholly in the interest of slavery; and designed to extend slavery. I never learned the history of its battles, nor do I now desire to have them in remembrance; and I now regard it as one of the direct and efficient causes of the late rebellion.

Yet, from the beginning, I have regarded it as my duty to defend the course of the Government in regard to this so-called war. I have felt that the very existence of the Government, the Constitution, the Union, the nation, depended on the successful issue of the struggle. I have preached often on the subject; I have prayed uniformly, in public, in the family, and in the closet, for success to attend the national arms. I have rejoiced in the successes, I have mourned, with others, over the reverses in battle. I have encouraged my own people to enlist in the service of the country; I rejoiced when more than ninety of my young men were at one time in the army or in the navy; and when any have fallen in the service of their country, killed in battle or dying in the camp, I have endeavored to comfort their friends and families by the idea that they died in a good cause, and that the result of the conflict, terrible to them as was the sacrifice, would be worth to the nation all which it would cost.

To some this course in me, as in others of my brethren in the ministry, has doubtless appeared to be inconsistent and contradictory. Yet I have never justified it *as* war, on the ordinary principles of war, or as connected with the usual objects of war. It has been simply and only as an attempt to maintain order, just authority, and law, by putting down an insurrection and rebellion. So I vindicate an effort on the part of the government of a city, a state, or a nation to quell a riot, to suppress a mob that threatens the public peace, and to do it, if necessary, by military power. When the mayor of a city, the sheriff of a county, or the executive of a State, cannot by civil process secure the execution of the laws; when men arm themselves to resist

just processes of law; when they make riotous demonstration against the public authority, it is *right* to call in the aid of military force to assist and maintain the peace. Without the recognition of this right there could be no security in a community, no certain prevalence of law. Yet the proper employment of military force begins and ends there; and when *that* one object is accomplished, the exercise of power returns at once to the civil authorities. The moment the exercise of the military power becomes *permanent*, and the moment the military commander assumes the function of the judge or the sheriff, *that* moment liberty is at an end. In such a strife, too, the parties in the conflict are *not* on an equality. They are not "belligerents." The riotous assemblage, the mob, is *not* a recognized power to be "treated" with or to make terms; nor are the captives to be regarded as prisoners of war, or to be exchanged as such; they are enemies of the government and of the law, and are to be dealt with as such.

Precisely of this nature, though on a gigantic scale, has been this rebellion and insurrection. Precisely in this relation are those who in arms have resisted the Government, and who have attempted its overthrow. Precisely in this sense, and this only, will it be referred to by posterity. Precisely in this sense, and this only, have I defended the Government in the struggle. Precisely in this sense, and this only, do I rejoice in the result. I am not insensible to the greatness of the sacrifices made and the services rendered on many battlefields. I am not insensible to the high and noble qualities evinced by those who have gone forth to these conflicts. I am not insensible to the magnitude of their sufferings, or to the horrid cruelties to which they have been sub-

jected, or to the treatment which they have received, more savage and barbarous than has ever before characterized *any* war ever waged in the world, and which has shocked all our moral feelings, and made us horrified and confounded that such things *could* have been done in what was regarded as a Christian land, and in the nineteenth century. I am deeply alive to the fact that some of the names of the men engaged in this struggle, and that have conducted, under God, the conflict to a close so glorious, will, for all that is honored in military ability and skill, stand ever onward by the side of the names of Cæsar, Alexander, Napoleon, and Wellington. But it is not in this *as war* that I rejoice. It is not for the acquisition of glory; it is not that there has *been* any "war," in the proper sense of that term; it is that an organized, unlawful resistance to the Government, has been broken up; that the most formidable insurrection has been suppressed that the world has ever known; that the sternest rebellion that has ever existed has been subdued; that the civil authorities, in accordance with all just principles of government, and as directed by the Constitution, have called to their aid the military arm to secure the proper observance of the laws, and that banners, and swords, and helmets, and shields, and all the equipments of war, may now pass from public view; that the courts may hold their sessions, and the customs be collected, and the laws of the land again extend their healthful influence over those regions lately the scenes of rebellion, and covered with blood.

Much—bad as are the passions of men which prompt to it, and barbarous as may be the manner in which it may be waged—has been accomplished in our world in carrying out the Divine purposes, by war. It would seem

that, such is human nature, there are objects to be accomplished, in the promotion of liberty, in securing the just rights of men, in emancipating from oppression and slavery, which can be secured only by the terrible conflicts of arms. So deeply rooted are existing evils; so much are they interlaced with the very structure of society; so honored and defended by custom, by law, and by power; so inveterate; so identified with what seems to be the interests of the state; so connected with wealth and rank; and so sustained, it may be, by the prevailing views of religion, that no moral means will remove them; that no appeal to the consciences, the reason, or the real interest of mankind will check them. It becomes necessary, then, to bring in the desolations of the tempest, or the storm of battle to sweep them away, and to place a nation or the race on a higher permanent level. The principle is, that when the obstructions to the progress of just views of religion and liberty cannot be removed by moral means, God employs *force*—the force of arms and armies—to carry out his great purposes. When those evils are gigantic in their nature; when they are increasing; when they are becoming more and more consolidated and confirmed; when they call to their support the professed friends of virtue and religion; when they cannot be detached from existing forms of government, or institutions of society, then the forms themselves are overthrown, and new methods of government are substituted in their place. Thus it became necessary, in the deliverance of the people of God in ancient time from oppression and slavery, that Egypt, Assyria, Babylon, and Rome should be successively overthrown; thus no small part of the principles of liberty secured to Europe in the middle ages was the result

of war; and thus not a few of the great principles of freedom which have gone into the British Constitution, and which have been perpetuated in our own, are the results of the conflicts of arms. The battles fought were, in fact, battles for liberty; the result has gone into the permanent condition of the world.

Our fathers, when they framed our Constitution, hoped and believed that slavery in our country would gradually and certainly die away. With this belief they were careful not to introduce the *word* into our Constitution, for they seemed to desire that future ages should find no evidence in that instrument that it had ever existed in the land. By implication, indeed, they unhappily made provision for its temporary recognition and protection. By peaceful means; by the progress of just moral sentiment; by the mild influence of religion; by the advance of light; by experience of the blessings of liberty, and by the belief that free labor would be found to be more conducive to the public good than the labor of a slave, they hoped that the time would not be far distant when the clank of fetters would be no more heard in the land.

Never were statesmen less sagacious and keen-sighted than they were in this. If suffered to exist at all, slavery grows everywhere, and a point had been reached in our own country which never could have been anticipated, when it was rendered certain that slavery would never cease in the land by the use of mere moral means; when it was plain that it could be removed only by war. It had been so recognized in the Constitution that it could not be detached by any power which the nation possessed; it had been made the basis of representation in the General Government; it controlled in political af-

fairs the entire country ; it had a vast area of territory in which to spread, and was extending the area ; it controlled the Government, and had secured the influence of the Supreme Court to its highest demands ; it claimed that its production controlled the manufactures and the commerce of the world ; it had originated, apparently without violation of the Constitution, the most infamous law that had ever been enacted in a Protestant land ; it built cities and towns in the North, and made merchant princes there, and sent out vessels laden with its productions across the ocean, and claimed a power to guide affairs in the kingdoms and empires of the Old World. More than all, the sentiments of the country had changed on the whole subject of slavery. The Bible was called to its defence, and, at the bidding of the great political leader of the South, the church, North and South, came to the defence of slavery as an institution of God. With one voice the church at the South, of all denominations, came to that defence, and thousands of the ministers of religion and members of the Christian church at the North echoed the sentiment, and defended it as an appointment of God.

There was no hope. There was no moral power to remove the evil. There was nothing, since the *better* feelings of men had failed as a source of reliance, but the *bad* passions of war that could be employed to remove the curse, and to make the land free. Hence this insurrection, this rebellion, this "war." It was fit that the defenders of slavery should themselves, in their madness, destroy the institution ; it was fit that the results of the unrequited labor of two hundred and fifty years should be made to pay for the wrongs that had been done ; it was fit that, where so much blood had been

shed by stripes inflicted on the African, blood should flow freely from the masters as a retaliation for that blood; and it was fit that the North which had been enriched by the avails of that unrequited labor, and had done so much to sustain the institution by its complicity with it, and had furnished defenders of it in the schools of learning, in the seminaries of religion, in the pulpit, at the bar, in their own legislative halls, through their representatives in Congress, on the benches of justice, and even in the seat of the Chief Magistracy of the nation, should share also the burdens and the sorrows of the war of emancipation. It is done. The object is accomplished, and the power of slavery is dead.

