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ARTICLE I.—*Education; Intellectual, Moral, and Physical.* By HERBERT SPENCER, Author of "Social Statics," "The Principles of Psychology," &c. New York: D. Appleton & Company. 1861.

THIS book is a reprint of four articles first published by the author in different British Quarterlies. The first, entitled, "What knowledge is of most worth?" was published in the *Westminster Review*, nearly two years ago, and was immediately reprinted in this country, both in the *Eclectic Magazine*, and the *New York Times*, thus showing its decided power to command attention. The second, on "Intellectual Education," was first published in the *North British Review*. The third and fourth, on "Moral Education," and "Physical Education," were first published in the *British Quarterly Review*. It is only necessary to read these works to see that the author is furnished with various and affluent knowledge, is a clear and vigorous thinker, and is master of a simple and nervous style. He has already distinguished himself by works on "Social Statics," "Principles of Psychology," and "Essays: Scientific, Political, and Speculative." He is now about publishing a sort of encyclopediac survey, or what may perhaps more properly be called a fundamental and comprehensive out-

ART. VI.—*The Church and the Country.*

THE dissolution of the union of these states, should that event be finally consummated, unavoidably brings up the question, Must our church also be divided? This question not only interests the feelings of all true Presbyterians, but it touches their consciences. The consideration of it, therefore, cannot now be untimely. The first position which may safely be assumed on this subject is, that the separation of the church is not a necessary consequence of the dissolution of the union. There is nothing in the nature of the church, nothing in its relation to the state, nothing in the duties which its members owe to the commonwealth, which confines it, as an independent organized body, to one particular political community. A man may live in Canada and be a faithful subject of the crown of England, and yet a member of a Presbytery in New York or Michigan. There is no conflict of obligations, or of duties arising from political allegiance to one government and ecclesiastical allegiance to another, the majority of whose members may belong to another nation. Should, therefore, the Gulf States of this union form a permanent independent confederacy, there is nothing in that event which renders necessary the secession of the Presbyterians in those states from our General Assembly.

As a matter of history, it is indeed true that the churches of one nation have shown a tendency to unite in separate independent ecclesiastical organizations. The Reformed Churches in France formed one body, those of Holland another, those of the Palatinate another. So the Lutherans of Saxony, of Denmark, of Sweden, constituted separate churches. This occurred where there was perfect agreement as to doctrine and polity. Presbyterians in Canada have united among themselves without seeking ecclesiastical union with their brethren in the United States. There must be some reason for this fact. In many of the cases referred to, the sovereign assumed more or less control over the church within his territorial jurisdiction,

which, of course, would lead to separate ecclesiastical organization. In other cases, geographical considerations determined this course as a matter of convenience. It would be almost impossible for the Presbyterians of America to meet in annual assemblies with those of Scotland or Ireland. In other cases still, the relation in which independent nations stood to each other rendered ecclesiastical union between their members undesirable or difficult. Wars were too frequent, and the means of communication too uncertain or imperfect, to allow of the requisite frequency and freedom of intercourse. Besides this, difference of language, of political and social institutions, and other obvious causes, naturally led the Protestants of separate nations to form themselves into independent national churches. Union in the one form tended, of itself, to produce union in the other. Few, if any, of these causes of separation exist in our case. Neither state nor federal authorities have any control over the courts of the church. No appeal lies from ecclesiastical decisions to civil tribunals. We are not separated by broad seas or by impassable mountains. We are not aliens to each other in language or political institutions. We remain substantially one people in despite of the disruption of the Union. After the present excitement has subsided, the intercourse between the North and South will be as free and as frequent as ever. Should, therefore, our country be divided into separate, independent confederacies, there is no consequent necessity for a corresponding division of the church.

A second proposition on this subject is, that as the dissolution of the union does not render the separation of the church necessary, neither does it render it desirable. All antecedent reasons for our ecclesiastical union remain in full force. So far as the command of Christ, that his people should be one, and that they should all be subject to their brethren in the Lord, involves the obligation of subjection to a common church authority, that command remains in force. Christians are bound to be thus united so far as their circumstances permit; and when union is refused or broken, there must be some reason to justify separate organization. Union is the rule, separate organization is the exception. Besides the continued obligation of this general command, there is in our case the

duty arising from agreement in doctrine and in order. There has been no renunciation on either side of the common standards of the church. No secret defection from the faith is suspected or charged; we are at this moment as much united on all those points which are the conditions of ecclesiastical union, as we were six months, or six years ago. We are, moreover, historically one church. We have grown by the blessing of God, and by the natural process of development, from one Presbytery to a hundred and seventy-one. A century ago we had ministers and churches South as well as North. We have grown up in each region as one church. Separation in our case would not be resolution into bodies originally independent, but the dismemberment of a body originally one. Our thirty-three Synods, and one hundred and seventy Presbyteries, have not confederated under one General Assembly, but one original Presbytery has unfolded itself into this great organic whole. The grain of mustard seed has become a tree. To tear apart such a body is an act of violence. It cannot be innocently done. There must be great sin in those who do it, or those who cause its being done. The Presbyterian church in this country has, by its numbers, its union, its harmony, its soundness in doctrine, its adherence to the Scriptures as the only standard of morals, of practice, as well as of faith, by its compact and symmetrical organization, by its combined freedom and order, by its extended and efficient benevolent operations, stood as the great conservative body, a rampart against error and evil, and the powerful advocate of truth and righteousness. To diminish the influence of such a body, to lower its character, or to impair its strength, would be a great calamity to the country and the world. There is a kind of egotism which blinds men to considerations of this kind, and renders them reckless of evil which does not immediately concern themselves. They put a small part, to which they themselves belong, above a far greater whole. Allegiance to a state is to them a higher principle than allegiance to the nation; the interests of a presbytery or parish, more important than the interests of the church. This disposition is the more dangerous, as men are apt to glory in it, and to exalt themselves just in proportion that they ought to be

abased. What is needed now in the church and in the state, is a forgetfulness of self and of mere sectional interests, and an enlarged spirit of devotion to the welfare of the church, and of the country as a whole.

Besides the considerations which render the union of our church in itself a matter of duty and of importance to the whole country, there are special reasons arising out of the peculiar circumstances of our times, why it is more than ever to be desired. So far from the separation of the Gulf States being a reason for the division of the church, it is a strong reason against it. The North needs the South, and the South needs the North. There is a tendency in both to a one-sided development. If a church be confined to a slaveholding territory, and especially to a confederacy organized as a separate community in the interests of slavery, human nature must alter its laws, if the result does not prove disastrous. A church distinguished from all others by one peculiarity, is sure to magnify that one distinctive point out of all proportion. It matters not whether it be baptism, episcopacy, or slavery, it cannot fail to exert an undue and perverting influence. Should therefore Presbyterians in the cotton states separate from their northern brethren on the ground of slavery, slavery will become to them a controlling element. Not less obvious is the danger that the northern church will succumb to a fanatical anti-slavery spirit, in the event of its being placed in antagonism with an exclusive slaveholding church. It is hard to say which of these evils is most to be deprecated. A church which regards itself as commissioned to conserve and perpetuate slavery, and a church instinct with the principles and spirit of modern abolitionism, must both alike be offensive to God, and injurious to men. The great body of northern Presbyterians, at least, would deplore such a separation as an injury to themselves as well as to their brethren. It would greatly impair the power of our church for good in the presence of other denominations. The General Assembly at Charleston, Richmond, or Rochester, composed of three hundred ministers and elders, representing almost every state in the union, is a far more imposing and influential body than any sectional assembly could possibly be. It would be a wanton waste of power, a criminal neglect of

talents committed to our trust, to dismember and weaken such an organization which God has hitherto so highly honoured and blessed. It would, on the other hand, be a new revelation of the power of God's Spirit in the hearts of his people, a new exhibition of the true nature of the church, should it remain united in the midst of civil commotions and the disruption of political bonds. It would be seen more clearly than before, that Christ's kingdom is not of this world; that the church has a life independent of that of the state; that it can continue to live and act as one body, in despite of the separation of all other ties. To our minds, therefore, it seems clear that God has called our church to a new trial; he is putting the fidelity of its members to the test, to determine whether principle is with them more powerful than passion. He may be calling her to perform a great work in the history of the country, in holding united in the bonds of ecclesiastical communion and Christian brotherhood, the dissevered members of our political union; thus making us still one, and preserving for better times the basis of national union.

When the ten tribes separated from Judah, "Jeroboam said in his heart, Now shall the kingdom return to the house of David. If this people go up to do sacrifice in the house of the Lord at Jerusalem, then shall the heart of this people turn again unto the Lord." So long as the religious bond of union was preserved, he feared lest the political separation might not prove secure or permanent. We may, on the same ground, hope that the preservation of the unity of the church may contribute to the restoration of our political union.

A third position, however, which we are forced to assume in reference to this subject, is, that while the division of our church is neither a necessary, nor a desirable consequence of the dissolution of the union, it is a very probable consequence. There is the greatest danger that the one event will lead to the other. This danger arises, in the first place, from the alienation of feeling which has been produced by the political agitation of the country. There always has been more or less of antagonism between the slaveholding and non-slaveholding portions of the country, arising from difference of institutions, and consequent difference of character, and from a real or

supposed conflict of interest. To this has unhappily been added the unfriendly feeling produced by discussions of the slavery question, and by the unwarrantable denunciation of slaveholders so common at the North. From this latter source of alienation, our own church has been, and still is, in a great measure, free. There is nothing in the acts or decisions of our General Assembly on the subject of slavery, which gives any just ground of umbrage to our Southern brethren, or in which they have not themselves concurred: and there is nothing in the feelings or spirit of the northern portion of the church, in reference to slavery, at the present moment, any more than there has been for years past, to irritate or offend Presbyterians of the South. It is vain, however, to shut our eyes to the fact, that recent events have produced or revealed a deep seated hostility of feeling. We are speaking, and desire to be understood to speak, only of the Gulf States. Those states alone, at the time of this writing, have seceded from the union. They alone have as yet avowed or extensively manifested the alienation of feeling to which we refer. So far as the secular press, the language of public speakers in legislatures, conventions, and other assemblies, can be taken as an index of public sentiment, the conviction is irresistible, that a feeling of decided hostility to the people of the North has taken control of the public mind in those states. We will not quote the contemptuous and bitter language with which such papers and harangues abound. This would only increase the evil. It is enough to say, that the people of the North are spoken of as enemies, as hostile to the interests and rights of the South; as, in fact, their most malignant enemies on the face of the earth. When such a spirit takes possession of the public mind, it would be almost a miracle if private Christians and ministers should escape its influence. It is the most lamentable feature in the present aspect of our country, that Christians and ministers of all denominations in the Gulf States, seem to be among the foremost in this sectional strife. Men on whom the North relied to correct misapprehension, to bear testimony to the sincerity and fidelity of their Christian brethren in this section of the country, to allay unfriendly feeling, and to prevent the disruption of our national union, have

disappointed such hopes. They have increased the misunderstandings unfortunately prevailing, and have fanned the fire of contention. They doubtless think they are right in so doing. Our fathers acted thus in the days of the Revolution, and these brethren, no doubt, conscientiously believe that they are justified in pursuing a similar course. Of the propriety of their conduct we are not to judge. To their own Master they must stand or fall. All we have to do with is the fact. That Southern Christians and ministers, even of our own church, share in this alienation of feeling, is lamentably apparent. The religious papers in the Gulf States, in many instances, speak of the most conservative men at the North as "Black Republicans," "Kansas Shriekers," &c. They call them abolitionists, and stigmatize them as enemies, actuated by rabid hostility to the South. Of all the journals at the North in any way connected with our church, the New York *Observer*, the Philadelphia *Presbyterian*, and the *Princeton Review*, have been considered the most "pro-slavery," and southern in their proclivities. They have been so stigmatized at the North, and so regarded at the South. They have generally been joined together by anti-slavery men and journals, as illustrations of subserviency to the South. Dr. McMaster does the editor of this *Review* the honour of saying, that he has done more (principally, however, on account of his official position,) to pervert the public mind on the subject of slavery, "than any hundred men in the church." He groups together the three journals above-mentioned in a sweeping condemnation. Yet we not only hear that the New York *Observer* has been returned from Southern post-offices as "an incendiary publication," but a Presbyterian paper of the South speaks of the *Presbyterian* as "having gone over to the enemy," and asks, "When men like Hodge, Engles, and Prime, join in the rabid denunciation of the South; when Christians leave their safe moorings by the cross of Christ, and launch out in the turbid sea of Black Republicanism, what hope can we have in our good brethren of the North? It is time for us to learn the painful lesson, that the only union we can have, is between our own true hearted people." Words lose their meaning when such men as those above-mentioned, are charged with

"rabid denunciation of the South." They are not expressive of thought, but mere revelations of feeling. Dr. Rice is joined in the same condemnation. The *Southern Presbyterian* says, "Dr. Rice, who has heretofore been distinguished as a defender of slavery and the South, now has wheeled about with Dr. Hodge, and like him, appears on the other side, against the South and slavery." What is true of ourselves, we doubt not is true of Dr. Rice. We have neither wheeled about, nor gone back. We stand on the same ground to the square inch, that we have always occupied on this subject. People rushing along on a railroad see the trees and fences flying in the opposite direction. So our brethren in the Gulf States who are hurrying from all their old positions, think that it is not they, but others who are in motion. Their train, however, must stop somewhere, and then they will discover what extreme point they have reached.

