

E

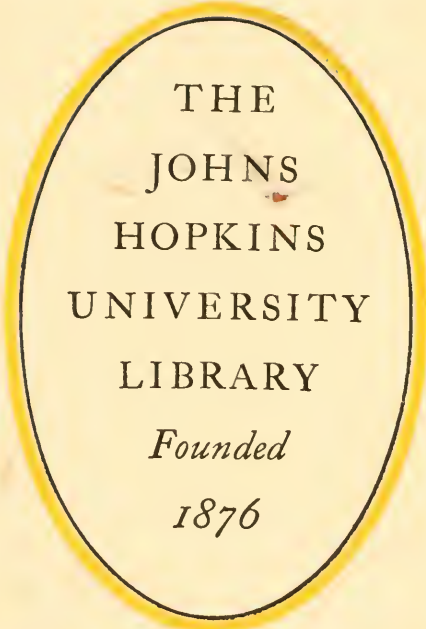
463

L 92

no. 83 C

Loyal publication society.
[Pamphlets] no. 83.

[Lieber, Francis] Amendments of the
Constitution, submitted to the consideration of the
American people. New York, 1865



THE
JOHNS
HOPKINS
UNIVERSITY
LIBRARY

Founded

1876

LOYAL PUBLICATION SOCIETY,

No. 863 BROADWAY, NEW YORK.

No. 83.

Amendments of the Constitution,

SUBMITTED TO THE CONSIDERATION OF

THE AMERICAN PEOPLE.

The bantling—I had liked to have said monster—Sovereignty (meaning State Sovereignty).
WASHINGTON.

A nation without a national government is an awful spectacle.—ALEXANDER HAMILTON.

Secession is the legitimate consequence of State Sovereignty.—JEFFERSON DAVIS.

The ultimate and absolute sovereignty of each State.—ALEXANDER H. STEPHENS.

FRANCIS LIEBER,
President.

J. A. STEVENS, JR.,
Secretary.

W. T. BLODGETT,
Ch. Executive Com.



MORRIS KETCHUM,
Treasurer.

LE GRAND B. CANNON,
Ch. Finance Com.

JAMES MCKAYE,
Ch. Publication Com.

Price Fifteen Cents.

NEW YORK.

1865.

LOYAL PUBLICATION SOCIETY,

863 BROADWAY, NEW YORK.

DECLARATORY RESOLUTION.

The object of the Society is expressed in the following Resolutions, formally adopted by unanimous vote of the Society, at its first Anniversary Meeting, Feb. 13, 1864; and at the second Anniversary Meeting, Feb. 11, 1865.

Resolved and declared, That the object of the Loyal Publication Society is, and shall be, to publish and distribute tracts, papers and journals, of unquestionable loyalty, throughout the United States, in the cities and the country, in the army and navy, and in hospitals; thus to diffuse knowledge and stimulate a broad national patriotism, and to aid in the suppression of the Rebellion by the extinction of its causes, and in the preservation of the integrity of the Nation, by counteracting the efforts of the advocates of a disgraceful and disintegrating Peace.

And further: By the dissemination, North and South, of well-considered information and principles, to aid the National Government in the suppression and final extinction of Slavery, by Amendment to the Constitution of the United States; to reconcile the Master and Slave to their new and changed conditions, and so to adjust their interests that peace and harmony may soon prevail, and the Nation, repairing the ravages of War, enter upon a new, unbroken career of liberty, justice and prosperity.

Persons sympathising with the design of this Society, and wishing to contribute to its support, may send their contributions to

MORRIS KETCHUM, Esq, Treasurer, 40 Exchange Place,

by whom receipts will be promptly returned.

OFFICERS OF THE SOCIETY.

President.

FRANCIS LIEBER.

Treasurer.

MORRIS KETCHUM.

Secretary.

JOHN AUSTIN STEVENS, JR.

Finance Committee.

LE GRAND B. CANNON, CHAIRMAN,

JAMES A. ROOSEVELT,

T. B. CODDINGTON,

LEVI P. MORTON,

WILLIAM E. DODGE, JR.

JACKSON S. SCHULTZ.

GEORGE C. WARD.

Publication Committee.

JAMES MCKAYE, CHAIRMAN,

JOHN AUSTIN STEVENS, JR.,

GEO. P. PUTNAM,

THEODORE G. GLAUBENSKLEE,

DR. F. SCHUTZ,

W. C. CHURCH,

CHARLES ASTOR BRISTED.

Executive Committee.

WILLIAM T. BLODGETT, CHAIRMAN,

CHRISTIAN E. DETMOLD,

SINCLAIR TOUSEY,

GEORGE BLISS, JR.,

CHARLES BUTLER,

J. BUTLER WRIGHT,

OLIVER K. KING.

LOYAL PUBLICATION SOCIETY,

No. 863 BROADWAY, NEW YORK.

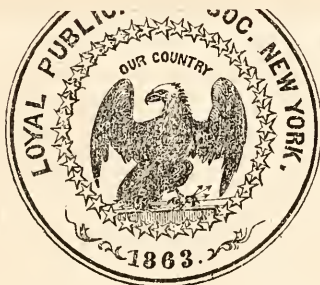
ERRATA.