At this eventful period of our national history; after such a conflict as we have passed through; after such a trial of the patriotism and the resources of the nation; after such a test applied to the Constitution and the Government with reference to its ability to sustain itself; after such efforts made to overthrow the Government—efforts unparalleled in the history of nations; after the indifference of foreign nations to our struggle, their want of sympathy with us, the scarcely suppressed hope that our Government would be overthrown, and that the experiment of Republican government would prove to be a failure; after their prophesyings that the Southern Confederacy would be triumphant, their joy at its successes, and their sorrow at its reverses; now in the prospect of returning peace, union, and order, it is a proper time to inquire what has been the effect of this conflict in our own country; whether the Constitution has borne well the *strain* upon it; and whether the measures adopted in the prosecution of the conflict have been in accord with the spirit of the Constitution; whether



any securities have been reached against such a conflict in the future; whether the events which have occurred have made any changes in the Constitution necessary to adapt it to the altered state of affairs, or whether the measures which have been adopted have made necessary any new guarantees in securing in future emergencies the objects contemplated by the framers of the Constitution.

Every nation has its own *idea*—its own object to accomplish: an object aimed at whether the Constitution be written or unwritten. Babylon, Egypt, Macedonia, Rome, Russia, France, Spain, Austria, Holland, England, has, or has had, such an idea. There is that which characterizes the nation; which gives it individuality; which assigns it a place in history—an origin, a growth, a development, a character which enables the historian to give it its proper place, as the character of an individual man gives him a place in the world, and distinguishes him from all other men.

The *idea* in our history has been *as* peculiar and marked as in any other nation; an idea contemplated in the formation of the Constitution, and pursued, without variableness, in all the terrible fierceness with which this conflict has been waged.

The great objects which our fathers sought in the war of Independence and in framing the Constitution, were undoubtedly, *nationality*, in the proper sense of that term; *union of States*, not nominal, but real; a *government*, not an advisory power; *freedom* for themselves, and ultimately for all the dwellers in the land.

These also are the things on which the issues in this conflict with the insurrection and rebellion have turned; these are the purposes which the nation, in this war, committed itself to accomplish.

(a) *Nationality*—a place as a nation among the nations of the earth; nationality in the strict and proper sense: one government, one system of laws, one congress, one supreme court, one constitution, one people.

(b) *Union*—in the strict and proper sense; not union as a confederacy, for that the nation had tried before the formation of the Constitution; but union under one government, and where there would be no admitted right to nullify the acts of the nation, or to secede and form a separate organization.

(c) *A government*—strictly so called—where the acts of the body appointed to make the laws should be recognized *as law*, and not received as *advice*; where they should be binding on *individuals*, and not submitted to independent *states* as suggestions.

(d) *Freedom*. This was always the purpose of our fathers; this has been made now definitely the purpose of the nation. It is not merely that the nation shall be free as in respect to foreign powers, but that all the inhabitants of the land shall be free—that the last remnant of bondage, save for crime, shall cease; that the last shackle that binds the limbs of men shall be broken. In the most unmistakable manner this has been declared to be the purpose of the nation; this has become the distinct ultimate end now contemplated in the restoration of the Union.

In looking now at our country, as this conflict comes to a close, with reference to the question whether the great objects sought by our fathers in the Constitution are to be accomplished; as we look upon the desolations made by war, the wasted fields, the ruined towns, the slaughtered men, the sorrowful homes, the interruptions of intercourse, the anarchy that *seems* to reign over so

large a part of our land, it is natural to ask, first, what things there are connected with national happiness and prosperity that have *not* been affected by the war; that remain fixed and unchanged amidst these desolations of battle.

All is not changed, all is not ruined. These hills, valleys, streams, rivers, lakes; these vast prairies; these forests of wide extent; these beds of coal, and fountains of oil, and streams of healing waters; these rocks where there is gold, and these veins of silver; these inexhaustible treasures of iron, and copper, and lead, will remain. The storm of war rolls over them, and does not disturb them. Desolation marks the movement of an army to and fro; houses are burned, and harvests are consumed, and roads are torn up, and fields are laid waste, and families are driven from their homes, and it is sad, and we weep, but nature is the same. Other houses will be built, other roads will be laid down, the fields will wait for the sower and the reaper, to yield again their luxuriant harvests. All over the land, too, by war, there are new-made graves, and cemeteries for those whom the nation will delight to honor; but a new generation will spring up, and in the very fields, and along the rivers and valleys where the war raged, the plough, and the water-wheel, and the hammer, and the shuttle, will be plied again as busily as ever. The plain of Esdrælon, the fields of Marathon, Waterloo, Pharsalia, are what they were before the thunder of war was heard there, and when all the myriads that struggled there have long since passed away.

But this is not precisely the thought on which I wish now to fix your attention. Amidst all the changes and desolations of war, how many things connected with our

civil and social institutions; with the administration of justice; with the protection of our rights; with our schemes of education; with our domestic enjoyments; with the arts, with manufactures, with living, with charity, are still preserved; how few are in any way affected our civil rights. Are they not protected? Are our courts closed? Have the judges ceased to defend the cause of the widow and the fatherless? Are our rights of property disturbed? Are our title-deeds destroyed? Are the ancient land-marks removed? Has a man ceased to know the limits of his own farm, or to be able to recognize his own quiet home? Do not men pursue their callings in life, safe in character, safe in person, safe in limb, safe in the enjoyment of the avails of their labor? Who among us is there that feels that, if he is wronged, the laws of the land will no longer furnish him protection? Who alleges that the fountains of justice have been poisoned, and that the "ermine" has been polluted? Our schools and colleges, are they closed? Harvard, Yale, Nassau Hall, do they not yet stand, as their founders desired that they should stand, richer in endowments than ever? Our common schools, are they closed, so that the children of the land are no more to be educated? Our manufactories, are they suspended? Has the sound of the spindle and the hammer ceased in the land? Does the foreigner when he travels through the States move among ruins? Nay, in the very places where such things never existed before, institutions of industry have sprung up as if by magic, and in the *South* where they were unknown before, the war itself has summoned them into being, and taught a great people there that they *can* do what it was supposed could be done only in the North. Our benevolent

institutions, have they been broken up? Our charities, have they ceased to flow? Our asylums for the blind, the deaf, the insane, are they abandoned? Our benefactions, are the fountains dried up? Where has one such institution been closed by this war? In all the world besides, where have there been such charities as those of the Sanitary and Christian Commissions, peculiar to our land, peculiar to this war. Our cities, villages, towns, are they depopulated? When have they ever grown with such rapidity in size and in wealth? Our country is not ruined. Boston, New York, Philadelphia, Baltimore, Chicago, St. Louis, remain now that the war is over; and the issues of the war, the removal of slavery, the change in the habits of the people, will yet make New Orleans, Mobile, Savannah, Augusta, Charleston—yes *Charleston*—what they never have been, and what they never would have been under that curse which has rested hitherto on all that Southern land.

Nature, or the God of nature, more in this than any other country, made us to be one. It is true that the existence of distinct and separate nations is not always determined by the nature of a country; by its climate, its productions, its mountains, its rivers. The Alps, the Pyrenees, and the Apennines; the Rhine, the Nile, the Danube, the Euphrates; the intervention of barren wastes, lakes, seas, oceans—may, in many instances, determine the actual boundaries of nations; but those boundaries may be crossed by the same nation. A nation in its conquests may pass over high mountains; the great river may not only flow along continuous kingdoms, but through the same nation; an empire may extend across great lakes, and beyond the boundaries of oceans; tribes of people separated by the limits which

nature fixed, may, by conquest, be blended into one. But still there *are* indications or boundaries thus fixed by nature which would seem to be a proper limit of an empire. Where there are no natural limits of defence for hundreds or thousands of miles of what must be conterminous territory; where there would be a prospect of continual border wars; where great mountains extend through a country; where great rivers flow to the sea through thousands of miles, constituting the natural outlet of the productions of the soil; where the ports and harbors on the ocean are equally necessary to a vast and fertile interior; where the productions of different parts of a country are demanded by all, and the interchange between the two will promote the prosperity of all; where it is desirable that the same regulations of commerce and revenue should be applied to all; where it is important for manufacturers that the same laws should be extended over all; or where for the protection of commerce, or for the common defence against other nations, it is desirable that there should be union, then nature, or the God of nature, most manifestly designed that the people of such a country should be one. In no nation has there been so marked a designation of this kind as in our own. We cannot say that different nations, kingdoms, empires, republics, might not exist in what constitutes the territory of the United States; but we can say that, as between the North and the South, there is no natural boundary, and, as there are no indications where such a boundary should be fixed, any arbitrary boundary would leave thousands of miles on either side to be guarded and defended; that the great river which flows through the West, and makes its way to the ocean along the borders of great States, is the natural outlet of

all that region, and that its free navigation is essential to the whole; that the natural productions of the North and the South are so related to each other as to make them essential to the common prosperity, and to make it desirable that they should be under the same regulations of commerce; and that in relation to foreign powers, alike on our own continent and abroad, it is eminently desirable that the nation should be one. It is certain that our great prosperity began when these natural indications of what we *ought* to be were recognized in the National Union, and not under the old "Confederation."