The views of men on any subject are in a great degree determined by the state of their feelings. The same speech or article is praised, as to its ability or spirit, by one party, and treated with contempt and disapprobation by another. Such judgments are notoriously nothing more than expressions of like or dislike. The fact, therefore, that communications emanating from Christians in the North, and which are here regarded as moderate, just, and kind, are in so many instances stigmatized at the South as rabid, unjust, and malevolent, is a painful revelation of alienation of feeling. How can any Southern man regard the New York *Observer* or Philadelphia *Presbyterian* as hostile to the South, whose mind is in a normal state? We may be excused for referring to our own experience in this matter. The article in our January number, on the State of the Country, was written in November—before any secession had taken place, before the meeting of Congress, or the publication of the President's annual message. It contemplated the state of things then existing. Consequently, many points since rendered prominent, many principles since urged as of special importance, are only slightly touched upon. The article was prepared with a sincere desire to allay evil feeling, to correct misapprehensions, to controvert erroneous principles under which good men, especially at the North,

seemed to be acting. The article admitted that the South had serious grievances of which to complain. Denunciations of slaveholding as a crime; attempts to produce dissatisfaction among slaves; and opposition to the restoration of fugitives from service, were shown to be antiscriptural and wrong. It was admitted that fairness demanded a just division of the common territory belonging to the union; and therefore we urged the restoration of the Missouri compromise line.

This article received the approbation, as to its moderation, justice, and good feeling, of men of all parties at the North. Men of the highest character and position—lawyers and merchants, as well as clergymen; men who, in the recent presidential election, had voted for Mr. Breckinridge, Mr. Bell, or Mr. Douglas, as freely as those who voted for Mr. Lincoln, gave it their sanction. A gentleman nearly seventy years old, who voted for Mr. Bell, who stands in the front rank at the Philadelphia bar, whose character and position are second to those of no man in that city, to whom the article was submitted before its publication, says: "I have read your article very carefully, and I believe it contains a clear and temperate discussion of the questions of which it treats. I can see nothing in it to which any reasonable man ought to object; and I cordially assent to the conclusions at which you arrive." Another gentleman of equal eminence at the bar of New York, says: "I thank you for the pamphlet—for having sent it to me, and for having written it. Nothing could be more true, judicious, and Christian than it is." One of the most venerable and venerated ministers of our church, in a recent letter, says: "Your article struck me as most seasonable, and eminently due to the character and standing of the Presbyterian church, and expressive of the views of a great majority of our church. Events have since shown the wisdom if not the necessity of such a declaration." He adds: "The sermons and papers with which the Southern press is teeming, convince me that our church, even among the union people of the South, would be utterly misunderstood and ruined without such a testimony. . . . We may well feel grieved that, so far as I know, the very extremest vindications of all the revolutionary measures of the South, come from promi-

nent Presbyterian ministers. But, the sooner hot, the sooner cold; and all this will pass away, and the views which you have expressed, while they will commend themselves to all good men at the North, will gradually take possession of the Southern mind."

We could fill pages with similar testimonials, we do not say to the merit of the article, for that is a small matter, but to its fairness and moderation, from men of the highest eminence in the church and the state. These testimonials are not exclusively from the free states. A ministerial brother in Kentucky, writing in the Louisville *Herald*, says, "As to the article of Dr. Hodge, of which the *Central Presbyterian* complains so bitterly, I have to say, I regard it as the fullest, fairest, I have yet seen on the state of the country. And I am as out-and-out a Southern man as any body; and I am in interest, blood and feeling, as much identified with the history and welfare of Virginia and Kentucky as any man can be." So far as we know, no secular Republican paper has endorsed the article. The leading Republican papers of this part of the country, are the New York *Tribune*, *Times*, and *Evening Post*, no one of which has recognized its existence; except the *Post*, in a short and slighting notice, which expresses no approbation. On the other hand, the abolitionists have denounced it in unmeasured terms. Dr. Guthrie of Edinburgh, has poured over its author the burning lava of unintelligent wrath, and Dr. McMaster in the *Presbyter* of Cincinnati, is not a whit behind him either in bitterness or blindness. This article then, which if we are to believe the testimony of eminent and competent witnesses, expresses the sentiments of the great body of intelligent, conservative, Christian men at the North, has been received by the majority of our brethren in the cotton States, with the strongest disapprobation. It has been attributed to the silliest motives—motives which would disgrace a schoolgirl—it has been stigmatized as unjust, unchristian, slanderous, injurious, as breathing a spirit of rabid hostility to the South. A respected minister in South Carolina writes to us, saying, Dr. Hodge "has done more to widen the breach between the North and the South, than any writer of the age, because his article will have the effect of dividing the Presbyterian church

into a Northern and Southern section. I venture to assert there were not ten men in the Presbyterian church in this State who had serious thoughts of separating from the North before the publication of this article. And I venture with equal assurance to predict that the South will never again meet in General Assembly with the North, if Dr. Hodge is the true exponent of Northern sentiment." Another minister from Tennessee writes, "Your article on the State of the Country, and your remarks on Dr. Palmer's sermon, do indeed show that we are two people, and the sooner we agree to separate in peace, the better for the human family." Even Dr. C. C. Jones, a model man, who cannot forget that he was born a gentleman, allows himself to say, among many other things of like kind, "The jubilant notes with which the Northern anti-slavery and abolition papers welcome Dr. Hodge to their ranks, ought to convince him that we have not erred in our judgment of his article. . . . . The article is an assault upon the South, and a defence of anti-slavery and abolitionism in their baleful effects upon the country; and savours throughout of the principles of a party, which, like iron bands girt about the mind, and possessing a certain power of contraction, gradually tighten, until humanity, courtesy, patriotism, and religion are forced out of the victim."

The unfriendly feeling which is thus painfully revealed in the Southern mind, is not directly against individuals only. It is against the people of the North. Of course, this is to be understood as a general statement. It is not meant that every man in those states is thus alienated from every man in the free states. There are, doubtless, many of our Southern brethren who do not share in this feeling; and there are many persons at the North whom the most excited men at the South are still willing to acknowledge as friends. We are speaking of a general state of feeling, of the existence of which there can be no doubt. The father whose letter was quoted on a preceding page, says in the same communication, "it is amazing that good people at the South should insist that we are all abolitionists, and then call us enemies and Black Republicans." This last has become as bitter a term of reproach as Red Republican ever was in Europe, and in the sense in which it is

commonly used, and especially as it is applied to Christians at the North, it is offensive and injurious. As it has been repeatedly applied to ourselves, we think it right to say, that we are no Republican, in the party sense of that word. Every drop of blood in our veins is of the old federal stock. Our mother, then a child, sat on the knees of General Warren not long before he fell on Bunker Hill. Our father, a physician in the Revolutionary army, suffered in a British dungeon, in the service of his country. We never had a blood relation in the world, so far as we know, who was not a federalist in the old sense of the word. For ourselves, however, we have never taken any interest or part in politics as between one party and another, between bank and anti-bank, tariff and anti-tariff, but only as between righteousness and unrighteousness. We voted for Mr. Lincoln, not as a Republican, but as the opposition candidate. We have never read the Chicago Platform, and know nothing about it. We, in common with hundreds of thousands, looked on Mr. Lincoln as representing the great body of good men who were shocked at the iniquities and corruptions of the administration, and were determined, if possible, to effect a change. We have never regretted that vote. We would, under similar circumstances, renew it to-day. We are not glorying, even in the sense in which Paul gloried. We are simply shaking off the mud with which we have been covered.

Another danger of disunion arises from a mutual loss of confidence between the North and the South. This is inevitable. When one man thinks that a thing is morally wrong, and another that it is morally right, their mutual confidence is of necessity impaired. The bond of sympathy is loosened, and they are disposed to stand apart. This does not mean that the one regards the other as wicked, or even as insincere. It only means that the respect which arises out of confidence in the moral judgment of others, is lessened. In the time of the Revolution, British Christians doubtless thought that their brethren in America, who took part against the mother country, were sincere, and yet criminal; and the Americans, while giving their English brethren the credit of sincerity, regarded them as unjust and oppressive. Neither party denied the Christian character or church standing of the other, but their

mutual confidence was so far impaired, that it would have been difficult for them to mingle in the same society, or to sit together at the same table. There was a like division among the Americans themselves. Some were Tories and others were Whigs. Yet they did not excommunicate each other, but their mutual respect was very small. We have fallen on similar evil days. The country is distracted and divided. The South accuse the North of injustice and oppression; they say that we deny them their plainest rights; that we tempt their slaves to escape; that we encourage and uphold the party which canonizes insurrection and murder; that we are infected with the principles which deluged France with atheism and blood; that we have designedly brought into power men who are pledged to violate the Constitution of the country, and to work out the destruction of the South.

There is every evidence of sincerity and deep conviction in those who give utterance to these charges. They really believe themselves to be thus injured and endangered. They are fully persuaded of the truth of these terrible accusations. On the other hand, the great body of Christian men of all parties at the North regard secession as a crime; they believe that it involves the guilt of treason and of violation of an oath. Yet secession is justified, defended, and gloried in by Christians in the Gulf States. The seizure of the national forts, armories, and money, by state authorities, is pronounced by such men as Holt and Dix, to be spoliation and robbery, and is so regarded by the majority of Northern Christians. Yet such seizure is called self-defence by our Southern brethren, or the just resumption of state sovereignty over her own territory. A distinguished officer of the army is dismissed from the service for "treachery," one of the basest of crimes, not by an abolitionist, but by a Kentucky slaveholder, and is received with public honours by the authorities of a city and state. It is impossible that there should be this diversity of judgments on moral questions, without a mutual loss of confidence. If our Southern brethren would examine their own consciousness, they must be sensible that their respect for their Northern brethren is not now what it was six months ago. And we are very certain that Christians at the North have not the respect

they once had for those brethren at the South, whom they see to be among the most open and zealous advocates of measures and acts which they regard as morally wrong. This is a lamentable state of things. But it is not wise to ignore it. It is one of the conditions of the problem which we have to solve: How is a church to be held together whose members are thus alienated and divided? We answer, that transient states of feeling are no adequate ground for permanent ecclesiastical changes. What right have ministers or members to tear Christ's church asunder, because they do not like each other? It may indeed be asked, How can two walk together except they be agreed? But we are agreed as to everything which legitimately constitutes the basis of church union. We are agreed in the same confession of faith and form of worship, government, and discipline. Personal likes and dislikes are not in this matter to be taken into account. Those who do not like each other, may keep apart, so far as social intercourse is concerned, but they have no right to tear the church to pieces to gratify their feelings. Should the judges of the Supreme Court of the United States unhappily be on bad terms with each other, it would be no just reason for disbanding the court. If the officers of the army should not have the personal kind feeling and mutual respect, which are desirable, that would not be a sufficient cause for the dissolution of the army. Besides, we may hope that the present alienation of feeling, so far as it exists in our church, will soon pass away; that when the country is restored to peace, the passions engendered by conflicts of opinions and interests, will subside, and brotherly love and confidence once more prevail. In the mean time, every man is bound to set a watch over his heart, lips, and pen, and do as little as he can to foment unkind feeling, and to remember that his feelings are not the rule of duty to the church.