- Page 7, line 18, *read* Continuance *for* Continuation.
" 9, " 16, " early " yearly.
" 12, " 29, " development of certain.
" 12, " 4 from foot, *read* could *for* would.
" 13, " 5, *read* changed. Civil war *for* changed; civil war.
" 13, " 28, " without *for* with ut.
" 17, " 6, " local " social.
" 17, " 10, " and in other portions *for* another portion.
" 21, " 28, *omit* indeed.
" 22, " 31, *read* types *for* times.
" 25, " 6, " loosest *for* wisest.
" 30, " 13, " believe that there is no *for* that no.
" 35, " 31, " senate *for* legislature.

FRANCIS LIEBER,
President.

J. A. STEVENS, JR.,
Secretary.

W. T. BLODGETT,
Ch. Executive Com.



MORRIS KETCHUM,
Treasurer.

LE GRAND B. CANNON,
Ch. Finance Com.

JAMES MCKAYE,
Ch. Publication Com.

NEW YORK.

1865.

LOYAL PUBLICATION SOCIETY,

863 BROADWAY, NEW YORK.

Secretary.

MORRIS KETCHUM.

JOHN AUSTIN STEVENS, JR.

Finance Committee.

LE GRAND B. CANNON, CHAIRMAN.

JAMES A. ROOSEVELT,

T. B. CODDINGTON,

LEVI P. MORTON,

WILLIAM E. DODGE, JR.

JACKSON S. SCHULTZ.

GEORGE C. WARD.

Publication Committee.

JAMES MCKAYE, CHAIRMAN.

JOHN AUSTIN STEVENS, JR.,

GEO. P. PUTNAM,

THEODORE G. GLAUBENSKLEE,

DR. F. SCHUTZ,

W. C. CHURCH,

CHARLES ASTOR BRISTED.

Executive Committee.

WILLIAM T. BLODGETT, CHAIRMAN.

CHRISTIAN E. DETMOLD,

SINCLAIR TOUSEY,

GEORGE BLISS, JR.,

CHARLES BUTLER,

J. BUTLER WRIGHT,

OLIVER K. KING.

S HOPKINS
LOYAL PUBLICATION SOCIETY,

No. 863 BROADWAY, NEW YORK.

No. 83.

Amendments of the Constitution,

SUBMITTED TO THE CONSIDERATION OF

THE AMERICAN PEOPLE.

The bantling—I had liked to have said monster—Sovereignty (meaning State Sovereignty).
WASHINGTON.

A nation without a national government is an awful spectacle.—ALEXANDER HAMILTON.

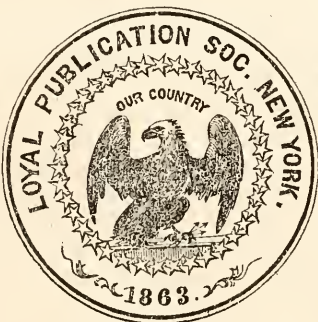
Secession is the legitimate consequence of State Sovereignty.—JEFFERSON DAVIS.

The ultimate and absolute sovereignty of each State.—ALEXANDER H. STEPHENS.

C
FRANCIS LIEBER,
President.

J. A. STEVENS, JR.,
Secretary.

W. T. BLODGETT,
Ch. Executive Com.



MORRIS KETCHUM,
Treasurer.

LE GRAND B. CANNON,
Ch. Finance Com.

JAMES MCKAYE,
Ch. Publication Com.

NEW YORK.

1865.

E 43
L 93
M 83 C

106531

NOTE.

The following pages, but just now brought to the notice of the Publication Committee of the Loyal Publication Society, were written for the most part, at a period in our great struggle, when the question of abolishing Slavery, by amendment of the Constitution, first began to be mooted. Fortunately for the honor and well-being of the country, the great object of their eminent author in preparing them, has been so far accomplished that by an act of the late Congress the first step towards such an amendment was taken. That amendment, however, has not yet received the ratification of the requisite number of the State Legislatures to constitute it a portion of the fundamental law of the nation.

Besides, there are several other amendments of the Constitution set forth in these pages, which seem to be required by our present national exigencies, that are well worthy of the serious attention of the country. But, in the view of the committee, their chief value consists not so much in the particular amendments suggested, however important these may be, as in the clear, philosophical exposition of the nature of our fundamental law, and the enlightened and statesmanlike view of the Constitution as the *frame* of the National Government. For to speak the truth, some very erroneous impressions of these, have been hitherto entertained, by people not otherwise ignorant, amounting even to a kind of superstition.

And not only with regard to the origin of the Constitution have these false and superstitious impressions been entertained, like those of the youthful pupil referred to by Dr. LIEBER, but with regard also to a peculiar and mysterious virtue and force, which it was supposed to embody, and through which the people of the United States, without regard to any higher law or power, were believed to be exempt as well from all the penalties of National unrighteousness, as from all the changes and revolutions inevitable to the rest of mankind.

Doubtless, passing events, so pregnant with instruction, will do much to clear away this pernicious popular self-conceit and error. The thoughtful suggestions and views contained in the brief treatise of Dr. LIEBER, as the committee believe, will conduce to a like end—a more enlightened and just understanding and appreciation of the nature and objects of the National Constitution, even if the amendments suggested should not be at once accepted.

It is for these reasons that they deem it of importance to give it to the public.

JAS. McKAYE,
Ch. Pub. Com.

Rec. from ...

P R E F A C E .

When those cathedrals were building, which the Middle Ages have bequeathed to modern times, every inhabitant of the surrounding country used to be called upon to contribute his share, and many a poor man, who could give no money to pay the masons' wages, went himself and paid some weeks of his own labor, with hod or trowel, as his share toward the rearing of the great fabric intended for the service of all—high or humble.