In like manner, in origin, in language, in literature, in civilization, in religion, we are made to be one. The mode of settlement of the country; the time when the various settlements were made; the principles which the early inhabitants brought with them; the institutions which they established were the best that they could be on the supposition that the nation was destined to be one. They were not, in the main, portions of different nations that were thrown upon these shores; they were in the ruling and controlling elements essentially one people, and the original adaptation and tendency found its proper consummation only when the Constitution was adopted, making us in form one nation. Slowly and cautiously, indeed, but certainly, what had been the colonies *crystallized* around the Constitution as a centre, forming not a constrained but a natural union.

Our national prosperity has received its form and measure under the one central government—the Union. From the time of the adoption of the Constitution, as compared with the progress before, the development has had almost the appearance of magic, a growth nowhere paralleled among the nations. Then we took our place

among the nations of the earth. Then began, on an equality, our commercial intercourse with other nations. Then a navy sprang up. Then uniform laws of revenue enabled us to sustain the operations of a Government that commanded the respect of the world. Then roads were made, and streams were navigated; then the wilderness became the abode of men; then cities and towns arose everywhere; then new territories rapidly converted into states were added to the Union; then resources such as the world had never dreamed of were added to our wealth and power. Rapidly our free institutions spread from one ocean to the other, all indicating that nature designed that this vast land should be one.

Our history is one. The struggles for independence were the struggles of one people, not of many. The same rights had been invaded, and liberty had been threatened in the same manner, and the invasion of the rights of one colony was an invasion of the rights of all. It was practically no disadvantage, but might have been by a rival regarded as an advantage to the people of South Carolina that the port of Boston was closed, but the people of South Carolina did not so regard it. It was an attack on the common liberties of the people, and the heart of the entire South was moved in sympathy with the people of the North. In the armies then; in the deliberations in the National Congress, there was no distinction between the North and the South. The movement for independence was the movement of one people; the victory at Yorktown was not a matter of sectional, but national joy. Side by side men from the South and the North fought and fell in battle; their blood flowed together; they sleep in a common grave.

Now, can these things always be forgotten? No.



The things which prompt to union exist still, and these things will not always be allowed to be obliterated. When passion subsides, and reason resumes her sway, they will be recalled fresh to the memory. They are operating now. On the North they have been operating with full power, and with the energy and self-sacrifice which has sent tens of thousands to the field, and which has prompted to this immense sacrifice of treasure and of blood. It was not from any spirit of enmity to the South that this war was waged. It was with no desire for their extermination. It was with no wish to murder their citizens, to burn their cities, to destroy their roads, to lay waste their plantations. It was, as declared in all modes of uttering it, and with the most solemn emphasis, *only* because the North regarded the Union as of inestimable worth to the whole nation, North and South alike; because it was believed that we are capable of a greatness which cannot be secured without the Union; because there was a deep conviction that unspeakable evils would result from a separation, and that God and nature designed, for our common good, that we should be one. It was not because the North wished to conquer the South, to exterminate them, to break up their constitutional governments, but because they regarded a union with them as so valuable and desirable that to secure it they would not listen to *any* terms of separation, whether proposed peaceably, or at the cannon's mouth. And this has been, save among a few, the expressed purpose of *all* parties, whatever their form or name, at the North. By persuasion; by yielding to the South all the power; by allowing the South to control the Government for more than the period of two-thirds of our history; by compromise,—often, often, to the ex-

tent of the sacrifice of principle, of humanity, and of justice,—and now by terrible war, the North has sought, and now seeks, to retain the South *in* the Union.

And are we to suppose that all this is confined to the North? Are we to believe that the people of the South are, or will always be, unmindful of our early history; forgetful of the common sacrifices of the Revolution, and blind to the benefits flowing from the Union in its own history and ours? Are we to believe that among the masses in the South there is no remaining love for our common country; no grateful remembrance of the common sacrifices once made; no recollection of our common origin, language, and religion; no respect for the wisdom and patriotism of her own great men—Washington, Madison, Carroll, Rutledge, Pinckney—in forming the Constitution?

Again: as one of the results of this fearful rebellion, it is now to be hoped that there will be such a permanent conviction on the mind of the nation at large of the crime of an attempted “secession,” and of the impossibility of accomplishing it by arms, as to deter from such attempts forever hereafter. It *may* have been an object worth much of the treasure and blood expended in this war, so to determine this that the peace of the Union shall never be again disturbed by such a cause.

Since the union of the houses of York and Lancaster, the British nation has trembled at the idea of such a war as was waged then; since the civil wars in the time of Cromwell, the nation has borne everything, the crown has yielded everything, rather than appeal again to the sword; and, so terrible were the scenes of the French Revolution, that even *that* nation trembles and pauses if ever on the verge of such scenes again.

We cannot now determine—it may be beyond the power of man ever to determine—what either the North or the South would have done if, at the outset, they had known what a war this was to be. I believe the government in suppressing the insurrection did only what it was compelled to do; what, by the constitution, and by every just view of order, law, and right, it was required to do; but I am certain, as all men are, that neither the North nor the South anticipated what has actually occurred; that neither of them understood the other; that neither did justice to the other in reference to resources, to power, to sternness of purpose; that as the South did not understand the North in respect to its love of the Union and the constitution, and, I may say, in respect to its patriotism, so neither did the North understand the South in respect to its military ability, its resources, its determined purpose of independence, and its relation to its slaves. Who, four years ago, North or South, could have anticipated what has been exhibited in these eventful years? Who among foreign nations believed that the people of this country could be so soon transformed into a military nation,—rivaling in the vastness of its armies, and in its military skill, the old nations long trained for war? Who believed that the war would thus continue to rage, when in high places at the North it was boldly and confidently said that the struggle would be over in “six months;” and when at the South the question was significantly asked of the North, “*Will they fight?*”

After this, the nation will pause in view of what has been, and what may be again. Separation will not be attempted again in view of such a struggle; and, the Union once restored, we may be assured that the ques-

tion of disunion will not be submitted again to the terrible ordeal of battle.

Now that the war is over, there must, there will be, alike at the North and the South, increased confidence in the Union, and a deepened conviction of its value. Not only has our history shown the value of that Union in our former unparalleled prosperity and growth, but now that the folly, the wickedness and the impracticability of a separate confederacy is demonstrated; now that the weakness of the principle on which that confederacy was formed are manifest, we may suppose that the patriotic sentiments of our fathers on the subject will arise with all the augmented power derived from these sad scenes to show the value of the Union, and to make it more sacred in the eyes of the nation. The evils springing from the separate and independent power of the States in the time of the Revolution, and the subsequent evils under the old Confederation, turned the hearts of all the people of the land to the necessity of "a more perfect Union."\* Without an army, without a navy, without revenues, without the power of imposing a tax of any kind; with no general navigation laws; with no power to control the commerce between the States, or the commerce with foreign nations; with no supreme tribunal to which questions between States, or the individuals of different States could be referred, all the evils of general anarchy and bankruptcy were coming upon the land, and all the dearly sought benefits of independence were certain to be lost. Nothing has ever equalled the anxiety of Washington, and Hamilton, and Madison in that state of things for the formation of a better govern-

\* Preamble to the Constitution.

ment; nothing has ever surpassed the earnestness with which they pressed upon the States the necessity of such a Union—OF A GOVERNMENT. It was done. The nation rejoiced and triumphed.

With greatly augmented force will the nation see the necessity, and appreciate the worth of that Union, when it is restored. The crimes and horrors of this war; the sad spectacle which we have presented to the world, and the prospect of greater evils unless the Union shall be restored, have intensified every argument used by Hamilton to secure a more perfect Union, and will have taught the nation to admire, as it has never admired before, the wisdom of the men that formed the constitution, and the greatness of the principles which it embodies.

But again. Beyond all other things accomplished by the rebellion, the removal of slavery by the war must have an important bearing on the future in our country. The perpetuity and extension of that system was the sole cause of the rebellion; the removal of that curse from the entire land, not at first contemplated, became in the course of events, the distinct purpose of the nation; and though it will not wipe away the tears from the cheeks of wives and mothers and sisters, and will not restore the limbs of those who have been wounded in battle, and will not recall from their graves the brave men that have fallen, or that have been murdered in cold blood, or that have been tortured by cold and starvation to death; yet it will do much to dry up the tears of those that weep, and to comfort the friends of those that have fallen, to remember that, under an overruling Providence, these sorrows and this blood will have been the means of restoring millions of the enslaved to freedom, and of staying forever the crimes and curses of oppression in the land.

*Whatever* is done to remove slavery from a nation, is a blessing. It may not be done in the best way; it may not be done precisely by the forms of law; it may be done only by a military necessity; it may be that freedom merely follows the flag; but whenever and wherever done, the nation, when it *is* done, has cause for pæans of thanksgiving. The States of New England, New York, New Jersey, and Pennsylvania are all the richer and the better because slavery was abolished in them; Ohio, Illinois, Indiana, Iowa are richer and better States because slavery was prohibited from all the North-West Territory; Kansas is a richer and a better State because slavery was not forced upon it; Missouri and Kentucky will be among the richest gardens of the world when they shall be free; and Maryland, West Virginia, and Tennessee now take their place in a career of prosperity by the side of Pennsylvania, Ohio, and Illinois. So the happiest day in reserve by favoring Heaven for old Virginia, for Georgia, and for South Carolina—aye, *South Carolina*—is the day when the last shackle of the slave shall have been broken, and freedom shall spread its inestimable blessings over all those fertile lands.