A still more serious source of danger of division than either of those just mentioned, is found in difference of opinion in matters of vital importance. In the first place, the country is engaged in a conflict for life or death. Its existence is at stake. In this conflict, Presbyterians in the Gulf States, (so far as appears) and Presbyterians at the North, have taken

different sides. On the one hand, our Southern brethren say they are contending for their dearest rights, for liberty, for property, for life. The conflict with them, they say, is *pro aris et focis.* It has a religious character. They appeal to God with confidence for approbation and protection. In all this they are doubtless sincere. On the other hand, we at the North feel that our national life is in danger. It is no mere question of the predominance of this party, or that; the ascendency of one portion of the country or of another. It is not a question simply of the extension, or the non-extension of slavery, of the triumph of one system of labour, or form of social life over another. But it is the question, whether we are to continue to exist as a nation, or become a congeries of independent nations: whether our government shall remain as the Parthenon was when Pericles left it, the admiration of the world, or become what the Parthenon is now, with scarcely one stone upon another. It is a question of national existence; a question whether we constitute a nation—not whether the Gulf States shall be included in that nation, that no one insists upon—but whether we are, ever have been, or shall continue to be, a nation at all. Nothing can be more dear or sacred to a people than their national life. The destruction of the life of a nation is a thousand times worse than suicide, for it is not merely self-destruction, but the destruction of posterity. Our national life we have received from our fathers, we hold it in trust, and are bound to transmit it unimpaired to future generations.

Let it be distinctly understood that it is not the dissolution of the union of which we speak as the destruction of our life as a nation. The separation of these states from Great Britain did not destroy the national life of England. Its resolution into a heptarchy would work such destruction. In like manner, we might restore Texas to Mexico, Florida to Spain, or Louisiana to France, and remain the same glorious nation we were before. It is not separation which destroys our national life, but the practical recognition of the right of secession. That right is founded on the assumption that we are not a nation, and have no title to its prerogatives, no right to exercise its functions. This is national death. It is not

the loss of a member, but the extinction of the life of the body. We are not giving expression to a doctrine peculiar to any party. It is not a federal, as opposed to a democratical doctrine; neither is it the doctrine of consolidation as opposed to that of state rights. Mr. Madison, who drafted the Virginia state right resolutions, was as much opposed to the doctrine of secession as any man in the country. Dr. R. J. Breckinridge, whose distinguished father was principally instrumental to the passage of the similar resolution of Kentucky in 1799, takes the same ground. He says expressly, that any ordinance of secession passed by the legislature or convention of any state, is null and void. William Collins, Esq., of Baltimore, in his recent address to the people of Maryland, uses the same language. We have been denounced as holding an exploded whig heresy, in maintaining that the union is indissoluble, except by common consent. We do not intend to argue the point. We only rebut the imputation of being party politicians. Questions of constitutional law are moral questions, because they affect our conscience and our duties. We wish to show that the doctrine in question is held by all parties, federalists, democrats and republicans; men of the North, and men of the South. It has been the common faith of the country from first to last. Even in the ordinance for the government of the territory north-west of the Ohio, adopted in 1787, before the present constitution was in force, it was assumed that the union was indissoluble. "The following articles," it is said, "shall be considered as articles of compact between the original states and the people and states in the said territory, and for ever remain unalterable, unless by common consent." One of those articles is, "The said territory, and the states which may be formed therein, shall for ever remain a part of this confederacy of the United States, subject to the articles of confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled." If such was the character of the old confederation, how can it be assumed that the present constitution, adopted to effect a more perfect union, should resolve us into a rope of sand? If a nation is an independent political community,

having a common constitution, a common executive, legislature, and judiciary, whose laws are supreme in all parts of its territory, then are these United States a nation. If we are citizens not only of our several states, but also of the United States, then the United States constitute a commonwealth, or political unit. If treason is a breach of allegiance, then, as the constitution defines such a crime as treason against the United States, the constitution assumes that allegiance is due to the union. If the constitution and laws of the United States are the supreme law of the land, anything in the constitution or laws of any particular state to the contrary notwithstanding, then any law or ordinance of a state in conflict with the constitution of the union is null and void. Then, too, in the language of Henry Clay, the Henry IV. of our republic, is allegiance to the union a higher and more sacred duty than allegiance to any individual state.

This is no abstraction. It is not merely an idea. It does not merely hurt the understanding and shock the common sense of men to deny our national character. It affects our vital interests. If secession concerned only the rights and well-being of the seceding states, it would be a different matter. It affects equally the rights and welfare of all. The doctrine of secession throws the whole country into chaos. If one state may secede, any other may. If Florida, at the extremity of the union, may go off and connect itself with a foreign nation, and thus command the Gulf of Mexico, so may Ohio in the centre of the union. If Louisiana may secede and obtain exclusive command of the mouth of the Mississippi, she thereby assumes the right not only of disposing of her own interests, but of controlling the whole Mississippi basin. Should Virginia secede, she would reduce Maryland to the condition of a helpless dependent. Should Rhode Island go out of the union and give herself to Great Britain, then an English fleet in the harbour of Newport would have command of the whole commerce of the United States north of the Delaware. It is very evident that the people of this country will never give up their life in this way. They will never sanction a doctrine which not only destroys their existence as a nation, but which subjects them to intolerable wrongs.

It is not against the dissolution of the union, be it remembered, that we are now arguing; we presume few persons at the North would desire to retain the Gulf States against their will. If the people of those states really desire a separate confederacy, the great body of Northern people would say, Let them have it. There are, however, three ways in which this union may be dissolved. The one is the assertion of the right of secession. This is the plan which the cotton states have seen fit to adopt. This can never be recognized nor submitted to, without self-destruction on the part of the whole union. Legally and morally, those ordinances of secession are null and void, and should be so regarded and pronounced. The second is, by a convention of all the states, called to alter the constitution agreeably to its own provisions. This is the safe, and honourable, and peaceable method. In this way all the incidental questions of boundaries, division of property, apportionment of the public debt, and provision for mutual security could be arranged and determined. This is the method which Mr. Buchanan suggested, and which the whole country have a right to demand. As the honour, rights and interests of all are concerned, all are entitled to be heard. As the union was the product of coöperation, its dissolution can be righteously effected in no other way. Those who refuse to submit to this method, must bear the responsibility of the consequences, whatever they may be. The third method is by revolution. This, under adequate provocation, is admitted to be right. If the Gulf States will put themselves on this right, then their case can be understood, and it is to be hoped, adjusted to mutual satisfaction. Revolution, if justified by adequate considerations, may be an act of the highest virtue. If entered upon for inadequate reasons, reasons which do not in the sight of God absolve a people from their allegiance and the obligations of their oaths; which do not justify civil war, it is one of the greatest of crimes. When a people rebel against a government to which they owe allegiance, and throw themselves on their inalienable rights as men, then it becomes that government to determine what is to be done. It may, 1. redress the grievances and endeavour to secure a voluntary return to allegiance; or, 2. should it deem the grounds of complaint unreasonable, or the

concessions demanded inadmissible, it has the undoubted right to use all its resources to enforce its laws; or, 3. should it be convinced that the exercise of that right would only aggravate the evil, it may consent to dismemberment upon conditions mutually agreed upon.

When this country revolted against England, these several plans were at the option of Great Britain. She unfortunately chose the second. She might have adopted either of the others. And, we presume, no one now doubts that it would have been wiser to have taken the third, instead of the second. She might have granted in 1776 all she granted after seven years of carnage, in 1783. We do not pretend to counsel our rulers. We, in common with the humblest individual in the country, have the right to discuss principles which bind men's consciences. The application of those principles rests with those to whom the people have committed the authority to decide. It is very evident, however, that while the country is thus convulsed; while one portion of the people have thrown off their allegiance to the general government, and are preparing to resist, by the force of arms, any exercise of its authority, and another part remain true to that allegiance, it can be no easy task to hold these conflicting parties in ecclesiastical union. It would, however, be sheer fatuity to close our eyes to the fact, and to come together in the General Assembly as though nothing had happened, and as though men's minds were in their ordinary state. We must deal with the case as it really is. And one feature of the case is but too apparent, viz., that the Presbyterians of the North, and those of the Gulf States are widely separated from each other in their convictions as to their political rights and duties. The one party is in open opposition to a government which the other holds to be binding by the laws of God and man. A second point, as to which serious difference of opinion has recently been developed, is slavery, and that in a two-fold aspect; the one moral, and the other political. Strange as it may appear, we are not agreed as to what slavery is. In the year 1836, we adopted the definition of slavery given by Paley in his Moral Philosophy, Book III. ch. 3, "I define," he says, "slavery to be an obligation to labour for the benefit of the master, without

the contract or consent of the servant." In the *Princeton Review* for April of that year, p. 279, we said, "All the ideas which necessarily enter into the definition of slavery are, deprivation of personal liberty, obligation of service at the discretion of another, and the transferable character of the authority and claim of service of the master." And, on p. 289, it is said, "Slavery is a state of bondage, and nothing more. It is the condition of an individual who is deprived of his personal liberty, and is obliged to labour for another, who has the right to transfer this claim of service, at pleasure." Slavery, therefore, and involuntary servitude, are convertible terms. This definition is authenticated by an analysis of the subject. Slavery has existed in different ages, and in different parts of the world, under very different systems of laws. But in all times, and in all places, men, who without contract or consent on their part are bound to labour for another, are called slaves. The nature of the condition expressed by the word is not determined by the extent or the limitation of the power legally committed to the master, to render secure and available his claim to service. In one case, the master may have the power of life and death; in another, his power even to punish may be restricted within narrow limits. These diversities in the slave laws do not enter into the nature of slavery itself; and therefore cannot be comprehended in its definition. The definition above given has the sanction also of authority and general assent. The Hon. Thomas R. R. Cobb, in his elaborate work on the "Law of Negro Slavery" says, "Slavery, in its more usual and limited signification, is applied to all involuntary servitude, which is not inflicted for the punishment of crime." He quotes from the Institutes the definition copied from the Stoic Philosophers, according to which slavery is: Constitutio juris gentium, quâ quis domino alieno, contra naturam, subjicitur;" and from Heineccius, who says: "Servi sunt personæ, qui ad dominorum utilitatem operis suis, vel pro certâ mercede alimentisque, vel pro solis alimentis promovendam obstricti sunt." Jus. Nat. et Gent. cap. iv. § 77. In the Constitution of the United States, and in the laws and ordinances of the old Confederation, and in those of Congress, "persons held to service" is the common periphrasis for slave; and slavery and

involuntary servitude are used as explanatory terms. We suspect that if Dr. McMaster was obliged to labour when, where, how, and as long as another man chose to appoint, without having any will of his own in the matter, he would come to acquiesce in this idea of slavery.