When those Fairs in behalf of the Sanitary Commission were planned on a scale, and crowned with a success, which form an ennobling characteristic of our period of bitter strife, all—the wealthy and the needy—freely gave their share to these large markets, by which millions upon millions have flowed to the Commission, to be changed by them into balmy relief for our wounded soldiers, and the bleeding foes who fall into our hands. All have helped to swell this steady stream of mercy—deep, wide, clear, as Dante calls the stream of Virgil's eloquence.

We live in a time of necessary and searching reform. We cannot avoid its duty. Things have already changed. They must be readjusted. The harmony of the great polity has been rudely disturbed; it must be restored in some way. The Civil War, imperiling the existence of our country, has laid bare the roots of evils in our polity, and shown what some elementary errors must lead to when legitimately carried out. We have discovered that a part of our foundation has given way, and that repairs are needed. Let every one contribute his share to the reconstruction—be it much or be it little—so that he helps in the great work of repairing the mansion of freedom. I offer this contribution to my Country's cause.

If what I give does not prove acceptable in the form in which it is proffered, these pages will, nevertheless, lead to reflections which will not fail to be useful, and may prove fruitful.

FRANCIS LIEBER.

AMENDMENTS OF THE CONSTITUTION.

When, shortly before secession was openly proclaimed by our Southern States, the writer of these pages had concluded a lecture on the Constitution of the United States, one of his hearers, a young man, apparently of age, asked him, with modest ingenuousness, whether he did not believe that the Constitution owed its origin to inspiration. The ensuing conversation elicited the remark on the part of the inquirer that he had grown up in the belief that the fundamental law of our country had been inspired, or "very nearly so." The youth was well educated, and the son of a very respectable family; yet the confusion of ideas which he evinced was less startling to the lecturer than it would have been, had the latter not been somewhat accustomed both to the extravagant and unhistorical exaltation of the Constitution, and to the illogical phrase, "all but inspired"—self-contradictory words of no unfrequent use either in England or here.*

The framers of the Constitution were probably as wise and resolute a set of men as ever met in high national council. Some of them were stamped with that greatness of mind which enables a man to comprehend the past, to penetrate the connection of things where for the common eye none but detached though crowded details present themselves, and to divine with that gift which sees things unseen and belongs alike to the great statesman, historian, inventor, philosopher, and poet. Their work is full of dignity, wisdom, and sincerity; but their greatest act—and, so far, the greatest act of our history—is their manly acknowledgment of the utter failure of the Articles of Confederation, which most of them had adopted only about ten years before, and the glorious engrafting of a complete national representative government on a league which they themselves had deemed sufficient to answer, in the new state of things, the wants of the people and the growing demands of our circumstances and conditions, the requisites, in fine, of our assigned

* The writer recollects no more surprising instance of this self-contradiction, than that which he met with in one of the leading British Reviews. Paley was there called, "that all but inspired Paley." If an English reviewer calls Paley all but inspired, an American youth may be pardoned for considering the framers of our Constitution wholly so.

place in the family of nations. They themselves loudly denounced the Articles of Confederation; and most of those who had taken a leading share in the building up of our Constitution on the ruins of the Articles, expressed a limited satisfaction with it when they recommended it to their respective Legislatures. The record of their debates, while framing the Constitution, shows that they were men as we are; and the debates in the several State Conventions on the adoption of the Constitution prove very forcibly that our forefathers considered the framers far from infallible.*

The Constitution itself expresses the probability of necessary amendments, and far wiser than those who would ascribe matchless perfection to it, prescribes the systematic and lawful means of effecting them in order to prevent violent eruptions which needs will always take place when the enclosing and unplastic form is no longer able to contain the swelling life within. In the course of some fifteen years after the adoption of the Constitution twelve amendments of great importance were actually made according to the prescribed method. Some of these were of a novel kind; others incorporated with the Constitution great principles of the English Bill of Rights, almost looking, in their place among the amendments, as if they had been forgotten in the original framing of the great instrument. In less than ten years from the same period the Virginia and Kentucky resolutions were promulgated, and proved, at the very least, that their framers, among whom there were statesmen who had been prominent in the general convention at Philadelphia in 1787, thought that the great Constitution was not framed with sufficient clearness, and required solemn declaratory interpretation. If the authors of the Virginia and Kentucky resolutions did not mean this, the only alternative left would be that they intended to impose extra constitutional amendments on the instrument, which would have been unconstitutional, and indeed revolutionary.

All laws must change in course of time—whether they form the frame-work of a people's polity, or are strictly municipal laws, or constitute the laws of nations—laws of peace or laws of war; for laws are authoritative rules of action (or rules adopted by common consent and usage) for living men banded, more or less closely, in communities, and the condition of life is change—change for the better or change for the worse. So long as life lasts so long is there change. Cessation of change is death.

* A letter of Josiah Quincy, Sr., to J. A. Stevens, Jr., published in *Opinions of Prominent Men concerning the Great Questions of the Times*, New York, 1863, [Loyal National League] contains a remarkable passage on the opinion entertained by the framers of the Constitution on their own work.

† For instance, Articles 3 and 8 of the Amendments.