The war has tended all along to this. Freedom is to be the result: freedom as far as the flag of the nation has been carried; freedom, as the voluntary act of the States on their return to the Union; freedom, as that which is to be incorporated unchangeably into the Constitution. From these points the nation does not go backward; and as certain as it is that from these points the nation does *not* go backward, so certain is it that its career henceforward is to be bright and glorious as it has never been.

A more material point than any which has been con-

sidered in this Discourse remains ; a point in respect to which all the wisdom and the patriotism of the nation will be put in requisition, and which presents difficulties, in some respects, greater than any which have been involved in the war. It relates to what has been called "reconstruction;" to the question what changes in the Constitution, if any, have been shown to be necessary by the altered condition of things made by the war; what new guarantees are needed, if any, for the rights sought to be secured in the Constitution, and which may have at any time been placed in jeopardy by the measures adopted in the suppression of the rebellion.

The first thought here is, that the rebellion has shown that there were defects in the Constitution which should be removed, to prevent a recurrence of the same evils.

In all human governments readjustments become necessary. There is but one government that is adapted to all times, all places, all circumstances; one administration that is so comprehensive that it can embrace all conditions of things—so wise in its original arrangements as to be adapted, without change, to every possible contingency; so completely balanced that there shall be neither too little power nor too great; so just that it can embrace vast general interests and secure at the same time the safety of the humblest individual; so powerful that it can meet unharmed the shocks of war, and restrain the purposes of the rebellious, and at the same time be adapted to the world in times of peace; so vast that it can embrace any number or extent of new territories, and not leave the central power shaken and weakened. That is the government of God. All other governments need new adjustments, and the idea of such a necessity enters into every written constitution, or, if not

found in a *written* constitution, it is found in the slumbering power which, by revolution or convulsion, works out such changes.

Time makes changes necessary. Circumstances occur which could not have been anticipated at the formation of a government; new powers are necessary to be conferred on the government for its preservation, or powers originally conferred it is necessary to limit or modify for the safety of the people. An enlargement of territory by purchase or by conquest; new resources developed in the wealth of a nation; new relations to other people; an extension of commerce; a change in the productive industry of a country; the growth of arts and manufactures; the weakness manifested in times of insurrection or civil war, or the assumption at such times of power not contemplated in the constitution, and against which no effectual checks had been interposed, these and similar things make changes necessary, in the progress of events, in the form of the government or in the methods of administering it. The constitution of the free states of Greece, and the constitution of Rome, were thus repeatedly modified, as the principles of government came to be better understood, and as new securities were necessary to the preservation of liberty, and new changes to meet the advanced condition of the world.

The English Constitution, though unwritten, has been repeatedly modified, and is what it is now as the result of successive changes, made mostly by violence, to adapt it to the progress of liberty, and the more just views of the true notions of government and the rights of man. There was, indeed, from the very fact that the constitution was unwritten, no express arrangement for amendment or change in the Constitution, but there was an



arrangement for change in the hearts and principles of the English people, and when they have supposed that the interests of the nation demanded a change, a practical "amendment" has been incorporated into the Constitution. At Runnymede; by the Petition of Rights; by the concessions demanded of Charles I; by the civil wars; by the revolution in 1688; by the successive acts of the nation reducing the power claimed by the Tudors and the Stuarts; by the rise of the middle class in England; by the position slowly gained by the Commons, the English Constitution is now what it is. These changes have been produced mainly as the result of bloody wars; none of them in the peaceful manner in which changes are provided for in our Constitution.

It is one of the felicities of our government that such changes, to any extent that the public interest may demand are provided for; that the framers of the Constitution, dreading the changes which might be made by violence, as in other countries, and foreseeing that new exigencies might arise which would demand a reconstruction of what they had done, incorporated into the Constitution the most ample provision for any such modifications. With the exceptions only that "no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; (the clauses respecting the importation and the taxation of slaves,) and that no State, without its consent, shall be deprived of its equal suffrage in the Senate," any changes may be made; the Constitution may be adapted to any new exigency of affairs; the power of the people to amend the Constitution is unlimited. Thus, without war, without revolu-

tion, without peril, the Constitution may adapt itself to any condition to which the nation may rise, and, in like manner, the people may remove all the evils, if any, which shall have been found at any time to have been incorporated into the Constitution. To any new circumstances; to any enlargement of the national domain; to any new questions which may arise; to any new relations of the general government to foreign governments, or to the States of the Union; to any new demands of commerce and of revenue; to any needed arrangements in the executive, the legislative, or the judiciary departments, the Constitution may be adjusted without bloody conflict;—safe from the agitations and convulsions which have shaken or overthrown other governments in endeavoring to adapt themselves to the advancing condition of the world.

Apart from the war, and independently of the war, the progress of things in our country has been such as to suggest the necessity of some changes modifying the Constitution, to adapt it to the prevailing public sentiment, and to save us from perils which might occur under the Constitution even in a time of peace. But it is the war mainly which has brought these things permanently before the nation, and which has demonstrated that there cannot be permanent peace, and perfect safety in regard to our liberties, *without* such changes as will save us from those perils in time to come, and as will remove from the Constitution those things under which the elements of this fearful rebellion have been fostered and matured. The nation is to have a future history, bright and glorious, it is to be hoped, beyond anything that has yet occurred; but the character of that future will be determined by the arrangements which are to be made on the return of peace.

It cannot be supposed that anything that can be said here will materially influence the public mind, or be worthy of public attention, yet every one is at liberty to give expression to his own sentiments on such a subject, and no one who loves his country should suppress his convictions of what is demanded at such a time as that which is now to occur on the establishment of peace.

I have felt myself bound, in common with thousands of others, to sustain the government in its efforts to suppress the rebellion with whatever ability or influence I possessed. At all times during the war have I uttered my earnest convictions on this subject, nor have I been slow to exhort those who could do it to go to the defence of their country. But things have occurred in the progress of the war which could not but make the friend of constitutional liberty pause and ask the question whether for such times as these there are sufficient guaranties for liberty in the constitution; and whether, if such things were repeated, or should become permanent, our liberties could be preserved. To some of those things existing in the Constitution which have been the occasion of this rebellion; to some of those things which have occurred in matters not sufficiently defined and settled in the Constitution, which may in the future be fatal to liberty; and to some of those where there are rights intended to be secured by the Constitution which may not be sufficiently defined, it may be proper now to ask your attention.

1. A more accurate definition of the power of the General Government. Any danger on that subject may seem to be imaginary; perhaps it would be beyond the wisdom of man to introduce any safe-guards on that subject which are not already found in the Constitution.

But no one can fail to see the danger which *may* exist under a Government formed as ours is ; nor can any one fail to see that that danger may be augmented by the very circumstances of the nation, and by such a war as ours has been. No one is ignorant of the perils which the framers of the Constitution apprehended on the subject, or of the apprehension of the States in regard to the central power, or of the checks and balances which the framers of the Constitution sought to introduce into the instrument itself, to guard against that danger. All readers of history know how great is the danger of the centralization of power ; all who are familiar with the history of the formation of our Constitution, know the jealousy with which the people looked on the powers conferred on the General Government, and the care which was evinced to guard against the abuse of those powers. So sensitive were the people of the States ; so jealous were they of this power ; so apprehensive that the principles of an absolute government, with all the essential features of a monarchy—the British form of government except the name—would be adopted, that it required all the power of argument, eloquence, and appeal, of Hamilton, of Madison, and of Jay in the “Federalist,” to calm down their apprehensions ; to explain the limits of the power of the executive, and to persuade the States to adopt the Constitution. So jealous were they still *when* the Constitution was adopted ; so fearful of an assumption of power on the part of the General Government, that an amendment of the Constitution was early adopted, expressing the deep apprehension of the nation. “The powers not delegated to the United States,” it is said in that amendment, “nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

Was it an imaginary fear that, in conferring such power on a central government, there might be danger that it would draw all power to itself? Are there no tendencies now which show that those fears were well-founded? Has the war done nothing to show the power of an actual tendency on the part of the General Government to draw all power to itself, and the necessity of new guarantees on the subject, if such guarantees can be obtained?