As to the sense in which slaves are property, it is said, in the article in this journal, just quoted: "When it is inferred from the fact of the slave being called the property of his master, that he is thereby degraded from his rank as a human being, the argument rests on the vagueness of the term *property*. Property is the right of possession and use, and must of necessity vary according to the nature of the objects to which it attaches. A man has property in his wife, in his children, in his domestic animals, in his fields, and in his forests. That is, he has the right to the possession and use of these several objects, according to their nature. . . . . When, therefore, it is said that one man is the property of another, it can only mean, that the one has the right to use another *as a man*, but not as a brute or as a thing. He has no right to treat him as he may lawfully treat his ox, or a tree. He can convert his person to no use to which a human being may not, by the laws of God and nature, be properly applied. When this idea of property comes to be analyzed, it is found to be nothing more than a claim of service, either for life or for a term of years. This claim is transferable, and is of the nature of property, and is consequently liable for the debts of the owner, and subject to his disposal by will or otherwise." p. 293. This view of the nature of slavery, and of property in slaves, was sanctioned universally, as far as known, at the South. No objection was raised against it, and the article in which it was presented was widely circulated through the country by the agency of Southern men. The same view is presented by Dr. Thornwell in his recent article on "The State of the Country," republished from the *Southern Presbyterian Review*. On page 16 of that article, he asks, "Morally considered, to what class does the slave belong? To the class of persons held to service. The two ideas, that he is a person, and as a person, held to service, constitute the generic idea of slavery. How is his obligation to service fundamentally differenced from that of other

labourers? By this, as one essential circumstance, that it is independent of the formalities of contract. Add the circumstance that it is for life, and you have a complete definition of the thing. You have the very definition, almost in his own words, which a celebrated English philosopher gives of slavery. 'I define slavery,' says Dr. Paley, 'to be an obligation to labour for the benefit of the master, without the contract or consent of the servant.'" Again, Dr. Thornwell says, "That upon which the right of property terminates in the slave, is his service or labour. It is not his soul, not his person, not his moral and intellectual nature—it is his *labour*. This is the thing which is bought and sold in the market, and it is in consequence of the right to regulate, control, and direct this, that the person comes under the obligation to obey."

It will not be assumed that the Hon. Mr. Cobb, of Georgia, and Dr. Thornwell, of South Carolina, are disposed to reduce slavery to a mere figment, or to curtail the full legal prerogatives of masters. Yet the Rev. Dr. McMaster's denunciations of the editor of this *Review* are founded on our having, years ago, presented this view of the nature of slavery and of the master's right of property in his slaves. He charges us with having, thereby, done more to pervert the conscience of the church than any man alive. In his review of our recent article on "The State of the Country," he says: "Although there is in this article no distinctly enunciated definition of *slavery*, yet the article assumes and everywhere proceeds upon the false definition, elsewhere given, that 'slavery is nothing but involuntary servitude.' It is true, this definition is in the face of the authority of the church, in all its testimonies previously to the year 1845, which former testimonies, it is admitted, used the term in a wholly different sense; and in the face of the universal usage of the laws, and the judicial decisions which relate to slavery, and of almost all writers on the subject, legal, and political, and ethical, who are of any authority. It is hard to understand how a man, like the editor of the *Review*, whose whole life, it ought to be presumed, has led him to understand the value of precision in the use of language, and especially the necessity of clear and true definitions of terms on subjects which are in controversy, can fail to see that

his definition of slavery is no definition at all; and that, if it were admitted, it would make all condemnation of slavery simply absurd. What rational man ever thought that it is immoral to hold in involuntary servitude any one who is, by his own mental state, unfit for freedom, till he is twenty-one, or forty-one, or eighty-one years of age? Yet the editor of the *Princeton Review* clings to this obviously false definition of slavery, with dogged pertinacity as great as if he thought the salvation of the church and the country depended on his maintaining it. This false definition of slavery is the source of much of the confusion of thought and ambiguity of language which have pervaded all his articles, through twenty-five years, on the subject, and of the wide-spread mischief which they have wrought. Let it be admitted that slavery is what all competent authority defines it to be, the system which makes the legal status of men, and women, and children, to be that of *property;* that is, of *real estate*, or *chattels personal*, as the case may be; and *slavery* is condemned as a sin against God, and the most gross outrage upon man."

It often happens when one man complains of the want of discrimination in another, the fault is with himself. We think it is so in the present instance. Dr. McMaster presents the two definitions of slavery—the one, that it is a state of involuntary servitude—the other, that it is the system which makes the legal status of the slave to be that of *property*, as contradictory. Whereas they are perfectly consistent. What does the law mean when it says that slaves are property? It means, and it can mean nothing more, than that the master has a legal right to their services. In this sense, and in this alone, has the master property in the slave. When the law says that slaves shall be deemed chattels personal in the hands of their master, it only decides that the claim or right of the master belongs to the class of personal property, that it is to be regulated by the statutes which relate to such property. It has the same liabilities, may be transferred or disposed of in the same way. We may be excused for again quoting what we wrote in 1836. In the article already referred to, it is said, "Another very common and plausible argument on this subject is, that a man cannot be made a matter of property. He cannot be degraded into a

brute or chattel without the grossest violation of duty and propriety; and as slavery confers this right of property in human beings, it must, from its very nature, be a crime. We acknowledge the correctness of the principle on which this argument is founded, but deny that it is applicable to the case in hand. We admit that it is not only an enormity, but an impossibility, that a man should be made a thing in distinction from a rational and moral being. It is not within the compass of human laws to alter the nature of God's creatures. A man must be regarded and treated as a man even in his greatest degradation. That he is, in some countries, and under some institutions deprived of many of the rights and privileges of such a being, does not alter his nature. He must be viewed as a man under the most atrocious system of slavery that ever existed. Men do not arraign and try on evidence, and punish on conviction either things or brutes. Yet slaves are under a regular system of laws, which, however unjust they may be, recognize their character as accountable beings." Then follows the passage above quoted, stating that the right of property in man can only mean the right to use him as a man, as a fellow-creature, and one of God's children, and not as a brute or as a thing. After which the article goes on to say, "When the law declares that the slave shall be deemed and adjudged to be a chattel personal in the hands of his master, it does not alter his nature, nor does it confer on the master any right to use him in a manner inconsistent with that nature. These legal enactments are intended to facilitate the master's claim of service, and to render that claim the more readily liable for his debts."

According to this view of the subject, by a slave is to be understood a bond-servant, one bound to labour for another, not as a punishment for crime, not on the ground of a mutual contract, but because of the legal relation which the one sustains to the other; and by slavery is to be understood involuntary servitude. If any one chooses to give the words any other definition, and make them include what is not essential to the relations which they indicate, he is at liberty to do so. But the above, as we believe, is the true sense of the words. It is the sense in which they are defined by moralists and legislators; the sense in which they are explained by slave-

holders themselves. It is the sense in which the words have been defined by our General Assembly, and in which they must be taken, when the church has declared that slaveholding is not in itself criminal; that it is not inconsistent with a credible profession of Christianity, and therefore does not furnish any just ground for church censure. This of course does not imply any sanction of the laws which may be enacted in reference to slaves. Those laws differ in different ages and nations. They differ very much in the several states. Neither Christians in those states, nor the General Assembly by any of its decisions, have incurred the responsibility of those laws. In many instances the slave-laws are unjust, cruel, and anti-Christian, which no man can approve, without forfeiting the confidence of God's people the world over. Nor does the doctrine above stated involve the assumption that slavery is in itself a good and desirable institution—something to be cherished and perpetuated. We may hold that absolute monarchy is not sinful, without sanctioning the laws of any and every state thus governed, and without teaching, that having the life, the liberty, and property of millions of men at the sovereign disposal of one man, is a form of government to be desired, cherished, and perpetuated. In this view of slavery, the great body of our ministers and members North and South have been, and we doubt not still are agreed. We know, indeed, that a very different view has been presented by leading statesmen and politicians at the South, which is obviously taking more and more hold on the public mind, but which, until recently, so far as we know, has not received the sanction of any of the leading men of our own church. That view assumes that slavery is a good and desirable institution, which should be cherished, perpetuated, and extended. This doctrine rests on one or the other, or on both of the following assumptions. First, that it is best that capital should own labour—that the most desirable organization of society is that in which the people are divided into two classes, masters and slaves; that this secures the labourer from degradation and suffering, to which, under the system of free labour, he is often exposed, and that it affords the occasion and stimulus for the highest development of the master race. The second assumption, is

the essential inferiority of the negro race; whether this inferiority is due to difference of origin, or to historical circumstances, does not alter the case, provided it is essential and permanent. Both these assumptions have been publicly avowed. That any large class of Presbyterians hold either of these views, that they believe it to be consistent with the word of God, with the spirit of the gospel, with the laws of human nature, that the few should be masters, and the many slaves; that all power, property, and every post of emolument and honour should by law be confined to one small class of the people, and the mass of mankind should be held as property, we are very loth to admit. Nor can we believe that men who receive the Bible as the word of God, can be readily persuaded that he has doomed the black race to be the perpetual slaves of the white. Although the principles which lie at the foundation of the theory, that slavery is a desirable institution, seem to be so repugnant to Scripture and all right feeling, yet the theory itself has been avowed by some of the most prominent ministers of our church in the cotton states. Dr. Palmer's sermon has for its theme the proposition, that the divinely appointed mission of the South is "to conserve and perpetuate the institution of domestic slavery as now existing." This certainly is a new and startling doctrine. We see, indeed, from a communication in a recent number of the New York *Observer*, that Dr. Palmer complains that our strictures on his sermon in our last number did him injustice in two respects; first, in representing him as teaching that slavery should be indefinately perpetuated; and secondly, in saying that the abuses of the system should be continued. We did not so interpret his sermon, nor did we attribute either of those opinions to him. We never supposed that he was so forgetful of the limits of the human mind, as to undertake to say what would be the duty of men in reference to slavery a thousand years hence; we expressly stated that he spoke only of "the duty of the present generation." Nor did we presume that he or any other Christian man could hold that the prohibition of legal marriage to four millions of human beings, should be continued for an hour, much less indefinitely. We understood him to say just what he does say, viz., that the mission of the South

is to conserve and perpetuate the institution of domestic slavery as it now exists. This is a view of slavery which the church we are persuaded will never sanction. If individuals are content to hold it as their private conviction, well and good. But if they insist on others holding and professing the same doctrine, then there must be division. We do not say, and we do not think, that the diversity of opinion on this subject, which recent events have developed and revealed in the Presbyterian church, is any just or adequate ground for its division; but we do say, that the existence of such diversity greatly increases the difficulty of holding the church together. The mass of the people in our church, North and South, will as indignantly reject this apotheosis of slavery, as they do Garrisonian abolitionism. We are willing to stand where we are, but we cannot consent to be carried along by the flood of pro-slavery fanaticism, which threatens to overwhelm one portion of the church.

It is not however so much from the moral, as the political aspect of the question that danger is to be apprehended. It is from this source that the conflict of rights and interests arises. On this subject there are the three following views publicly advocated. First, that property in slaves rests upon the common basis of all property. Slavery is not contrary to nature, or natural law. It is just as reasonable, right, and natural that one man should own another, as that he should own a horse. His claim in the one case is just as much entitled to general recognition as in the other. It is therefore subject to no peculiar restrictions. Any nation indeed has the right to prohibit the importation of any particular kind of property into its own limits. It may forbid the introduction of opium, or other noxious plants or animals, or anything else which it may deem injurious or inconsistent with its own policy. On the same principle it may forbid the introduction of slaves. But apart from any specific enactment, or established state policy, slaves are as much entitled to be recognized as property the world over as books or clothes. A slaveholder has therefore the right to take his slaves to any part of Europe, and to hold them there, so long as he is a mere sojourner, provided there is nothing in the laws or institutions of the kingdom or

state in which he may reside, to forbid it. The comity of nations requires that the status of the man in a foreign land should be determined by that of his domicile, and not by that of his temporary sojourn. Such is the ground taken by Mr. Cobb. He says, "That slavery is contrary to the law of nature, has been so confidently and so often asserted, that slaveholders themselves have most generally permitted their own minds to acknowledge its truth unquestioned. Hence, even learned judges in slaveholding states, adopting the language of Lord Mansfield, in Somerset's case, have announced gravely, that slavery being contrary to the law of nature can exist only by positive law." P. 5. In controverting this doctrine he discusses through several pages the idea of the law of nature, and arrives at the conclusion that "the law of nature, when applied to man in his intercourse with his fellow-man," is "that obligation which reason and conscience impose, so to shape his course as to attain the greatest happiness, and arrive at the greatest perfection of which nature is susceptible." He very candidly admits "that the enslavement, by one man or race, of another man or another race, physically, intellectually, and morally their equals, is contrary to the law of nature, because it promotes not their happiness, and tends not to their perfection." The negroes, however, are, as he argues, physically, intellectually, and morally inferior to the white race; and, therefore, reducing negroes to slavery, and retaining them in that state, are not inconsistent with the law of nature. Mr. Cobb is the most candid, the most philosophical, and we may add, the most Christian advocate of the extreme pro-slavery doctrine we are acquainted with. He confines the application of his principles to the negro-race. He rests the justification of slavery on the assumption or presumption of the inferiority of that race; and he makes the legitimate object of the institution to be the highest happiness and improvement of the slaves themselves. As he founds the master's right of property in his slave on "natural law," he claims that it should be recognized wherever any other kind of property is recognized, and on the same conditions, and with the same, and no other limitations. He cites numerous cases to prove that the master's right to hold his slaves in European states where slavery does

not exist, has been recognized by Continental authorities. He asserts that Lord Mansfield's decision (even to the extent to which he is willing to concede that decision went) was an innovation. Of course, *a fortiori*, he holds that slaveholders are entitled to hold their slaves in all the territories of the United States, and within the limits of free states, so long as they are merely sojourners therein.