The form of laws may indeed remain the same in the statute book, or in a fundamental constitution; but if the conditions and relations of life materially change, the force of circumstances renders an application of the same formula in a sense differing from the original intention unavoidable, and in the practical use and application of a law lies its essential character as law, not in the verbal formula in which it was expressed, or in the letters of certain terms. Life will change and must change; and if man does not alter the law according to the altered circumstances, the direct and positive demand of the latter forces him into an avowed or hypocritical change of its application. Reality is sovereign and will allow no master. Montesquieu says, indeed, that we ought to approach the change of laws with a trembling hand, which may perhaps be expressed less figuratively thus, that all conscious and direct change must show distinct and proportionately urgent cause why it should be resorted to; while Existence, without this proof of cause, is sufficient warrant for Continuation. This alone is wise and truthful conservatism. That conservatism which consists in an unalterable adhesion to that which *is*, merely because it *is*—a conservatism which would bring ruin to every individual in his health and house—is revolutionary in matters of state—rebellion against God's great laws of life, of enlargement and elevation of our kind. It is as unreasonable and destructive as the thirst for change, simply because it is change. Both stolid conservatism and arrogant aggression lead to ruin. The history of our race confirms this on every page. How many communities have been irretrievably lost, how many empires have gone down never to rise again, because changes were attempted when it was too late; and happy, indeed, must that country be called where necessary and fundamental changes can take place without convulsive violence or hazardous revolutions, and whose citizens are sufficiently wise and candid to make these changes while there is yet time for them.

Laws are in this respect like languages. That tongue would not be a living language which could not expand and adapt itself to new relations, things, and wider or minuter thoughts. The lexicographer who thinks that, by his dictionary, he can shut the gate upon his language and imprison it, and the forward and licentious innovator are alike presumptuous, and equally to be discountenanced. A law, a constitution, however important, remains a means, as Government and the State themselves, although indispensable to Man, are means to obtain things still higher, and the object must not be sacrificed to the means.

In glancing at the history of England we find that hardly fifty years have elapsed at any period of that old commonwealth

without some fundamental change, the pronouncing of some great constitutional principle by the bench, or the passing of some constitutional statute. Within the last and present centuries such constitutional changes have followed each other in even quicker succession. The decision that the King cannot levy imposts on imported commodities without an Act of Parliament to that end, the union of Scotland with England, and the union of the Legislature of Ireland with that of Great Britain, the Reform Bill, the Habeas Corpus Act, and all the acts and decisions from the time of Magna Charta, which English writers exhibit when they desire to present to us the British Constitution, are such constitutional changes. Yet England has had her revolution; that is to say, a violent struggle which arose out of the altered state of circumstances, and for the peaceful adjustment of which no means seemed to be at hand. England's life, society, and mind had changed; and this civil struggle took place in spite of the fact that England has a purely cumulative Constitution—possibly, some may say, *because* it had a cumulative Constitution; by which we mean that that which is called the English Constitution consists of the aggregate of those usages, principles, and institutions of the common law, decisions of the highest courts, and statutes or bills of rights as well as pacts with ruling dynasties—which the English consider of fundamental importance in their great polity, every one of which, however, may, according to theory, be changed or abolished by Parliament; for Parliament, including in this case the King, is omnipotent, as the English political parlance has it.

We, with an Enacted Constitution, that is to say, with a Constitution distinctly limited and enacted by a higher authority than Congress and President—themselves the creatures of the Constitution—are not thereby freed from changes going on around us and within us, for the law of life and change is even above that national sovereignty which enacts the Constitution, as the law of nature and nature's changes is above the rules, be they ever so wise, which Man has adopted to make her administer to his wants. We, with an Enacted Constitution, must make amendments of the Constitution itself when necessary, while the English may effect the change by an Act of Parliament, which is far easier, but, on that account, also occasionally more dangerous. We must take together the advantages and disadvantages of Cumulative and Enacted (or written) Constitutions, and use that which history has given as wisely and as best we can.

The framers of our Constitution were finite and imperfect beings; men like ourselves, to whom the future state of our country was not revealed. Had it been revealed, no laws could have been framed in human language fitted alike for their

present and our future state. And if a parliament of heavenly beings had decreed our Constitution, none could have been devised that could have been equally applicable to all periods to come. Saying that changes in our Constitution are necessary, is not saying that we are wiser than those who framed it, as little as legislators who amend an act or a charter declare themselves thereby superior beings to those who first enacted the law or charter, while such oft-repeated phrases as "the Constitution is good enough for me," are merely the vulgar expressions of short-sighted indolence or undutiful shrinking from glaring dangers.

The axiom of mechanics, that nothing is stronger than its weakest point, may not wholly apply to laws and constitutions; but the lapse of so long a period, with its wear and tear, has revealed feeble points and flaws in the east of our fundamental law which demand close attention and yearly repair, lest the injury become irreparable. Rights and duties are inseparable correlatives, in whatever sphere the one or the other may exist. Indeed, the idea of the one implies the idea of the other. We cannot imagine rights without corresponding duties, nor can we conceive of duties without corresponding rights; and if the living have the right to frame or alter their laws, they have likewise the bounden duty to do so when necessary. Shall a house not be repaired, though it have become ever so damp, simply because an ancestor built it?

It is a remarkable fact, which the historian will find it difficult to explain, unless he succeed in making himself well acquainted with the psychology of the Southern politics—that the strictest "constructionists" have acknowledged, more, probably, than any other Americans, that great changes are actually going on, and have endeavored to infuse their opinions accordingly into our polity, or worse than all have justified armed resistance on the ground of such changes.