The main difference between the old Confederation and the Government under the present Constitution is, that that Confederation had power only to ADVISE *free and independent States*; the Federal Government has power to CONTROL *individuals*. It does what the old confederation government could not do; it acts directly on the individual. It does this independently of State governments, and, so far as its jurisdiction goes, independently of State lines and State laws. It has the control of the armies of the nation, and these armies may be augmented to any extent. It has the control of the navy, and the navy may be increased without limit. It has a power of taxation, and that power may be exerted to any degree necessary to support the army or navy. A State has neither army nor navy; nor can a State interfere with the direction of the army or the navy of the General Government. The old State lines and State rights have indeed not been directly invaded; and in a large portion of the Republic they are held sacred, and are deemed of inestimable importance. But is the respect for State lines, and the security of institutions protected by the States, likely to be the same in all the States of the Union? The boundaries of territory, and the value of rights as secured by State charters and con-

stitutions, have indeed a historic interest, and are of inestimable value, as between the States of Massachusetts, New Hampshire, Vermont, New York, Connecticut, Maryland, Virginia, South Carolina, and other States, but what historic interest attaches to the State boundaries between Minnesota and Dacotah; between Nebraska and Montana; between Montana and Nevada; between Nevada and Utah, Oregon, Colorado, California? What rights have been secured in these States by old charters; what interests attach to them as States in their early history? Is it not conceivable that the question may be asked, What is the value of these State lines, and these State constitutions; and, in the gradual extension of the central power of the Government, is there enough in these State arrangements to resist an assumption of such power? With such a power as the General Government *may* wield; with such an army as it *may* call into the field; with such a navy as it *may* create; with such taxation, and such control of the revenue and of commerce as it *may* exert; with its power to act on individuals in any part of the Union; with its power to control an election, and to prescribe the qualifications of voters; with its power of prescribing oaths, and demanding tests as qualifications for voting, is it to be assumed that the interests of the States may never be imperilled, and that the entire power over the nation may not yet be absorbed under one central government? Never before has the power of the General Government been manifested as it has been in this war. Never before has a navy like the present been created; never before have such armies been placed under the direction of a single man; never before have such hundreds of millions of dollars been placed at the disposal of the Government; never before

has it been supposed that the Government possessed such power to reach, arrest, and imprison individuals, of all ranks, and in all parts of the Republic, beyond the common forms and securities of law; never before has it had the power to prescribe oaths and tests as qualifications for the elective franchise; never before has it had the power to make itself felt in one moment of time in all parts of the Republic. That there has been no permanent abuse of this power has been owing to the character of those who, in these perilous times, have been called to administer the government of the nation, and pre-eminently to the character of him whose death we mourn; but who can tell what might occur under men less firm in principle, and under the control of more ambitious views?

The Constitution of the United States has now been an object of profound study for nearly eighty years. Not only were the great minds of Hamilton, and Madison, and Jay employed in illustrating it in the "Federalist," but the great powers of Marshall on the bench, and Webster in the Senate, have been employed in ascertaining its meaning; in expounding its principles; in considering its applicability to the new questions which have come up, and its provisions to meet the conditions of a country increasing in wealth and resources, in extent of territory, and in the number of the States, as no new nation has ever done. Greater minds than these we cannot hope will ever grapple with the questions which have occurred in determining the principles of the Constitution; and if the result of those profound studies could somehow be embodied in the instrument itself, or if the nation would receive them and act on them as settled principles, the nation is safe so far as the power

of the General Government is concerned. Have not the perils which have occurred, in connection with this war, been such as to make it desirable to embody the results of these investigations in some form that shall guide the people of the land in all time to come; that shall forever be a check against such a concentration of power as shall destroy the very idea of a Union of States; that shall show that the apprehensions which were cherished when the adoption of the Constitution was proposed, and which were sought to be removed by the "Federalist," have ceased forever?

2. A more accurate definition of the relation of the States to the General Government.

One of the most difficult things in the Convention that formed the Constitution was to adjust the fact of existing *States*—separate and independent governments—to the General Government. As all know, the origin of the present rebellion is to be traced to the idea that the States are still separate and independent governments, and the suppression of the rebellion by arms will not prevent the same difficulty occurring in the future, unless the result of the conflict shall be a fixed and final understanding in regard to that relation. Knowing now, after an experience of eighty years, and from the questions involved in the war, what the real difficulty is; having seen carried out in a fearful strife what was feared by those who framed the Constitution; and understanding now better than could have been done then what would be the points on which the States would be likely to come in collision with the General Government, it may be possible now so to readjust those relations as to prevent a collision forever hereafter. To do this, if it can be done, will require all the wisdom of the nation; wis-



dom *not less* than that which was demanded in the original attempt to adjust those relations in the formation of the Constitution. Such a question as that had never before been presented to a convention of men assembled to draft a constitution. It had not occurred in our own country in the assembling of the Congress of the Revolution to provide for the common defence, or in the Convention for framing Articles of the Confederation, for the question was not then agitated in reference to such a union of the Colonies or States as would constitute *a government*. It did not occur in the formation of the Achean League, or in the Amphictyonic Council, in Greece; it did not occur in the government of Rome, when Rome was a republic or an empire; it has never occurred in negotiations for national alliances between sovereigns; it was never agitated in the country in which we had our origin, and under the form of government from which most of our ideas of government were derived—for England is essentially a monarchy; it did not occur in the States which constituted the “empire” in Germany. In our country the idea was as new as it was great. It was, moreover, an idea too difficult to be grasped by the men of one generation, however wise they might be, or to be worked out in one generation. It is *the* great idea which now, as new and mighty States are added to the Union, presents new difficulties, and, if ever to be permanently adjusted, it is to be adjusted now.

They *are* States, properly, and in every sense of the term, sovereign, free, and independent, except that, *as States*, they have consented to surrender the powers necessary to constitute a general government. The power thus surrendered by the States, or by the

people (Constitution, Preamble, Amendment, Art. X), is the exact measure of the power of the General Government. The history of our country has not been a history of a nation as such, or of a central government, like the government of England, always one, but a history of separate Colonies, and then of separate States; of the struggle of Colonies and then of States; of Colonies which derived their charters and their rights at different times, and on different conditions from the crown, of communities managing their own affairs, endowing their own institutions of learning and religion, making laws to regulate their own domestic institutions, granting titles to property. The Colonies constituting the original States of the Union were, in most of these respects, quite independent of the Crown, and wholly independent of each other. In very few of the laws and institutions of our country can the hand of the parent country be traced, even as advising or counselling a certain course; in no one of the original States was there an arrangement made at the suggestion of any other State, or modified by it. The great principle is to be maintained that the Union is a Union of "*States*," and that these facts in our early history are to extend ever onward in making our nation what it is to be.

Those States *have* rights; rights which they have never surrendered; rights which are secured to them by the Constitution; rights which are not to be denied them; rights of which they are not to be deprived by the mere exercise of power. It is not an assumption when they claim that those rights shall be respected; it is not a matter of little or no importance whether they are respected or not. The entire framework of the Government proceeds on the supposition that they *have* rights;

and great and valuable as are those powers which are deposited in the hands of the General Government, and essential as they are to the very idea of government, yet it may be affirmed that the rights of the States which have not been surrendered, but which have been reserved, are not *less* valuable or important. As we can form no correct conception of the Government of our country without a right understanding of the powers conferred on the National Government, in the Executive, Legislative, and the Judicial departments, so we can form no correct conception of the nature of our Government without a correct idea of the powers and rights belonging to the States. As our Government is not a mere confederation of independent States bound by treaty, and at liberty to dissolve the connection, so is it neither a great central power having no relation to the States, and at liberty to pursue its great purposes regardless of the States. The complex machine, recognizing both, where the one is as vital and essential as the other, constitutes the idea of the Government of the United States under the Constitution.

That these should come in collision is a matter which could be guarded against entirely by no human wisdom. So many, so important, and so *new* often are the questions involved and the interests at stake; so many points are there which could not be defined in the Constitution; so vague and indistinct from the necessity of the case, is the boundary which divides the one from the other; so different are the judgments of men on questions so difficult and so little defined, that it needs but a slight knowledge of history or of human nature to see that they must come into collision. Our fathers saw the danger. They feared it. They did all, perhaps, that men could

do to avert it. They defined as they could the lines of power, and the points of jurisdiction; and then, with a wisdom almost above that of man, they instituted that great tribunal—the Supreme Court, to meet these varied questions, and to apply the principles of the Constitution to new questions as they should arise. We gloried in the arrangement. We gloried in the happy results, until all the framers of the Constitution had passed off the stage. Collision was suppressed. Local questions involving vast rights were decided, and a power went forth from that august tribunal which settled those questions; which calmed down the passions of men; which repressed all thoughts of armed resistance. Great states like New York, in the monopoly granted by that State to vessels navigated by steam, saw their own laws set aside by an opinion from the lips of Marshall, and the avails of a great invention given to the world without a murmur. But who could have anticipated that one mind could have started questions which would move at once nearly half the States of the Union in one direction; which would make such an appeal to the States as to prepare them to combine in an armed resistance to the Government; which would so assert the doctrine of the rights of the States as to demand a separation from the Government itself? Who could have anticipated that a single subject—one, and which it was hoped would be checked and removed, *slavery* would become so gigantic as to demand the control of the entire Union, and to threaten or destroy the very Constitution which, while it sought to check and restrain it, had made it an important element in the Government, and made provisions for its perpetuity in the Constitution itself? These things were beyond human sagacity to anticipate, and hence this war. It

remains now to be seen whether it is beyond the wisdom and the patriotism of the nation to prevent such collisions in future times.