Dr. Thornwell's language on this subject is as follows: "Wherever communities have been organized, and any rights of property have been recognized at all, there slavery is seen. If, therefore, there be any property which can be said to be founded on the common consent of the human race, it is property in slaves. If there be any property that can be called natural, in the sense that it spontaneously springs up in the history of the species, it is property in slaves. If there be any property founded in principles of universal operation, it is property in slaves. To say of an institution, whose history is thus the history of man, which has always and everywhere existed, that it is a local and municipal relation, is of 'all absurdities the motliest, the meanest word that ever fooled the ear from out the schoolman's jargon.' Mankind may have been wrong—that is not the question. The point is, whether the *law* made slavery; whether it is the police regulation of limited localities, or whether it is a property founded in natural causes, and causes of universal operation. We say nothing as to the moral character of the causes. We insist only on the fact that slavery is rooted in a common law, wider and more pervading than the common law of England—*the universal custom of mankind.* If, therefore, slavery is not municipal, but natural, if it is abolition which is municipal and local, then, upon the avowed doctrines of our opponents, two things follow: 1st. That slavery goes of right, and as a matter of course, into every territory from which it is not excluded by positive statute: and, 2d. That Congress is competent to forbid the Northern states from impressing their local peculiarity of non-slaveholding upon the common soil of the Union." According to this view of the matter, slavery is not only national, but it is cosmical. It goes of right, and as a matter of course, into

every state and kingdom of the earth in which it is not specially prohibited. The only reason that fugitive slaves cannot be reclaimed from European governments is, that they, or some of them, have established it as a principle of law, not to accord to strangers a right of property which they refuse to their own subjects. But this principle is said to be contrary to the whole current of continental authorities, and to be intensely English. This doctrine, that slavery is natural and not municipal, of course makes all the territories of the United States slaveholding. Mr. Buchanan very properly declared that, on this ground, Kansas was as much a slaveholding territory as South Carolina; and the same must be true with regard to all territory hereafter to be acquired.

A second general principle adopted on this subject amounts to the same thing as the preceding, so far as this country is concerned. The two, however, are distinct, and do not necessarily imply each other. This second principle is, that the constitution of the United States recognizes slaves as property, and, therefore, spreads over it its protection, wherever that constitution is the supreme law. It is obvious that a man who holds that slavery is founded on natural law, will not fail to hold that it is recognized by the constitution. But a man may hold the second, without holding the first. The logical consequences of the assumption that the constitution recognizes slaves as ordinary property, are stated differently by those who adopt it. A very distinguished Southern gentleman, in a private letter to the writer, states those consequences thus: "Let us leave wholly aside the question whether property in the labour of bondmen should be considered as natural, or as a local species of property; and lay down these postulates. The federal government is the agent of the states, holding its functions from them, and for their joint and equal benefit. All powers not expressly or impliedly granted to the federal government, are therefore reserved to the states. The federal government recognizes property in the labour or service of our bondmen, in the states in which the property is recognized by the state's own laws. The general government is the common trustee of the territories, for the equal behoof of all the states, and the citizens thereof. Hence we infer that the genera

government should be *perfectly neutral* as to the introduction of any and of every sort of property into its common territories, which is property to any citizen of any of the states to which it is trustee. That is, it should do absolutely nothing, positive or negative, to carry in, or keep out, any of those kinds of properties. And, an inevitable corollary is, that it shall compel all its creatures deriving power under it (*e. g.*, a territorial legislature) to observe the same neutrality, while the territorial condition lasts. And this is *all* which moderate Southern men mean by that obvious claim, so much decried under that odious name of 'congressional slave codes.'"

We of course are not authorized to speak for anybody but ourselves, much less for any party. We are, however, free to express the conviction, that four-fifths of the people of the North would consent to this neutrality of the federal government. They would agree that slaveholders should take their slaves into any part of the common territory, provided the general government were not called upon to pass laws for the security and protection of that property. To enact such laws, would be to establish slavery in all the territories of the United States. We fear, however, that Southern men generally would not be satisfied with mere neutrality. They would not be content that the general government should do nothing, either positive or negative, in this matter. If they have the right to carry their slaves into all the territories of the Union, they will claim legal protection for their property; that is, they will claim to have all the territories, by act of Congress, made slaveholding. This seems to us the logical consequence of the principle, that the constitution recognizes property in slaves as resting on the same basis as other kinds of property. This is therefore the conclusion which is commonly drawn from that principle.

We find this subject clearly and ably presented in the *Sentinel and Witness*, of New Orleans, for January 12, 1861. "True," says that journal, "slavery is a municipal institution, and its municipal boundaries are the limits of the constitution of the United States. Lexicographers give just this definition of the term, and Blackstone applies it exactly in this sense to the state, or British kingdom, as em-

bracing the nation, the kingdom, the empire; and just to the same degree to which the constitution gives rights to the citizen of one state in another state, exactly to the same extent is slavery entitled to go into any free state, and then receive the protection not only of the constitution of the United States, but also of the state itself—*of every state in the Union.* Each state is bound by covenants and oaths to maintain the federal constitution, which constitution guarantees the rights of every citizen of the Union vested in slaves, and to the same extent binds each state not to interfere with these rights. The extent of this duty on the part of a state is exactly co-equal with the right of any citizen of the United States to sojourn in said state. . . . So soon as the time elapses for said sojourner to become a citizen of said state, then the state laws apply—not before. . . . Carolina cannot justly claim that her slave laws should have authority in France or England, or in the Northern states; nor does she claim this for her *state* laws; but she claims the right of each of her citizens, as above shown, under the constitution. . . . So long as slavery exists in any one of the states of the Union, it must be federally legal in every state of the Union, and each state must legalize and protect it to the exact extent of federal obligations. . . . A faithful adherence to this principle, to which each state is bound by covenants and oaths, would calm the present fearful convulsions the very day it was made known, and secure an abiding harmony in the Union; and in fifty years this nation would command the commerce of the world, and be incomparably the first nation on the globe. But without this, we firmly believe the Union is impossible."

We cannot answer this reasoning. It seems to us perfectly conclusive. If the constitution recognizes property in slaves as resting on the same foundation with other kinds of property, it must be protected where any other kind of property is protected. If the general and every state government is bound to protect a man in the possession of his books or clothes, wherever they have authority, why are they not bound to protect him in the possession of his slave, if his right to his slaves, in the view of the constitution, which is the supreme law of the land, rests on the same foundation as his right to his books?

Slavery is thus nationalized. It is carried by the constitution, *proprio vigore*, wherever the constitution goes. Mr. Cobb reaches the same conclusion, although by a somewhat different process.

If such be the true interpretation of the constitution, then we are all bound to submit to it, just as we are bound to submit to the provision requiring the restoration of fugitive slaves. It is of no avail to plead scruples of conscience or convictions of policy in such a case. Our only duty is submission until the constitution can be regularly altered, or the Union legitimately dissolved. We are free to say that if the admission of this interpretation would lead to the actual extension of slavery over the country, we should prefer to see the Union separated into a hundred parts. We do not believe slaveholding to be sinful, but we believe slavery to be an evil and a burden; to be disastrous in its influence, especially on the non-slaveholding whites. At the same time, we believe that this is rather a theoretical, than a practical question. Slavery will not go where it is unprofitable or insecure. It has not gone into New Mexico to any extent, although it is there legally established. It is probable, therefore, that the actual extension of slavery would not be greatly promoted by the adoption of the principle that it is entitled to legal protection in all the territories of the Union. The principle itself, however, we believe to be false and revolutionary.

The third general view on this subject is, that slavery is a municipal institution, resting on the *lex loci*, and therefore cannot claim legal recognition or protection beyond the limits of the state in which that law is in force. Mr. Cobb begins his elaborate work by proposing as a necessary preliminary question: "By what law or authority does this dominion of one man over another exist? by the law of nature, or by municipal law?" He says it is by the former, and not by the latter. He admits, however, that the opposite view, viz., that slavery does not rest on natural law, and therefore, that it is a municipal institution, "has been almost universally adopted by courts and jurists." "Even learned judges in slaveholding states," he adds, "have gravely announced that slavery being contrary to the law of nature, can exist only by force

of positive law." Pp. 4 and 6. This is true enough. Such has been the almost universally received doctrine, and the introduction of the opposite view is now revolutionizing the country.

But what is municipal law? A writer in the New York *Observer*, who signs himself "A Pennsylvania Elder," and who, the public papers say, is supposed to be "an eminent jurist, who has had much experience in public life, and wide acquaintance with public men," in a review of our article on the State of the Country, says, "The fallacy upon which the whole argument is based, is, that slavery, as it exists in this country, is purely a municipal institution, and it is asserted that until within the last twenty or thirty years, there was but one opinion on this subject. There could not be a greater error." In support of this declaration, he appeals to the fact, "that slavery was, in the beginning, universal in this land. It was part of the common law of the country. It was not established by any local or municipal enactments, but every man who could afford to buy and keep a slave, had an undoubted right to do so." "Municipal laws were made to restrict and abolish it. None were required to establish it." This argument has been reproduced in various quarters, and in different forms. With all due, and with very sincere deference, we must be permitted to say that clergymen, who the writer says have no right to meddle with such questions, are trained to reason better than this. He does not define his terms. What is municipal? He assumes that it is synonymous with statute. What is not due to positive enactments, he says, is not municipal. Such, however, is not the meaning of the word. It does not indicate the source or ground of a law, but simply the extent or sphere of its operation. Slavery may have been universal at one time in this country; it may rest where it now exists on the common law, nay, it may rest "on the universal custom of mankind," and yet be at this time, and in this country, a purely municipal institution. "Municipal law," even the dictionary tells us, is "the law of a city, state, or kingdom." It matters not whether it rests on special enactment, particular usage, or immemorial custom. Municipal is local, as opposed to international or universal. Polygamy does not

rest in the East on special enactments. It had its origin in immemorial usage. It can be traced back to the times of Lamech. It prevailed over the whole earth. It can claim its origin from the fallen nature of man, as legitimately as slavery or any other human institution. Yet polygamy is, in relation to Christian nations, purely municipal. Christianity has abolished it throughout Christendom. It has there no law for its protection. Should a Persian or Indian ambassador come to this country with his harem, no one would molest him. The magistrates would not arrest him for bigamy, nor would any court grant a writ to deprive him of the custody of any of the inmates of his house. But if any one of his wives chose to leave him; if, on the ground of conscience, or for any other reason, she refused to continue in his harem, to what law could he appeal to enforce his claim? The laws, whether statute or common, of his own country have no force here. Our courts would not be bound by the courtesy of nations, to give effect, in such a case, to the laws of Persia, or of Hindostan. They would not only not be bound to coerce such a fugitive back to the custody of her master, they would have no right to do it. It would be a violation of her inalienable rights of conscience. It is precisely so with regard to slavery. It may plead immemorial usage or general custom for its origin. But as a historical fact, it has been abolished in almost the whole of Christendom. Where it continues to exist, it is of necessity a municipal or local institution. If, therefore, a master takes his slaves into a state or kingdom where slavery does not exist, he has no law to which to appeal to enforce his authority. If his slaves are willing to remain with him, well and good. The courts will not disturb him. But if they choose to renounce his authority, the courts are not bound to enforce it. There is no law of such state giving the master dominion over the slave. It is only on the principle that the comity of nations requires that the legal status of a person in a foreign state shall be determined by his status in his own domicile, that such interference can be defended. But this, in the first place, is a mere matter of comity. It is not a matter of right, and must from its nature, apart from treaty stipulations, be a matter of discretion. And in the second place, this principle is not, and

cannot be carried out. As just remarked, comity would not require that our courts should decree that a woman should be a man's concubine, because the law of Persia made her so. An English nobleman cannot bring his peerage to this country. An order of nobility, although founded on immemorial usage, and although adopted in most of the nations of the earth, is, as far as we are concerned, a municipal institution. A nobleman can plead no privilege of his order in the United States, and he cannot call upon our courts to give legal effect to any of those privileges. If he commits a crime, he must submit here to be judged by commoners. Why then should it be maintained that a Russian serf should be treated not as a free man, but as a serf in this country, and have his degraded legal status in the land of his birth, follow him to a land which recognizes no such state?