The Constitution says nothing whatsoever concerning free or slave States, yet Mr. Calhoun endeavored to have the principle acknowledged that there ought to be, in the Senate an equal representation of slave and free States, after which, once established, States should be admitted into the Union by couples—one free and one slave State at a time. Not to speak of the great oversight that slavery itself has never been a stable institution in our country or elsewhere, but has always melted away before civilization, no more radical or novel change could have been introduced into our Constitution, or no more extraordinary, hyper-constitutional principle could have been adopted.

We have been told by a Chief Justice on the high bench of the United States, that although colored people joined in our struggle for independence, and although the Constitution and

the early laws do not declare that the Government of the United States is not made for the descendant of the African, yet such had been the development of ideas that it must now be declared to be the spirit of the Constitution; from which unhistorical, hard, illogical and illegal decision, so much political cynicism was soon after evolved that, besides holding the unhistorical fact that the Government of the United States was established *by* white people alone, the illogical conclusion was also drawn, that, therefore, it is *for* white people alone.*

It would almost appear as if the idea of a government with limited powers turned, in the heads of these publicists, into the idea of a government for a limited number; and who has ever heard of such a thing as a government for a class, or a limited number, or for one of the races living in the same country, and being subject to the same government? What more radical change of the Constitution can be imagined than the one implied in this exclusion theory?

Mr. Stephens, the Vice-President of the so-called Confederacy, declared, at the beginning of the Rebellion, that it could not be denied that the universal opinion at the time of our revolution was hostile to slavery, and that a government was established, into which this opinion was infused; but that since then negro slavery had come to be acknowledged as a social, moral, and political benefit. The Southern States, therefore, were right to separate from the North in order to pursue a civilization founded on slavery.

A distinguished writer on the history of the American Con-

* It does not seem to occur to the proclaimer of this political axiom that the Government was not established by whites alone, inasmuch as blacks had the right to vote in some Southern States as well as in the North, when the Conventions were elected to adopt or to reject the Constitution. But let us dismiss this argument—were not all the people who established the Government males of age, and is the government, therefore, not for females, or minors? Could not the same argument be used with reference to the State Constitutions, and most forcibly so the Constitutions of Slave States? Is, then, the slave a being out of the pale of all law? Is he neither protected nor responsible? The laws of the Slave States contradict this. Even in the feudal age, the very period of privilege and exclusiveness, was justice ever refused to a creature—even to a roaming gypsy—on the ground that his forefathers had no hand in establishing the Government? Do not the adherents of this political extravagance see to what enormities their theory would lead in the hundreds of cases in which Governments have been established by conquest, conspiracy, or *coup d'etat*, and if they abandon the overruling principle that men are inherently destined and ordained to live in society, that *Ubi Societas ibi jus est*, and that a Government, no matter what its origin may be, is necessary for all, and finds its right to rule in this primary necessity, and that this inherent necessity carries along with it even the obligation of temporary obedience to Governments *de facto*? Have they never reflected that their theory, literally followed, would dissolve all society, or carry us back to a state of things even worse than Asiatic despotism, under which at least according to its theory, every owner of real property is at all events a tenant at will?

stitution, declared, in an elaborate address delivered when our civil troubles began, that although the people as a whole had adopted the Constitution, it could not be denied that the idea of State sovereignty had developed itself since that time, and that according to this idea the seceding States had a right to claim—we forget exactly what. He has only been mentioned as an additional evidence that persons of an opposite opinion to ours, have manifested the belief that great changes take place in spite of all theories regarding constitutions and their origin, and that those who maintain most stoutly the matchless perfection of the instrument, have generally been given most to unconstitutional theories. This is a noticeable fact, to be kept in mind in all candid and earnest discussions on the Constitution; nor ought the fact to be passed over in silence, that the very party, which most loudly vociferated for the Constitution, and its friends in the North, habitually rail at the Declaration of Independence, sometimes as a well-meaning manifesto of visionary philanthropists in the spirit of the Utopian philosophy of the century, sometimes, and very vehemently, as an irreligious and pestiferous exhalation from an infidel period. I speak of facts, and might incumber my pages with many citations even of quite a recent date.

Yet, while the Declaration forms no part of the Constitution, it will not be denied, that in some and important respects it may be considered as the American Bill of Rights; and remarkable, indeed, would be the commentator, who, drawing upon the Articles of Confederation for his comments, should decline going one step farther and including the Declaration as one of the means and ends for right interpretation.

Has, then, our Country greatly and essentially changed since the adoption of our Constitution? We believe that no country or people of antiquity or modern times has changed in circumstances and condition, in national consciousness, and in a great public opinion, which is “the mother of effects,” as this country and this people, within the last sixty years, and after a great rebellion has now lasted several years. The heat of a civil war of such magnitude would alone be sufficient to ripen thoughts and characteristics which may have been in a state of incipency before; a contest so comprehensive and so probing makes people abandon many things, to which they had clung by mere tradition without feeling their sharp reality, and causes them suddenly to see rugged ground or deep abysses where from a distant view nothing but level plains had appeared.

The extension of our territory from sea to sea, the magnitude of our commerce, the unparalleled growth of our population, the internal union and mutual necessity of all its parts, our relation to foreign nations, our literature, our school systems, our wealth, and our knowledge of far greater though undeveloped wealth; the consciousness of nationality on the one hand, and the development, on the other, of an extravagant idea of State rights; the outspoken disgust at slavery, its dangerous character here, and its exaltation as a blessing there—who can tell all the changes which have taken place, for weal or woe, within the last half century in this country? Nearness magnifies, but we have endeavored calmly to review the history of other nations, and we can find no instance of so great a change within so short a time, and in so many respects as ours. No wonder, then, that it is believed necessary to amend in some essential points that law which fundamentally regulates the policy of this altered society. And may not the question be put, whether ever a society has come out of a civil war without material changes in its fundamental law, or whether a civil war is of itself not sufficient proof that practical changes have taken place, and require corresponding changes in the political framework of society?