Is this sufficiently provided for in the Constitution? Was it sufficiently understood what would be the condition of a State if it should set up for independence, and should claim the right of "secession?" Could no new provisions be introduced into that instrument, beyond the power of the Supreme Court, to determine questions of that nature; to meet such an emergency; to provide against a claim; to make the course of the General Government at once plain and effectual? Is it always to be left to a mere "construction," what is to be done in such an emergency; to a reliance on an *argument* as to what is *necessary* to be done? Is it to be an open question—a question so ambiguous and uncertain whether force may be resorted to that there shall be room for the formation of a great and powerful party to embarrass the operations of Government; to interpose the doctrine of State Rights as against all efforts to suppress a rebellion; to leave the matters of treason so undetermined as to make it almost impossible to convict a traitor; to make attempts to resist the Government in an effort to suppress a rebellion as innocent and harmless as are ordinary political questions? Does not the melancholy history of the origin and progress of this rebellion make it imperative on the nation that the power to meet such an emergency shall be affirmed and defined; that power so vast as is *needful* to do it shall, while it shall be so defined as to save it from the appearance of mere arbitrary and constructive powers, be so distinctly conferred as to silence forever the entire doctrine of secession, and repress forever all efforts to dissolve the Union by force?

3. A more accurate definition of the nature and extent of the military power as related to civil authority; when, by whom, for how long a time, and to what extent martial law may be proclaimed, regarded as necessary to the preservation of the peace.

The great fundamental principles in our Government are (1) that it is *not* a military despotism, but is a Government of civil law, as contradistinguished from military; (2) that the powers of the Government shall be accurately defined; and (3) that the military shall be subordinate to the civil power in all cases whatsoever, alike in war with foreign powers and in domestic insurrection. The military power is to be called to the aid of the Government *only* when the civil processes are insufficient to preserve the peace, and the extent of the exercise of that power is to be *only* that which shall be necessary to preserve the peace or to restore it, and is to cease in all cases when peace shall be restored. This principle was one of the fundamental maxims in the ideas of Roman liberty—*cedant arma togae*. The liberties of a people can never be safe unless this is admitted.

That, with this view, martial law may be proclaimed, cannot be denied, and the exercise of this power may be essential to the preservation of the peace of a community. So far as the internal administration of the laws of a country is concerned, this is the *only* use of the military power, the only reason why such a power should exist at all. The moment that that power is resorted to to execute an unjust law, or to carry out the political views of those in power, or to control the free exercise of the people in the elective franchise, or to resist the execution of the decrees of the civil tribunals, that moment liberty is gone and the Government is changed.

Nothing now is more undefined and unrestrained than the exercise of that power. By whom martial law shall be proclaimed; under what circumstances; for how long a time; over what extent of territory, are all points undefined in the Constitution, and, at present, are all left to the discretion of the Executive. Perhaps, also, in the laws which regulate nations—the common maxims which are understood to govern men—there is nothing so materially affecting the liberties of mankind more undefined and unsettled than the exercise of this power. On a matter of so grave importance as this the liberties of a country should not be entrusted to those maxims and laws which have grown up among military men, and which constitute a military code, for those are not the laws under which constitutional liberty is secured; those are not the laws by which this nation is to be governed.

Yet this power is a terrible power. Nothing is more arbitrary than military power; in nothing has the progress of liberty been more marked among the nations than in the gradual substitution of the civil power—power defined by a constitution and regulated by law for the military. Government begins among barbarous nations by the exercise of military power; liberty makes advances by restraining that power, and substituting civil laws in its place; under the highest forms of civilization liberty exists only where the military is made *wholly* subordinate to the civil powers; the perfection of government will be secured only when, by the intelligence of mankind, the justness of laws, and by the purity and moral force of their administration, the necessity of military power shall cease altogether. But that power, when exercised, by its very nature sets aside for the time all that liberty has secured: suspends the opera-

tions of the civil laws; closes the courts to the extent to which it claims jurisdiction; dispenses with the trial by jury; introduces new modes of trial; substitutes new rules of evidence and new methods of punishment; exposes men to arbitrary arrests, and, if continued, would be an end of civil liberty altogether.

Such a power is too mighty and too dangerous to be left merely to "construction," and to the operation of a code which has authority only as it has grown up under the laws of war, and has received the tacit consent of the nation. Under an arbitrary government; under an avowed military despotism, it may be so left, for this is the very nature of such a government, but constitutional liberty requires other guarantees than are to be found in a code of martial law; demands securities that its regular administration shall not be invaded, impeded, or set aside, unless the circumstances in which it may be done are clearly defined, and unless the securities are ample that it shall be kept within proper limits, and shall not be perpetuated beyond the point when there shall be security for the exercise of the civil laws.

Liberty has not been permanently periled in our country during this war by the proclamation of martial law, *only* because those who are in power have desired and intended that the exercise of this power should have these limits, and because the people have had confidence that when the necessity should cease the ordinary laws would resume their operations. The security in the case has been solely in the character of the Chief Magistrate of the nation and of those associated with him, and in the intelligence and calm confidence of the people that the necessity for the exercise of that power would soon pass away, and that its exercise would cease. But what



is the security for this in the Constitution? If the exercise of that power is admitted at all, what is there in that instrument to limit it? What is there to define it? And what is the responsibility if the power is abused? As it is not expressly conferred by the Constitution, and as it is admitted that there are occasions when it may be employed, what is now to determine the extent to which it may be resorted to but the will of the Executive? and what article of the Constitution is so violated by its exercise as to render an Executive liable to impeachment who shall use it in a manner perilous to liberty?

4. A better security for the rights of individual citizens, and for personal liberty.

The provision on this subject in the Constitution is the following: "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it." Art. 1, Sec. 9, 2.

The principle in this writ, commanding the person who shall be arrested to be brought before a proper tribunal, is to rescue one from arbitrary imprisonment, or continual imprisonment without trial; to secure a speedy trial when there is a charge of crime; to restrain a government from arresting and punishing a citizen without a proper trial; to restore to liberty one who has been arrested wrongfully and by arbitrary power; to secure to all a trial by due course of law, as against the exercise of mere arbitrary power.

The liberty of every citizen is involved in the principle of this writ. It is the last result of all the efforts made in history for individual and personal freedom. All the struggles for liberty have terminated in this, and

this expresses and embodies all the progress which the world has made against tyranny and oppression. English liberty was complete when the provisions of this writ were finally secured and settled in the time of Charles II, for at that moment the prerogatives of the crown were not inconsistent with the liberty of the subject. There is no liberty; there can be no liberty; there is no security for the rights of a citizen if a government may arbitrarily arrest any man; may throw him into prison; may keep him there; may deny him the right of a trial; may prevent the opportunity of a defence; may detain him as long as it pleases, or discharge him at its pleasure; may assume to itself all the power of the courts with none of the checks and safeguards in favor of justice; may thus abolish all the processes of the civil tribunals, and assume to itself the entire power of the state with no guarantee against its abuse.

The Constitution declares that this shall not be suspended except in the specified cases—"Rebellion" and "Invasion," and then *only* when "*the public safety*" shall require it. It is supposed, therefore, that there may be cases when the "safety" of the public shall demand that the ordinary process of law should for a time be arrested, and a more summary mode of proceeding be adopted. The usual forms and processes of law would be too dilatory to meet the case. The danger is supposed to be imminent. A rebellion; a sudden invasion, may demand that men suspected of aiding the rebellion, or of assisting an enemy invading a country, should be suddenly arrested; should be imprisoned; should be denied the customary privilege of bail; should be so kept and detained for time being, that, whatever may be the fact of their guilt or innocence, the country may be sure that

*they* cannot render aid to rebels or to invading foes. Such a power is undoubtedly essential to security in times of rebellion or invasion ; and such a power is contemplated under all the forms of just and constitutional government. But the right to all this must be limited by the danger, and must cease when danger is over, and must be exercised with the utmost regard to the liberty of the citizen consistent with the "public safety." No political motive can justify its exercise ; no party purpose can properly enter into it ; no personal pique can for a moment be an element in the exercise of this dangerous power. Beyond the limits of "the public safety," this becomes one of the most terrific forms of tyranny ; when continued in any way, or exercised in any case where the "public safety" does not require it, it is, so far a violation of all the rights of citizenship, and all the principles of freedom.