In asserting, therefore, that slavery is a municipal institution, we say nothing as to its origin. We do not say that it is created by statute law. We only say that it rests on the *lex loci*, and that it has no legal existence beyond the operation of that law. In this respect it is on the same foundation with polygamy, orders of nobility, serfdom, and other local institutions, for which no natural or Divine law universally obligatory can be pleaded. What are the logical consequences of this doctrine? Many of our Southern brethren seem to think that "free soilism," that is, the doctrine that we are to have no more slave territory, no new slave states, is the inevitable consequence of that principle. This is a mistake. The free soil doctrine is not an interpretation of the constitution, but a rule of policy. We may hold that under the constitution slavery is a municipal institution, and yet it may be our policy to extend it over our whole territory. The logical consequences of the principle in question are, 1. That if the United States acquire any territory where slavery already exists as a legal institution, it continues to be slaveholding, and slaveholders from abroad may claim protection for the slaves legally introduced into such territory. Thus, we acquired Louisiana, Florida, and Texas; and should we acquire Cuba, it would be slaveholding and open to all the slaveholders in the Union. 2. If the territory acquired be free, then slaveholders may take their slaves

into it, provided they are willing to trust to the affection or fidelity of their slaves, or to the public sentiment of the community, as their security for this peculiar kind of property. Just as a Persian may bring twenty wives to this country, provided he is willing to trust to their devotion to his person. 3. Slavery may be legally introduced into free territory by act of Congress, if such introduction be deemed right and politic. 4. It may be introduced by an act of the territorial legislature. In this way it now exists in New Mexico. These are the principles on which the constitution has been interpreted and administered until a recent period of our history. What has been the practical result? Has this doctrine worked injuriously or unjustly? Has it hemmed slavery within its original limits? Has it deprived slaveholders of the liberty of expansion? The reverse is notoriously true. Almost all our accessions of territory have been in favour of slavery. Louisiana, Arkansas, Missouri, Florida, and Texas, have all been introduced as slaveholding. The area of slavery has been nearly doubled since the beginning of this century. There are about twenty-eight millions of white inhabitants in the United States. Of these the slaveholders and their families do not exceed two millions. Of the whole territory belonging to the Union 1,795,965 square miles are free, and 1,298,711 are slaveholding. Or, if we throw out of the view the territories, which are mostly a wilderness, and confine the comparison to the organized states this side of the Rocky Mountains, where the life of the country is, we find that the slaveholding states have 890,382 square miles, and the free states only 674,045, although the white population of the latter is more than double that of the former; and although slaveholders (including their families) are to the whole body of non-slaveholders as two to twenty-five. It cannot be said, therefore, that the constitution, as hitherto interpreted and administered, has worked unjustly to slaveholders.

But is this the true interpretation of the constitution? It is necessary to understand the question. We admit that the constitution recognizes slavery. We admit that it recognizes property in slaves. It certainly recognizes the master's claim to the service of his slave. But this claim is of the nature of

property. It can be bought and sold; it can be seized for debt; it can be transferred at pleasure, and it can be bequeathed by will. In recognizing, therefore, the master's claim to the service or labour of the slave, it recognizes his property in him, as far as one man can be the property of another. But this is not the point. The question is, whether the constitution recognizes slavery as a municipal, or as a natural, or, at least, a national institution; whether property in slaves, or, which is the same thing, the master's authority over his slaves and his right to their service, is regarded by the constitution as something peculiar and local, depending on the *lex loci*, or as something natural, to be everywhere recognized and enforced, as any other kind of property. But one answer to this question, as it seems to us, can be given. 1. In the first place, it must be admitted on all sides, that there is no decided or express recognition of property in slaves as ordinary property anywhere in the constitution. It is only arrived at by inference and implication. This seems to be admitted by the Hon. Alexander H. Stephens, who, in a speech delivered at Savannah, March 23, 1861, says that the new constitution of the Southern Confederacy determines "the proper status of the negro in our form of civilization." He says that the prevailing ideas at the time of the formation of the old constitution were, "that the enslavement of the African was in violation of the laws of nature; that it was wrong in principle, socially, morally, and politically. It was an evil they knew not how to deal with, but the general opinion was that, somehow or other, in the order of Providence, the institution would be evanescent and pass away. This idea, although not incorporated in the constitution, was the prevailing idea of the time." "This," he says, "was an error. It was a sandy foundation; and the idea of a government built upon it, when the storm came, and the winds blew, fell. Our new government is founded upon exactly the opposite idea; its foundations are laid, its corner-stone rests upon the great truth, that the negro is not equal to the white man;—that slavery, subordination to the superior race, is his natural and normal condition. This, our new government, is the first in the history of the world, based upon this great physical, philosophical, and moral truth. This truth has been

slow in its process of development, like all other truths in the department of science. It has been even so among us. Many who hear me, perhaps, can recollect well that this truth was not generally admitted, even within their day."

No doubt. This is precisely the revolution which has been going on in the Southern mind, and is now working the dissolution of the Union. It is well, however, to note that it is a revolution; that it is a new doctrine; that it is in direct contradiction to the old doctrine, on which, as Mr. Stephens says, the constitution of our fathers was founded. They did not spring to the monstrous conclusion that the superior race had a right to enslave the inferior. It is indeed undeniable, that the negroes as a class in this country, are inferior to the cultivated whites. But so are the modern Greeks to the Turks; so were the Christian Copts to the Mamelukes; so are the Esquimaux and Laplanders to the French and English. The relative position of the different races of men, depends on the conditions of climate, soil, political and social institutions. In Barbadoes, by far the most degraded part of the population, those who are the least intelligent, the most dependent, and most hopeless, are the poor whites. The same is true in certain parts of our own country, where the climate and social institutions are unfavourable to their development. The strong, physically or mentally, are not entitled to enslave the weak. Unless the inferiority be such as to render the less gifted race for ever incapable of freedom, it can form no justification in the sight of God or man for their perpetual bondage. This, however, is not the point now in hand. Mr. Stephens's speech is a frank and full admission that the old constitution was very different in its bearing on slavery from that of the new Confederacy. This is just what we say. The old constitution, which the seceding states had sworn to support, did not contain this idea that negro slavery is a natural, normal institution, or that property in slaves rests on natural law.

2. A second argument in proof that the constitution regards slavery as a municipal institution, is derived from the language of that instrument itself. In the words of the constitution, a slave is "a person held to service." But by what law? The constitution answers, *by the law of the States.* "No person

held to service or labour in one State, *under the laws thereof*, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to which such service or labour is due." It is here expressly stated, that the claim of the master to the service of the slave is founded on the *lex loci*. This is, therefore, a negation of the idea that it rests on the general principle of property, to be recognized wherever the rights of property are regarded. It is represented as something special and peculiar, founded on the municipal regulations of the States in which slavery exists. The constitution provides that this municipal regulation shall be respected by the non-slaveholding States to a certain extent, and for a specific purpose. This of itself implies, that were it not for that stipulation, there would be no obligation to respect it. We do not see how any implication can be clearer, than that slavery is regarded in the constitution itself as a local institution.

3. This is further plain, from the fact that a special article securing the restoration of fugitive slaves was considered necessary. A father has the right to the custody of his minor children. Why was it not deemed necessary to stipulate that runaway children should be restored to their parents? A man has a right to the possession of his domestic animals. Why is it not prescribed that horses or cattle, strayed or stolen, should, on proof of property, be returned to their owners? The very fact that such a stipulation was deemed necessary in the case of slaves, and not in the case of other kinds of property, shows that property in slaves was regarded as a purely local or municipal institution, having no legal foundation beyond the limits of the States in which slave laws were in force.

4. We could fill our pages with judicial decisions in support of this doctrine. The Supreme Court of the United States, the courts of Kentucky, Georgia, Missouri, Louisiana, as well as those of the free States, have, on numerous occasions, assumed and adjudicated that slavery is a municipal institution; that it rests on the law of the States in which it exists, and that the slave becomes free if taken by his master beyond the limits of those States. The principle laid down by Lord

Mansfield, that "so high an act of dominion must be recognized by the law of the country where it is used," has been generally adopted by our courts. In the case of Prigg *vs.* Commonwealth of Pennsylvania, in 1842, Judge Story, of the Supreme Court, says: "The state of slavery is deemed to be a mere municipal regulation founded on and limited to the range of territorial laws." In Jones *vs.* Vanzandt, in the same year, Judge McLean said, "Slavery is local in its character—it depends on the municipal law of the State where it is established. And if a person held in slavery go beyond the jurisdiction where he is so held, and into another territory where slavery is not tolerated, he becomes free." Judge Washington in 1806, and again in 1823, ruled, "that where a master voluntarily brings his slave into a free State and remains there, the slave is entitled to his freedom." The courts of Mississippi, June 1818, decided that "slaves within the limits of the northwestern Territory became freemen by virtue of the ordinance of 1787, and can assert their claim to freedom in this State." It is not necessary to multiply citations of this kind, as it is generally admitted, as by Mr. Cobb, that the current of judicial decisions is in favour of the doctrine that slavery is a municipal institution.

5. An argument which is itself more conclusive, and which will be more generally appreciated, is, that the whole administrative or constitutional history of the country is founded on this doctrine. The true interpretation of the constitution can hardly be more certainly determined than by the conduct of its framers and its legitimate expounders and organs. The principle now so confidently set forth that the constitution recognizes property in slaves as analogous to other kinds of property, and entitled to the same universal recognition and protection, avowedly assumes that any law of Congress forbidding slavery in the common territory is unconstitutional. But Congress has from the beginning passed such laws. They were passed by the framers of the constitution. They were sanctioned by Washington, Jefferson, Madison, Monroe, by Calhoun, by Clay, by Jefferson Davis, and by statesmen of all parties. The opposite doctrine is verily a new idea, which has been slowly developed, and only recently adopted. In the

ordinance of 1787 it was ordained, "There shall be neither slavery nor involuntary servitude in the said territory, (*i. e.*, the territory north of the Ohio,) otherwise than in punishment of crimes, whereof the party shall have been duly convicted. Done by the United States in Congress assembled, the thirteenth day of July, in the year of our Lord 1787, and of sovereignty and independence the twelfth." This ordinance was solemnly ratified and confirmed by the first Congress which sat under the present constitution in 1789, "with but one dissenting voice, and that a delegate from New York; the entire Southern vote being cast in its favour." *Cobb*, p. clxx.