We cannot allow the confusion of ideas which ascribes the superior experience or wisdom generally possessed by a living father compared to that of his son, to be carried over to ancestors and past generations, which, indeed, are with reference to the living ones—the younger and less experienced. There are doubtless ages and periods which a rare combination of circumstances makes peculiarly apt for the development certain great ideas and the establishment of certain institutions in one or the other great spheres of human action; classical periods of taste, of science, of discovery, of patriotism, of freedom, of literature, and of religion; and the essential progress of civilization depends, in a great measure, upon the cherishing and treasuring of that, which has thus been gained for mankind, under peculiarly favorable circumstances, or by great suffering, for further development and wider culture. The age at which our forefathers framed the Constitution, and the state of things in America, were, in some respects, peculiarly propitious; but, as it has been stated before, they had not the power, nor had they the right, if they could have had the power, to forestall the changes which might become necessary in the course of this country's history, as little as Magna Charta has or would have forestalled the constitutional development of England. The living have their rights and duties as great and as binding as the dead had, when they were the living.

The question then presents itself to us, if we have the right to change the Constitution, is there any necessity of altering and of amending it in such a manner as to adapt it to the new state of things? Three facts, it would seem, sufficiently answer this question. The country has changed; civil war has broken out, amazing both as to its magnitude and the entire absence of any of those causes which have produced civil wars heretofore,—no galling tyranny, no oppression of certain classes, no religious persecution or disability, no scaffold for patriotism, no expelled government or exiled dynasty, no hunger or other physical suffering, no disproportion of conscious power and lack of share in the government, no superior yet unrepresented wealth, industry, knowledge, or numbers,—nothing of all this has existed with us or been advanced in justification of so fearful a rebellion. And the third reason: This vast strife has already produced, within three short years, changes which are as comprehensive as they are final. Many great and elementary things are out of joint in our policy; they must be re-adjusted; new relations must be defined and settled, and constitutionally encompassed. We cannot shirk the duty, even were we unmanly enough to desire it.

If this is acknowledged, the farther question is, what are the necessary changes? What must be defined that has been left undefined by our ancestors? What must be added?

We cannot discover this in a more direct way than by ascertaining two things:—first, what has brought about this contest, unique in history; and, secondly, of what points may it be said with out contradiction, that the overwhelming majority of our people are agreed upon with the fullest, deepest national conviction, as an unalterable effect of this fiery war?

The rebellion has been brought about by two things—by SLAVERY and by STATE RIGHTS DOCTRINE—understanding by the latter that disjunctive doctrine according to which each portion of our country, called a State, is sovereign in the highest sense,—allowing us no nationality, no country, and, consequently, no National Government; but ascribing to that which we call the National Government, the character, not even of a league, not even of a common partnership, but of a mere temporary agreement from which any one of the partners may withdraw at any moment, even with greater ease than a commercial partnership may be dissolved,—a character which has never been ascribed to any confederacy in antiquity or in modern times, not even to the present Germanic Confederacy, which, nevertheless, avowedly consists of many sovereign monarchs, and four politically unimportant cities.

All, without exception, acknowledge that Slavery and State-Rights doctrine are the causes of this rebellion,—all people of

the United States, South and North, whether in favor of slavery or abhorring it ; whether hugging disjunctive provincialism to their breasts as the most inspiring political idea, or having faith in the grandeur of a national destiny and necessity appointed by Providence for his own great ends in the progress of our kind and the ascending path of history.

So distinctly is slavery felt to be the main cause of this rebellion, and so openly is it acknowledged, that not only has it been claimed as the one dividing mark from the first day of fierce rebellion ; so that, despite of this very State-rights doctrine, to this day Kentuckians and Missourians sit in the Congress of the so-called Confederacy, although the States of Kentucky and Missouri have never declared themselves for the severing of our country ; but the very beginning of the proclamation of the "Congress to the People of the Confederate States," officially issued at the adjournment of Congress (February, 1864) is in these words : "Compelled by a long series of oppressive and tyrannical acts, culminating at last in the election of a President and Vice-President by a party confessedly sectional and hostile to the South and her institutions, these States withdrew from the former Union, and formed a new Confederate alliance."

"Her institutions," in the plural, means, of course, the one institution of slavery, for the so called "South" was characterized by no other institution. Nay, more, this institution alone gives a political meaning to the otherwise purely geographical and relative term *South* ; and "being hostile" to this institution (which, by the way, was a gross exaggeration) is called the culmination of a long series of oppressive and tyrannical acts. We may judge, then, of the dire oppressiveness and tyranny of these acts, when the series of their iniquity reaches its highest point in hostility to slavery, which in this case tapers off in the attenuated declaration of the President, before he was elected, that he was in favor of no farther extension of slavery. The American Tarquin, the Northern Hippias, the godless Louis XI of this country, the truculent Gessler of these modern days, had committed the unheard of enormity of expressing his opinion that slavery had better not be extended ; whereupon a "down-trodden" people must rise, break their oaths, tear their own history into shreds, cause torrents of blood to flow, and spread misery and untruth over millions and millions.