The Constitution has not determined *by whom* this may be done, nor who shall be the judge when "the public safety" demands that this writ shall be suspended, whether by the Executive, by Congress, by the head of the department of the Government, or by the Supreme Court. That point is, of course, not settled by any thing in the nature of the writ, nor have the principles of the common law determined it. To the exercise of that power there has been no such uniformity as to determine *by whom* it shall be done. The most important provision, therefore, known to just views of liberty ; that which embodies all that has been the result of the struggles of centuries in behalf of personal freedom ; that which of all the powers entrusted to a government is most liable to abuse ; that by which the most permanent wrong can be done to an individual citizen—a wrong where the power

of redress is so small as, in almost all cases, to make it a hopeless matter; that in which the author of the wrong may escape punishment altogether, is left wholly undefined, and that, too, in respect to circumstances where there will be the most probability that it will be exercised for mere political motives; for the purposes of a party; from a spirit of private or personal revenge; or from a desire to perpetuate power.

This war has shown that more specific provisions are necessary for the protection of individual and personal liberty. That many such arrests as have occurred were proper, and were necessary at the time of the rebellion for "the public safety," no one can doubt; that mistakes should occur, and that innocent persons should be arrested in some cases under any safeguards which may exist under the exercise of the power of suspending that writ, is perhaps unavoidable; but that errors have been committed by the Government the best friends of the Government do not deny; that such arrests have been made, in such a manner, and to such an extent, as to suggest just cause of alarm, it would be as vain to deny. The *security* in the case has been, not any limitation in regard to the power; not in any means of redress; not in any compensation for the restraint of liberty; but solely in the *character* of the men in power, and their sincere purpose to maintain, in all respects, the best interests of the nation, for there is not the slightest evidence that *any* such arrests has been made from individual prejudice or malice, or from a desire to promote the interests of a party, or for any mere political purpose whatever. But the facts have shown what such a power *may be* hereafter in other hands, and how slight, after all the struggles for freedom in the world, and in

the supposed fact that the results of such struggles were embodied in our Constitution, are the securities for personal liberty in times of rebellion, invasion or war.

On this subject, Hallam well remarks: "There may, indeed, be times of pressing danger, when the conservation of all demands the sacrifice of the legal rights of a few; there may be circumstances that not only justify, but all compel the temporary abandonment of legal forms. It has been usual for governments during an actual rebellion to proclaim martial law, or the suspension of civil jurisdiction, and this anomaly, I must admit, is very far from being less indispensable at such unhappy seasons, where the ordinary mode of trial is by jury, than where the right of decision resides in the court. But it is of high importance to watch with extreme jealousy the disposition toward which most governments are prone to introduce too soon, to extend too far, to retain too long, so perilous a remedy. But it is an unhappy consequence of all deviation from the even course of law, that the forced acts of over-ruling necessity come to be distorted into precedents to serve the purposes of arbitrary power."\*

Beyond all question the just interests of liberty demand that there shall be a limitation of the exercise of that power. Such a power should be lodged in the hands of the Executive *only* under the most accurate specifications of the time, the manner, the extent, and the circumstances under which it may be exercised. But even with all possible safeguards, it may be a power too great to be entrusted to the hands of any one man; and if there is any power in the Government the exercise of which demands the calm and deliberate action of Congress, of the immediate representatives of the peo-

\* Constitutional History of England.

ple, it is this power; if a necessity should occur demanding the exercise of this power during the intervals of the sessions of Congress, the right of suspension by the Executive should extend *only* to the time when the Congress could be convened, at the shortest period, to act upon it.

5. A more accurate and just representation in Congress; a rule of representation which shall be based on the census of the whole inhabitants of the country, and according to the actual population. The present provision in the Constitution is that slaves, considered mainly as property, shall constitute a basis of representation in Congress, in the proportion of three-fifths of their number.\* The provision in the Constitution is not that those who are held in slavery, even to the extent of three-fifths of their number shall be *represented* in Congress, for in the Constitution they are not so far regarded as *persons* as to have the rights of citizens, and of course a *right* to be represented in Congress. The representation is based on the idea of *property*; to wit, that they *are* property, and that *as* property, there may be an additional representation in Congress from Slave States.† This was one of the “compromises” of the Constitution, and the essential idea was, that in order to secure something like a just balance between the North

\* “Representation and direct taxes shall be apportioned among the several states which may be included within the Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, *three-fifths of all other persons.*”—Art. 1, § 2, 3.

† “It is only under the pretext that the laws have transformed the negroes into subjects of property, that a place is assigned them in the computation of numbers; and it is admitted, that *if the laws were to restore the rights which have been taken away, the negroes could no longer be refused an equal share of representation with the other inhabitants.*”—Mr. Madison, in the *Federalist*, No. liv.

and the South, *persons* only should be the basis of representation in the North; persons *and* property, to wit, property in slaves, should be the basis of representation in the South.

On every just principle this provision in the Constitution should be abolished at once and forever. Even if slavery should be continued in any part of the Union, the existing clause would be, as it is now, unjust to the African race, and to that part of the Union where it should prevail; if slavery shall be abolished, by the States themselves, or by an amendment of the Constitution, the clause, being unless, should no longer, even by an historic allusion, disgrace the only perfectly free Constitution in the world. It is time that such a provision, so unequal, so unjust, so contrary to all proper notions of civilization, of Christianity and of liberty, so disgraceful to the nation heretofore, should be expunged forever. It was a sad day for our country when the principle was admitted into the Constitution; it will be a glorious day for our country, for human rights, and for liberty, when it shall be affirmed that all the inhabitants of the land are to be represented in the General Government.

What is demanded by all just principles of human rights, and in order to carry out the real doctrines implied in the very nature of our institutions, is, that representation in the National Government shall be uniformly, at the North and the South, in all our country, on the basis of the population.

Ours is a representative government. But what is that? It is based on human beings—on persons, not on things, on chattels, on cattle. The essential idea in all just notions of representation is, that where, in all the

limits of the territory under the government, there is a human being, or one who has by nature the rights of a man, and who in any way contributes to constitute the nation as such, in its existence or greatness, there shall be a suitable recognition of that fact in the representation in the government; and that, in this respect, as he has by nature the rights of a man, and, as his life, liberty, and property may be affected by the government, he shall be regarded and treated *as* a human being—as part and parcel of the great confederation.

As matters have been from the adoption of the Constitution, great injustice has been done to every part of the nation; gross injustice to ourselves in the eyes of the world. Under this arrangement the North has proclaimed the principle to their southern brethren—a principle not recognized in relation to themselves—that *property* may be in part the basis of representation, and they concede to southern slaveholders what they claim, that their slaves shall be regarded as *property*, and this odious principle the nation has proclaimed abroad to the whole world;—the North thus, with all its zeal for freedom, with all its professed abhorrence of slavery, with all its deep convictions that the African is a *man* like other men, yet declaring its willingness that the only representation which there shall be of a human being when he is held as a slave—the only recognition of him in the halls of legislation—shall be as “property,” and nothing else. Meantime, by a compromise unjust in principle, and unequal in its influence, the North has been all the while deriving an undue advantage from this arrangement. In order to counterbalance the “concession to the Southern States” that their slaves might be represented in the proportion of three-fifths of their



number as property, it was among the unhappy compromises of the Constitution, that "direct taxes should be apportioned by the same rule as representation." And as the Confederation in 1783 had made it a rule in taxation that the direct taxes should be apportioned on the principle that three-fifths of the slave population was to be reckoned, it was deemed just that the same principle should be adopted in settling the number of representatives.\* But since direct taxes under our Government occur at very distant intervals, and since the representation in Congress is constant, the North has been all the while reaping this advantage over the South, paying little in the way of the compensation, and yet constantly enjoying the advantage in Congress derived from the imperfect and unequal representation in the South.

In the mean time, the South has been suffering this wrong—that, as now constituted, two-fifths of the population, that is of what was before the war four millions of its population, have been without any representation: in other words, under the ratio of representation, there has been a loss to them of ten, fifteen, or twenty members of Congress.

The true principle of representation would be, undoubtedly, that no human beings should be represented as property; that the apportionment should be in accordance to the entire population as reported by the census-tables; that whatever may be the domestic *relations* of such persons, or whatever their condition, as sick or well, old or young, ignorant or learned, male or female, bond or free, white, copper-colored, black or semi-black, their existence as human beings—as a part of the nation—as having rights and interests as human beings to be pro-

\* Curtis's History of the Constitution. Vol. ii. pp. 48, 160.

tected—should be recognized in the government under which they live. In the carrying out of this principle, it is, of course, not *necessary* that all should be eligible to office; nor that all should vote; nor that all should be admitted as law-makers of the land.