The same year, 1789, North Carolina ceded to the United States the territory now constituting the state of Tennessee, with the condition "that no regulation made or to be made by Congress shall tend to the emancipation of slaves."* This is another contemporary recognition of the power of Congress to legislate on the subject of slavery in the territories. When Georgia ceded her Western territory, it was agreed that it was to be erected into a State "on the terms and conditions contained in the ordinance of 1787, for the government of the territory northwest of the Ohio, 'that article only excepted which prohibits slavery.'" The Commissioners on the part of the United States by whom this compact with Georgia was framed, recognizing, as it does, by providing against its exercise, the power of Congress to prohibit slavery in the territories, were Madison, Gallatin, and Lincoln. Five times in four years, Indiana petitioned Congress for a suspension of the prohibition of slavery. The first time, in 1803, when John Randolph, as chairman of the committee to whom the petition had been referred, reported against its being granted; and the last time, in 1807, when Mr. Franklin, of North Carolina, made another adverse report, which, as no division was called for, seems to have received the unanimous concurrence of the Senate.† Thus universally at that period was it admitted that slavery is a local institution which could not enter free territory without special legislation.

* Hildreth's History of the United States, vol. i. p. 150.

† Benton's Thirty Years in the Senate, vol. ii. p. 760.

Congress, in subsequent years, without resistance or objection, exercised the same prerogative of prohibiting slavery, as Illinois, Michigan, and other portions of the country northwest of the Ohio, came to be organized as separate territories. Again, on the passage of the celebrated Missouri compromise, by which slavery was prohibited north of 36° 30′, the same power was exercised. In this act the South, as a body, concurred. Mr. Monroe submitted to his cabinet the distinct question, "Has Congress the constitutional power to prohibit slavery in a territory?" To this question they unanimously answer, Yes. The cabinet consisted of John Quincy Adams, William H. Crawford, John C. Calhoun, Smith Thompson, John McLean, and William Wirt. "This compromise," says Mr. Benton, "was the work of the South, sustained by the united voice of Mr. Monroe's cabinet, the united voices of the Southern senators, and a majority of the Southern representatives."* Among the distinguished men who voted for this measure, were Governor Barbour and Governor Pleasants, of Virginia; Mr. James Brown and Governor Henry Johnson, of Louisiana; Messrs. Elliott and Walker, of Georgia; Mr. Gaillard and Judge William Smith, of South Carolina; Messrs. Hersey and Van Dyke, of Delaware; Colonel Richard M. Johnson and Judge Logan, of Kentucky; Mr. William R. King and Judge John W. Walker, of Alabama; Messrs. Leake and Thomas K. Williams, of Mississippi; Governor Loyd and the great jurist, William Pinckney, of Maryland; Mr. Macon and Governor Stokes, of North Carolina; Messrs. Walter Lowrie and Jonathan Roberts, of Pennsylvania. In the House of Representatives, the vote stood, *ayes* 134, *nays* 42. The ayes included a majority of the Southern delegates, and among them, William Lowndes, of South Carolina, "whose opinion," says Mr. Benton, "had a weight never exceeded by that of any other American statesman." It would be difficult to select any equal number of names from our whole history, entitled to greater deference than those above-mentioned. This is a company, in the presence of which it becomes every man to stand uncovered. He must be bold, indeed, who can pronounce a law unconstitu-

* Thirty Years in the Senate. By T. H. Benton. Vol. i., p. 8.

tional, which these men passed under the sanction of their official oaths!

This however is not all. The country, men of all sections, and of all parties, acquiesced in this law. There were, no doubt, differences of opinion as to its wisdom, its fairness, and the fidelity with which it was adhered to, but as to its constitutionality, there was for a long series of years a general acquiescence. The same power, therefore, continued to be exercised. In 1845, when Texas was annexed, it was with the provision that "in such State or States as shall be formed out of the said territory, north of the said Missouri compromise line, slavery or involuntary servitude (except for crime) shall be prohibited." In supporting this measure, Mr. Buchanan, then a member of the Senate, said, "He was pleased with it, because it settled the question of slavery. These resolutions went to re-establish the Missouri compromise, by fixing a line within which slavery was to be in future confined. . . . . Who could complain of the terms of that compromise? It was then settled that north of 36° 30′ slavery should be for ever prohibited. The same line was fixed upon in the resolutions recently received from the House of Representatives, now before us."* Every one knows that the annexation of Texas was a Southern measure, and it was by Southern votes and influence that the right of Congress to prohibit slavery in the territories was then asserted and exercised. Again in 1848, when Oregon was erected into a territory, the bill for that purpose endorsed the anti-slavery clause of the ordinance of 1787. On that occasion Mr. Douglas moved to amend "by inserting a provision for the extension of the Missouri compromise line to the Pacific Ocean."† In support of this amendment all the senators from the South voted. When he signed this Oregon bill, President Polk sent a message to Congress, in which he gives as one reason for approving it, that "the provisions of the bill are not inconsistent with the terms of the Missouri compromise." "Ought we," he asks, "now to disturb the Missouri and Texas compromises? Ought we at this late day, in attempting to annul what has been so long estab-

* Thirty Years in the Senate, vol. ii., p. 633.
† Thirty Years in the Senate, vol. ii., p. 711.

lished and acquiesced in, to excite sectional divisions and jealousies; to alienate the different portions of the Union from each other; and to endanger the existence of the Union itself?" Again, as late as 1850, when Mr. Clay introduced his measure in reference to the territory acquired from Mexico, Mr. Jefferson Davis insisted on the extension of the Missouri line to the Pacific Ocean; thus, up to that period, acknowledging the right of Congress to prohibit or to introduce slavery into the territories.

It is admitted that the three following principles stand or fall together, viz. 1. Congress has the right to prohibit slavery in the territories. 2. The constitution does not give the right to introduce slavery into the territories. 3. Slavery is, in view of the constitution, a municipal institution resting on the *lex loci*. He who affirms one of these propositions affirms them all; he who denies one denies them all. That these principles are all true and sound, we have argued from the fact of their recognition from the beginning by men of all parties. We now adduce the fact, that these principles have received the highest judicial sanction, including that of the Supreme Court of the United States. Judge McLean asserts, that the great principle decided by Lords Mansfield and Stowell, against which, he says, *there is no dissenting authority*, was "that a slave is not property beyond the operation of the local law which makes him such." The Supreme Court of the United States, he also says, has decided that "slavery is a mere municipal regulation, founded on and limited to the range of the territorial laws." "This decision," he adds, "is not a mere argument, but it is the end of the law, in regard to the extent of slavery. Until it shall be overturned, it is not a point for argument; it is obligatory on myself and my brethren, and on all judicial tribunals over which this Court exercises an appellate power." "The Constitution of the United States," he argues, "in express terms recognizes the *status* of slavery as founded on municipal law: 'No person held to service or labour in one State, *under the laws thereof*, escaping into another, shall, &c.'"* Judge Curtis, of the same Court, makes

* Howard's Reports, vol. xix. p. 549.

a similar declaration. "Slavery," he says, "being contrary to natural right, is created only by municipal law. This is not only plain in itself, and agreed by *all writers on the subject*, but it is inferable from the Constitution, *and has been explicitly declared by this Court.*" He further says, "I am not acquainted with any case or writer questioning the correctness of this doctrine."*

According, then, to the old theory of the constitution, the extension of slavery into the territories is a question of policy. It may, should Congress see fit, be introduced into all, or excluded from all; or introduced into some, and excluded from others. According to the new theory, it goes, as a matter of constitutional right, into all. That a man should honestly believe that this new theory is the true interpretation of the constitution, we can readily understand; but that any man can assert, in view of even the imperfect array of facts and authorities above given, that it has been the generally received interpretation, and that the introduction of the opposite doctrine is a revolution, is what we cannot understand.

"The dissolution of the American Union" has been pronounced "the crime of the century." Where lies the guilt of that crime? The South charges it upon the North, the North charges it upon the South. Beyond reasonable doubt, there is guilt on both parties. People and States at the North have erred in spirit, principles, and measures, and given just cause of complaint and umbrage to the South. The National Government, however, which up to the present time has been mainly under control of the South, has done nothing to justify complaint, much less revolution. Whatever provocation may have been afforded by a portion of the northern people, the Gulf States have done the thing. They have dissolved the Union so far as in them lies. What is their justification for this act? Numerous pleas have been presented, and little discrimination has been made between the motives and the reasons for the severance of the Union. The motives may have been as numerous as the individual agents in the measure; the reasons or principles on which the act of disunion is justi-

* Howard's Reports, vol. xix. p. 624.

fied are few. Some take the ground that the act needs no justification beyond the good pleasure of the States concerned. They had a right to enter the Union, and they claim an equally sovereign right to leave it whenever they see fit. Others, recognizing the fact that the Union imposed solemn obligations on all parties to preserve and perpetuate it, and especially that the northwestern and southwestern territories were admitted to the Union on the express stipulation that "the said territory and the States formed therein, shall for ever remain a part of this confederacy of the United States of America," have felt that a decent regard to public opinion called for a vindication of the act of secession. The ground of justification most distinctly and confidently assumed is this. According to the true interpretation of the constitution, "Slavery goes of right, and as a matter of course, into every territory from which it is not excluded by positive statute; and Congress is competent to forbid the Northern States from impressing their local peculiarity of non-slaveholding upon the common soil of the Union." *Dr. Thornwell on the State of the Country*, p. 14. Mr. Lincoln's election is considered as committing the country to the opposite doctrine. Hence "the constitution, in its relation to slavery, is virtually repealed." His election is said to be "nothing more nor less than a proposition to the South to consent to a government fundamentally different, upon the question of slavery, from that which our fathers established." P. 9. "If the constitution recognizes slaves as property, that is, as persons to whose labour and service the master has a right, then upon what principle shall Congress undertake to abolish this right upon a territory of which it is the local legislature?" The assertion of that right on the part of Congress is said to be "a thorough and radical revolution—it proposes new and extraordinary terms of union. The old government is as completely abolished as if the people of the United States had met in convention and repealed the constitution." P. 26.

We have already remarked, that the right of Congress to prohibit slavery in the territories is a constitutional question. The exercise of that right is a question of policy. The mere unwise or even unfair exercise of a constitutional right, cannot, we think, be revolutionary. Congress may make an injudicious

tariff, and not thereby repeal the constitution. It is the assertion of the right to prohibit slavery in the territories that is pronounced a revolution, which substitutes a new government, and new terms of union, to which the South is bound not to submit. But we have seen that this right was exercised from the beginning by the very authors of the constitution; that it was exercised or sanctioned by all our early presidents; that every Southern senator voted for the prohibition of slavery north of 36° 30′ in 1820; that the same power was exercised in 1845, in 1848, and claimed and advocated by Southern statesmen, who called for the extension of the Missouri line to the Pacific in 1850. How then can the assertion of that right be revolutionary? Such, however, is the vindication of the dismemberment of the Union. The fact that the country adheres to the principles and practice of our fathers; that it avows the doctrine which Washington, Jefferson, Madison, Monroe, Polk, Buchanan (when Senator,) all held, which Calhoun, Lowndes, and even Jefferson Davis himself, with the vast majority of our public men, professed and acted upon, is made a justification of the overthrow of our government. We know not how this matter may appear to others. To us it is overwhelming. We cannot understand how such things can be. We can see how men may honestly believe that Congress has no right to prohibit slavery in the territories, but how they can say that the assertion of that right is new and revolutionary, and of right dissolves the Union, is what we cannot comprehend. Nor can we see how good men, on this ground, can justify the disregard of "covenants and oaths," the dismemberment of the Union, the initiation of civil war, with all the frightful evils of disunion present and prospective.