The profound student always welcomes the plain and bold enunciation, especially in a documentary form, of an idea or theory of wide effect, whether vile or noble, and in this view there will be many who will acknowledge their obligation to

those who issued the latest—may it be the last—manifesto of the Rebel Congress.

If slavery is universally felt and acknowledged to be the main cause of the present war, the fact is also to be observed that never before have a single institution, and its like or dislike, been considered possessed of equally distinguishing power; and never before has any institution whatever been declared so intangible by reform as slavery is held to be by its modern defenders. The monarchial government and the republican government have been allowed to be freely discussed without stigmatizing the advocate of the one or the other as a vile and hateful being. The trial by jury is considered by most of us as essential to our liberty, but we do not denounce a man who declares his preference for other judicial methods in civil cases, as an enemy of mankind. So soon as slavery is acknowledged in a State, no matter how few slaves there may be, it is by common consent acknowledged as a society characteristically differing from others which allow no property in living human creatures. Nothing can show more forcibly the damaging and isolating, estranging and embittering character of this deplorable anachronism.

As a third cause of the rebellion, must be stated the deep and, as it turned out, fevering jealousy of the South, at perceiving that civilization, number of population, the arts, education, the ships and trade, schools and churches, literature and law, manufactures, agriculture, inventions, wealth, comfort and power, were rapidly finding their home at the North, to the great disparagement of the South, weighed down by slavery, which, nevertheless, the South would not recognize as an evil. All periods of such developments or changes of power and influence from one portion of a country to another, or from one class to another, have been periods of heartburning; but in our case the vaunting pride of the receding or lagging portion forbade them to acknowledge the cause, as has been occasionally done in other countries. This third cause, however, is of a psychological character, and not a directly political cause. It cannot be treated of in connection with the subject of constitutional amendments, although it greatly aids us in seeing the true character of slavery.

As to those points on which our nation is now fully agreed, and which must be taken as past discussion, plainly settled and firmly established, all the occasional, individual, and, therefore, boisterous reclaimants to the contrary notwithstanding, we feel sure that we write calmly, as a truthful man ought to write, and undisturbed by the magnifying effect of that which is near and present, when we say they are the following:

That we form, and ought to form, a Nation; and that we will on no account allow the integrity of our country and the nation-

ality of our united people to be broken in upon, cost what it may :

That a portion—a State is not superior in attributes, or the source of power, to the whole—the country :

That Secession is Treason, and that this civil war *is* rebellion on the part of the seceders—no matter how those who have rebelled may, for the sake of humanity, have been individually treated ; that the adoption of the rules and usages of war in the contest of a rebellion implies, no-ways and in no degree, an acknowledgment of the rebellious government :

That slavery, in a variety of corrupting and estranging ways, is the main cause of this rebellion ; that it alone distinguishes the “South” from the “North,” otherwise perfectly homogeneous portions ; that slavery, therefore, ought to be eradicated, and that the effects of this war have already gone far to extirpate this calamitous institution, received from paganism, abolished by Christianity ; renewed by fierce cupidity, and, in latter days, deified by professed christians :

That it is politically impious to withhold from a race or portion of the population the common benefits for which governments are established—justice and protection ; and that it is a fearful rebellion against God’s own ends, who made man a social being, to say that because a certain set or class of men established a government, therefore, the government is for the benefit of those who established it alone—a theory which would justify the most appalling tyranny in those successful generals who with their hosts have often founded governments—a theory far more appalling than Louis the Fourteenth’s *L’état c’est moi* ; for he acknowledged, at least, that such was the case because God so willed it for the benefit and protection of all :*

That military victory, and victory alone, can now decide a *bona fide* overthrow of the opposing forces.

Reviewing, then, these points we shall find that amendments of the Constitution—at least political amendments—are chiefly required concerning Slavery and the nationality of our Government.

The mischief and ruin produced by the vague adoption of potent and comprehensive terms in spheres of high and vast action or thought, have never been illustrated outside of the ecclesiastical dominion and persecution so sadly and on so large a scale as the gradual and unauthorized introduction of the term sovereignty has done in the history of our country. Never

* Developed later in his “Politics of the Bible,” by Bishop Bossuet, who had been appointed instructor of the Duke of Burgundy, heir apparent to Louis XIV., for whom this work was written.

before has an erroneous theory borne more bitter fruits. The Constitution of the United States does not contain once the word sovereignty, studiously omitting it after it had been used in the Articles of Confederation; and only a few days ago* a notable member of Congress spoke, in a solemn attack on the nationality of our Government, repeatedly of the "social sovereignty" in the United States, reminding the student of history of the oath of fidelity which the Stadtholder, in assuming his office, was obliged to take separately to each "sovereign city" of Holland and Friesland, another portion of that country, whose glorious career was early cut short by the morbid development of the disjunctive and centrifugal principle, not only of State Rights, but of City Rights, to the extinction of the national and centripetal principle. The Netherlands have passed through all the phases of State Rights doctrine long before us, but it led them to a change of government not to a large and protracted Civil War, although it plunged them into manifold disorders and civil heart burnings.

The estates of Holland and West Friesland were displeased with the public prayers for the Prince of Orange, which some High Calvinistic ministers were gradually introducing, in the latter half of the seventeenth century, and in 1663, a decree was issued ordaining to pray first of all "for their noble high mightinesses, the estates of Holland and West Friesland, as the true sovereign, and only sovereign power after God, in this province; next, for the estates of the other provinces, their allies, and for all the deputies in the Assembly of the States General, and of the Council of State." Here is our State Rights doctrine in full bloom long before our theorists were born, many of whom, indeed, boast of our State Rights doctrine as of something peculiarly American, new and beautiful.