But if they are represented in Congress *should* they not be allowed to vote? Is not the one connected with the other in all just ideas of liberty? Can liberty properly exist unless this right be granted? Is it not at the basis—a fundamental idea—in all our conceptions of freedom? True, there may be limitations and qualifications in regard to the right of suffrage, and such limitations and qualifications may be applied to those of African descent as well as those of Caucasian or Mongolian descent: *so far, AND NO FARTHER*. Even when the right is recognized on the largest scale, there are restrictions in respect to sex, and age, and the time of residence in a country; and in the same sense there should be in regard to those who have risen from the condition of bondage, *and in no other*. I believe that there should be restrictions as derived from property in voting, and that this should enter into the notion of suffrage; but why more in regard to the colored man than the white man? I would be willing, also, that the right to vote should be confined to those who can read and write; but is there any reason why this restriction should be applied to a man of one race or complexion rather than another—to the descendant of Ham rather than of Japheth or Shem? I believe, also, that, in the case of a foreigner, a much longer residence in our country, as a qualification for the elective franchise, should be required than is required now; but why should this be demanded of the man created with a dark skin rather than any other? Man is not

free until he may approach the ballot-box ; the slave is but half emancipated until in this respect he is placed on a level with other men. Our country will never be a land of equal rights while *color* makes a distinction in this respect between a man and his neighbor.

6. The adoption by the requisite number of States of the amendment of the Constitution for the entire abolition of slavery in all the States of the Union, prohibiting it forever.

That power is not conferred on the General Government now, whatever may be said of the right of the Government to interfere with slavery in times of war, as a "military necessity;" whatever may be the effect in suppressing a rebellion, in this respect, when the armies of the nation enter a State where slavery prevails ; and whatever may be the power of the Government in respect to the Territories of the Union, yet, under the Constitution, no power is given to Congress by any acts of legislation to interfere with the subject of slavery in the States that compose the Union. In the Convention which formed the Constitution that was a matter which was supposed to belong to the States themselves, and it was left there. This fact has indeed placed us in an undesirable condition before the world ; for foreigners—foreign "philanthropists"—who have so much reproached us for the fact that slavery exists in our country, seem never to have understood the nature of our Constitution, and the relation of the Federal Government to the subject of slavery.

But there can be no doubt as to the power so to amend the Constitution itself as to prohibit slavery in all time to come. That such a provision *might* have been introduced into the Constitution by the Convention ; that the

States might have adopted this among the other provisions in the Constitution, there can be no reason to doubt. Some of the States might indeed, as perhaps some for a time would have done, have refused to adopt the Constitution with such a provision, but there can be no doubt that those who did adopt the Constitution might do it *with* such a provision, or with any other whatever. They entered the Union voluntarily; there was no power, as there was no disposition, to compel them. As it was, though the power to regulate the subject of slavery was not given to the General Government in the Constitution, yet the power to *amend* the Constitution, in all respects, except the two which I have before referred to (Art. V), was given to the nation, and they became members of the Union *under* that Constitution, and with that understanding. In all respects, and for all purposes, and to the most unlimited extent to which any point could have been brought before the original Convention, and in any new exigency which may arise which could not have been foreseen by the Convention, it was provided that "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the

ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate." It would be in the highest degree absurd to suppose that this power did not embrace a modification of the Constitution on the whole subject of slavery, since, in order to show precisely how the power to amend was to be limited, the Constitution specifies two things, and two only, where that power might not be exercised. Slavery in the States is *not* one of those things, and, therefore, it was left among those things which, while they *might* have been introduced into the Constitution by the Convention which framed it, might also be the subject of future arrangement.

Moreover, the most ample security was provided that no wrong should be done to any of the States, or to any of their interests, by an amendment to the Constitution. Congress itself has no power to amend the Constitution. That power was regarded as too great and too dangerous to be entrusted to a body like that. The framers of our Constitution never adopted the principle which is understood to exist in the unwritten constitution of England, that "Parliament is omnipotent." *Under* that principle in the British constitution, and by the power of Parliament, important changes have been made in the constitution; even the rule of succession to the throne has been determined, and, as in the time of James II, the reigning family has been set aside, under the flimsy pretext that the monarch had "abdicated," and that a foreign prince might be called to occupy the "vacant" throne. In our Constitution the most ample provision has been made to secure the rights of all. "Two-thirds" of both Houses of Congress are necessary to *propose* an amendment, and the approbation of the "Legislatures

of three-fourths of the several states," or of "conventions in three-fourths thereof" is necessary to give it the force of an amendment. It was *presumed* that so great power might be safely entrusted there. It was presumed that the assent of two-thirds of both Houses of Congress could not be given to a measure that would be unjust to any part of the Union; and it was presumed that even if this should occur, the calm judgment of the Legislatures of the nation would arrest the evil.

It cannot be pretended that such a measure may not be proposed and adopted now, or that if adopted it would not be binding on all the States of the Union. The nation, in regard to the Constitution and to legislation, is intact and undivided. The acts of Congress are acts of the nation. The adoption of an amendment to the Constitution now, by the constitutional provisions, would be the act of the nation. The nation is *not* divided. The stars and the stripes are what they have been. If a state in rebellion fails to secure its own proper representation in Congress; if it refuses to partake of its own rights in the halls of legislation, it cannot then "take advantage of its own wrong," nor can it by its act render nugatory and void the acts of the nation under the Constitution. To the consideration of any such amendment to the Constitution the way would be open to such a state as to the other states of the Union, and an amendment *would be* a part of the Constitution.

This war has demonstrated to the world that there can now be no permanent peace in this nation until slavery shall be wholly removed by law. Waged as a result of slavery; waged to defend slavery; waged with a purpose to lay the institution of slavery at the very foundation as a "corner-stone" of the Confederacy, the

termination of slavery only will terminate the causes of the war, and lay the foundation of permanent peace.

Our history, under the Confederation, and now for eighty years under the Constitution, has shown that slavery has been, and is, almost the only cause of alienation between the North and the South, and that but for this there never has been any insuperable reason why the North and the South should not live and act in harmony. Indeed, on the entire surface of the globe there is no one country of such an extent, or of any very considerable extent, where there are so many causes for *unity*; so few for *division*. Of one language; one religion; one origin; one general character;—united by vast rivers, and by the advantages which each derives from the peculiar productions of the other; united in their history, and by all the sacred recollections of the remembered war of Independence, there is every reason, in the nature of the case, why we should be one. Our fathers felt this; and hence our glorious Constitution was formed, and we should have been now with nothing necessarily producing alienation, collision, or war, had it not been for slavery. But the same causes which have now produced collision on this subject will produce it again; nor will it ever be possible to adjust our free institutions to the idea that slavery is to be perpetual in the land. That fact is now established; it cannot be denied. The South knows it; the North affirms it; the world sees it. All attempts, therefore, to secure permanent peace except on the assumption that slavery is somehow to cease ultimately in the land, have been demonstrated by our past history to be vain.

To such a consummation all things now tend. Partly by the Emancipation Proclamation; partly by the pro-

gress of our armies in the region of slavery; partly by the repeal of the Fugitive Slave Law; partly by the acts of the States themselves, things are tending to this result, but the result will not be fully reached until the people of the United States, by the power which it retained when they adopted the Constitution, shall proclaim in a peaceful, but solemn manner, before the nations of the earth, that involuntary slavery, except for crime, shall no longer exist in any of the states or territories that compose the American Union.

Then, indeed, there will be peace. From the gloom of the past four years, therefore, we look forward now to a brighter day, and the prospect of that brighter day should awaken thankfulness to God, and joy in the loss which we mourn. To that day we now look when we shall be indeed one nation—a nation under one Constitution, with one flag, and one Government; a nation respected by all the world, and feared by all the world; a nation united in religion, in commerce, in arts, and in liberty; a nation banded together in efforts to spread Christianity, science, and liberty around the globe.

As I shall never address you again on an occasion like this, may I be allowed to make a personal allusion. For more than thirty years in this place I have advocated these principles of liberty. I have not shunned to declare my sentiments on this subject; my opposition to slavery in all its forms; my desire of universal freedom. That I have never done it indiscreetly in so long a time may be, or may not be true, but I have not used ambiguous language. I have never uttered one word in defence of the system of slavery, nor of apology for the men in political life, in the pulpit, or in the churches, North or



South, who have defended it. I have never hesitated to speak plainly of the measures which the Congress of the nation has adopted to perpetuate the system—the laws and usages which seemed to me to be contrary to the spirit of Christianity and to liberty. I have done this when I have stood almost alone in the pulpit in this city as uttering these sentiments. I have done it in peril of my reputation, my influence, my place. I have not sought, indeed, to obtrude it upon the attention of my people, or to make it prominent in my ministry, but I have not avoided it when it came in my way; when I thought that the fair exposition of the word of God demanded the utterance of these sentiments. I look back now on this testimony which I have borne for more than thirty years with unmingled satisfaction, and without one feeling of regret. I see now that these things are to be accomplished. After so many years I look to that bright day when slavery shall be removed from the land, and with the hope that, before my head shall descend to its last resting-place, and ere my eyes shall be closed to look on my native land no more, I may see the last vestige of the system gone; the last evidence in the Constitution that it ever existed in the nation removed:—that, even in my time, he who occupies the place of Jay, and Ellsworth, and Marshall, and Taney, *yes, Taney*, shall, in that high court, give utterance, as adapted to our regenerated land, to the language of Lord Mansfield, that the ‘air of America is too pure for a slave to breathe.’