It is replied to all this, that the Supreme Court of the United States has decided in favour of the new doctrine; that it has declared the Missouri compromise to be unconstitutional, because Congress has no right to prohibit slavery in the territories. Suppose it has thus decided—such decision, so far from justifying disunion, would only render it the more inexcusable. It would secure, notwithstanding the counter practice and judgments of former judges and statesmen, the constitution being administered according to the new interpretation. Does this

justify disunion? The Supreme Court is supreme. It does control, and must control all the other departments of the government. Congress may pass as many laws as it pleases, prohibiting slavery in the territories; they are all so much waste paper, if the Supreme Court pronounces them unconstitutional.

With regard to the Dred Scott decision, however, on which so much stress is laid, there are two questions of interest to be answered. The one, What did the court actually decide? And the other, What is the legitimate operation of such decision, and the authority due to it? The case was substantially this: Dred Scott, a person of African descent, and a slave, was taken by his master, first into Illinois, and afterwards to Fort Snelling, situated in a territory north of 36° 30′, and from that place was removed to the state of Missouri. He claimed his freedom, and brought suit before the Circuit Court of the United States. To enable that court to entertain the case, the plaintiff, Dred Scott, described himself as a citizen of Missouri, and his master as a citizen of New York. The court decided against him, and he appealed to the Supreme Court. This brought up, as Chief Justice Taney states, two questions for consideration: 1. Had the Circuit Court, from which the appeal was taken, jurisdiction in the case? 2. If it had jurisdiction, was its judgment correct? The first question the Supreme Court decided in the negative. Dred Scott, being of African descent, was not, as he claimed, a citizen of Missouri, and therefore could not be heard as such in the court. The second question brought up, as one of the points involved, the Missouri compromise act, which six judges out of the nine pronounced unconstitutional. In reference to this whole case, the ground is taken by many, that when the Supreme Court decided that the court below had no jurisdiction in the case, the matter was ended. If the Circuit Court had no jurisdiction, then there had been no trial, and no decision. There was nothing judicially done to be reviewed by the appellate court. What is extra-judicial, is judicially nothing. If this is so, then all that the six judges said about the Missouri compromise act was said extra-judicially, and remains as though it never had been said. It has no authority whatever, further than the same

views would have, if published anonymously in a pamphlet. This is the view of the matter taken by Judge McLean. He says the majority of the court uttered "many things which are of no authority. Nothing that was said by them, which has not a direct bearing on the jurisdiction of the court, against which they decided, can be considered as authority. I shall certainly not regard it as such. The question of jurisdiction being before the court, was decided by them authoritatively, but nothing beyond that question."* Judge Curtis takes the same ground. He says, "I dissent both from what I deem their assumption of authority to examine the constitutionality of an act of Congress, commonly called the Missouri compromise act, and the grounds and conclusions announced in their opinion." "Having decided that this plea showed that the Circuit Court had not jurisdiction, . . . they have gone on to examine the merits of the case, as they appeared on the trial before the court and jury, on the issues joined on the pleas in bar, and so have reached the question of the power of Congress to pass the act of 1820. On so grave a subject as this, I feel obliged to say that, in my opinion, such an exertion of judicial power transcends the limits of the power of the court, as described by its repeated decisions, and, as I understand, acknowledged in this opinion of the majority of the court."†

We are far from presuming to say that the court had no right to pronounce upon the constitutionality of the Compromise act; but it is certainly a great misfortune to the country that there should be any doubt on the subject. In a matter which, as Judge Daniel said, "had never been surpassed in importance by any question submitted to the court since the establishment of the government," it is deeply to be deplored that the authority of the court to pronounce an opinion should be denied by some of its own members. If Judge McLean could say that he would not regard the judgment as any authority, what will others say? It remains, therefore, a matter of doubt, whether any judicial decision was legitimately given on that subject. But admitting that the court had a right to pronounce a judgment, and that their judgment was that Congress

* Howard, vol. xix., p. 549. † Ib., p. 588.

has no right to prohibit slavery in the territories, what are the legitimate effects of that decision? Or, to state the question more generally, what authority is due to the decisions of the Supreme Court? On this vital subject there are extreme opinions. On the one side, it has often been asserted that those decisions were not binding, even as to the particular case decided. We have sovereign States refusing obedience to such decisions. On the other hand, it is asserted that the judgments of the Supreme Court bind the conscience and reason of the people, so that it is a sin even to dissent from them. The "Pennsylvania Elder" rebukes us for expressing such dissent. This is simply absurd. No human authority can bind the reason or conscience. Such tyranny over the thoughts and utterance of men is never claimed, except in favour of one's own opinions. Had the decision of the court not coincided with the Elder's own convictions, he would not have thought dissent a sin. It is the right and duty of every man to protest against every unrighteous act of the executive power, and every unjust decision of the judiciary. The six or seven judges who pronounced the act of 1820 unconstitutional, stand before the country as able, learned, and upright men. We bow to their authority. We acknowledge their integrity. But we do not see why their judgment should have more weight over our interior convictions, than that of the seventy times seven men of equal learning, ability, and worth, who have given an opposite judgment. We do not see that Chief Justice Marshall's opinion, uttered as the judgment of the Supreme Court, that "in legislating for the territories, Congress exercises the combined powers of the general and state governments,"* is not entitled to as much deference as the opposite opinion of any subsequent Chief Justice. But if the judgments of the Supreme court have no authority to control the reason, or to seal the lips of the people, what is the authority legitimately due to them? As this is a question which affects the conscience and determines the duties of men, we take the liberty to say to the "Pennsylvania Elder," and to all others who have repeated or sanctioned his rebuke, that we as clergymen and

* Howard, vol. xix., p. 541.

as Christian men claim, and mean always to exercise the right of publicly discussing such questions to the best of our ability. Lawyers and judges have not the prerogative of thinking for the people, or of deciding without appeal, questions which touch the public conscience.

As to the authority, then, of the decisions of the Supreme Court we say, 1. That they finally determine the case to which they refer. Dred Scott applied to the court to be declared a free man. The court decided that he was not entitled to such a declaration. That determined the matter. No one questions the effect of that decision so far as Dred Scott is concerned. He remains a slave. Everybody submits so to regard and treat him. 2. It necessarily settles all similar cases so long as the construction of the constitution on which the decision was made, continues to be held by the court. No other man of African descent would think of claiming his freedom on the grounds on which Dred Scott claimed his. No slaveholder would hesitate to take his slave into any territory of the United States, for fear of his constitutional right to do so being called into question. That decision opens all the territories now possessed, or hereafter to be acquired, to the introduction of slavery. It declares that the constitution, *proprio vigore*, carries slavery wherever it goes, until slaveholding is forbidden by the action of a sovereign State. Should we, therefore, hereafter annex a part or the whole of Mexico, or should we extend our possessions to Patagonia, slavery would everywhere attend our progress. The constitution is a great organic power for the extension of slavery. This, indeed, is not the constitution our fathers intended to frame. It is not the constitution which the people understood themselves to adopt. It is not the constitution in which, as Judge McLean says, the whole country acquiesced for sixty years; but it is, nevertheless, our present constitution, to which we are all bound to submit, until it is constitutionally altered by the people, or until the Dred Scott decision, supposing it to be what it is claimed to be, is legitimately reversed. Why the Gulf States should revolt against such a constitution it is hard to see. Judge Campbell, of the Supreme Court, therefore, was fully justified in saying, as he does say in his letters to the people of Alabama, that the

South now had all they could require or could demand. 3d. The decisions of the Supreme Court necessarily determine all future decisions of the lower courts. No such court would now presume to pronounce a slave free, because taken into any of the territories of the United States, because it knows that its decision would certainly be reversed. 4th. The decisions of the Supreme Court in effect control the action both of the executive and legislative departments of the government. Should Congress pass any new compromise act, forbidding slavery on one side of a given line, and permitting it upon another, it would be a dead letter. It could only be enforced through the courts, and the courts must declare it unconstitutional. The only way in which the Missouri compromise, or anything of a like nature, can be restored, is by altering the constitution, or reversing the Dred Scott decision. While that decision remains in force, it effectually prevents Congress from prohibiting the introduction of slavery into any of the common territories of the Union. General Jackson took the ground, that the executive, legislative, and judicial departments of the government are co-ordinate, and that the two former are not bound to subordinate their action to the judgments of the latter. He therefore said that he was bound to execute the constitution as he understood it, and not as the Supreme Court chose to interpret it. This may be so. But the executive and legislative departments must act, in many cases at least, through the judicial. Suppose the court pronounced a United States bank unconstitutional. Such decision might not prevent Congress, with the sanction of the president, creating such a bank. But as soon as the bank applies to the United States courts to enforce its contracts in the collection of debts, it is arrested in its operations, and must come to an end. So Congress and the president may pass laws prohibiting slavery in the territories. What good will it do? If the court pronounces such laws null and void, they cannot be executed. 5th. The above statement carries the authority of the Supreme Court as far as can be reasonably demanded. We have only to say further, that no man is bound, as already intimated, to think its decisions in all cases just and wise, nor is he precluded from the right of

expressing his convictions, be they favourable or unfavourable. 6th. As the decisions of the Supreme Court do not bind the internal judgments of the people, so neither do they bind their successors. The judges for the time being are bound to interpret the constitution and laws according to their own conscientious convictions of their meaning. Courts have always acted on this principle. Although they give great weight to the decisions of their predecessors, and are disposed to exercise great caution in dissenting from them, and thus rendering the law uncertain and unsteady, they nevertheless have not failed to exercise their own right of independent judgment. If this were not so, the first half dozen men who happen to be appointed judges of the Supreme Court, could fix the law for all generations. What would have become of the liberties of England, if the decisions of Jeffreys could never have been reversed? This is the way this matter lies in the minds of unsophisticated men; and these are the principles by which such must be allowed to govern themselves until convinced of their unsoundness.

Our readers must not suppose that we have forgotten our subject. We have not travelled out of the record. The question which we proposed to discuss is, Can our church be held together in the existing state of the country? We could not intelligently answer this question without bringing distinctly before our minds what the state of the country is. We are in the midst of a civil revolution. Alienation of feeling, mutual want of confidence, and great diversity of opinion on vitally important subjects, undoubtedly exist. It was necessary, therefore, to present the true state of the case, and to exhibit the points about which we are divided. Having done this, we are prepared to say, that notwithstanding this deplorable state of things, we are bound to hold together as a church, because the grounds of difference, important as they are, do not relate to the divinely appointed terms of Christian or ministerial communion. A man who holds with the extreme South can conscientiously answer in the affirmative every question which a church session or a Presbytery has a right to ask a minister or member. A man who holds with the extreme Northern section of the church can do the same. If this is true, what

right has either side to demand more? If these are the terms of church fellowship which Christ has prescribed, who will assume the responsibility of altering them?

But if our church is bound to remain united, how is the imminent danger of division to which we are exposed, to be avoided? In answer to this question, we have only two things to say. First, all our ministers and elders, and especially those of their number who may be sent as delegates to the next General Assembly, should have their minds settled on the nature of schism, and the causes which justify secession from the Church to which we belong. It is generally agreed that unfriendly separation or disruption of a church, is of the nature of schism, unless, 1. we are called upon to profess what we do not believe; or, 2. are forbidden to profess and preach what we do believe; or, 3. are required to do something which our consciences forbid; or, 4. are forbidden to do what conscience and the word of God demand. If these are the only conditions under which we are authorized to dismember the church, if our brethren will adhere to these principles, there need be no division.

Secondly, there should be a settled purpose to let the slavery question remain just as it is. Both parties have acquiesced in the decisions of the church already made. Should any new deliverance be called for, in the present state of the public mind, division is inevitable. If the North requires the extreme Southern views on this subject to be formally condemned; or if the South requires them to be formally sanctioned, we cannot continue one body. Neither side has the moral or ecclesiastical right to make such a demand; because these diversities of opinion, great as they are, fall within the divinely prescribed conditions of ecclesiastical union. We cannot but hope that, with the blessing of God, our church may survive this conflict, and present to the world the edifying spectacle of Christian brotherhood unbroken by political convulsions.

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