No one is sovereign within the polity of the United States, taking the term in a practical and legal meaning, and no one ought be sovereign. The United States are sovereign in an international sense; that is, they are equal to any foreign power or potentate, and have no superior on earth; while in a domestic sense, the people, that is the totality of the nation, have the sovereign power if they please to exercise it, to establish that government which they deem most appropriate for their circumstances and most corresponding to their own convictions of rights and freedom; but within the established polity of the United States no one, we repeat, is sovereign; has the right to claim sovereignty, or the power to exercise sovereignty. We should not be free men if any one had. Sir Edward Coke declared in

* February, 1864.

the House of Commons, when the Bill of Rights was under discussion, that the English law does not know the word sovereign, and well would it have been for our country if it never had slipped into our political terminology, or, at least, had been properly defined.

The old Articles of the Confederation contain indeed this passage :

“Each State retains its sovereignty, freedom and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States, in Congress assembled.”

Sovereignty is either used in this case pleonastically to express the independence which had been proclaimed by the Declaration of Independence, or else the framers of the Articles fell into the error of attempting to establish a pure confederacy or league, or did not know how to help themselves after having severed their allegiance from the Crown of England, at a time when all confederacies of antiquity and modern times had shown that they are inherently weak governments, inadequate to any one of the large demands of civilization, freedom and independence, and at a time, too, when the national polity, with whatever variety, had become the normal political type of the existing historic period. When small communal politics impede and harass each other, the foundation of a confederacy is a progressive step in political civilization. Such were the Greek confederacies, inadequate as they soon proved themselves notwithstanding. The Confederacy of the Iroquois in our country showed a higher political state in its members than that in which the isolated tribes lived ; but it is the principle which *unites* the confederated members, not the principle which keeps them apart as so-called sovereign States, that shows the progress.*

When the Articles of Confederation were adopted, many confederacies had found already their grave ; the Netherlands were descending ; Switzerland was allowed to exist by her neighbors, (she has now adopted in her General Constitution many important points of union from the American Constitution) ; and Germany was presenting a deplorable spectacle of weakness by her confederacy of sovereign princes into which the Empire had lapsed, and by her doctrine of “Separatism,” the term used in Germany in the last century for se-junctive State Rights doctrine.

* A very interesting account of the Confederacy of the Iroquois (which Mr. Calhoun mentioned not without approbation, on account of the veto power of each single chief, resembling the individual vetoing power in the ancient Polish Diet,) was given by Mr. Henry R. Schoolcraft, in Senate Documents No. 24, 1846, separately published as *Notes on the Iroquois, &c.* New York: Bartlett & Welford, 1846.

Madison, therefore, wrote to Edmund Randolph, prior to the convention of 1787, under date of April 8, of that year,* these memorable words:

“I held it for a fundamental point, that an individual independence of the States is utterly irreconcilable with the idea of an aggregate sovereignty. I think, at the same time, that a consolidation of the States into one simple republic is not less unattainable than it would be inexpedient. Let it be tried, then, whether any middle ground can be taken, which will at once support a due supremacy of the national authority, and leave in force the local authorities so far as they can be subordinately useful.”

There is not a word of that mystic local sovereignty, or sovereignty of States in this plain and wise passage.

Hamilton, who had expressed himself in the Convention very strongly on national sovereignty,† uses on one occasion, in the *Federalist*, the term “residuary sovereignty” of the States, which has been used in favor of the State Rights doctrine by several of its advocates. But Hamilton was a national man, and of too penetrating a mind not to see that if the retaining of a certain amount of power in the States, were a proof of their real sovereignty, the vast amount of rights which each free citizen retains in the case of every constitution, and for the protection of which constitutions of free communities are chiefly established, would prove an originally, full, and later residuary sovereignty in the individual. Sovereignty is inherently an attribute of a society, or of the representing agent of society (as in the case of government when it represents at home the nation; abroad, the independent State); sovereignty is not a sum total of many or a few fractional sovereignties, it is the attribute of an organized or organizing people.

Hamilton, moreover, on June 18, 1787, when the question before the Convention was: “That the Articles of Confederation ought to be revised and amended so as to render the Government of the United States adequate to the exigencies, the preservation and the prosperity of the Union,” said, in a speech in which he examines the various confederacies and elective governments in antiquity and modern times: “The Swiss Cantons have scarce any union at all, and have been more than once at war with one another. How, then, are all these evils to be avoided? Only by such a complete sovereignty in the

* Elliot's Debates, &c., Vol. V., page 107, Philad. edition of 1859.

† Pages 201 and 212 of the volume cited in the preceding note.

general government as will turn all the strong principles and passions above mentioned on its side."

Ere seventy-five years had elapsed from the day when these words were spoken, Switzerland had passed through a far graver civil war than was known in her history at Hamilton's time—a war caused by an attempted Sonderbund or separate league—and the United States were passing through a far graver civil conflict for the integrity of the country than that from which the Swiss had recently emerged.

More than all this—Washington wrote to John Jay, on March 10, 1787, these words, which it were well if they never passed from the memory of the American people; "My opinion is, that the Country has yet to *feel* and *see* (the italicizing is by Washington) a little more before it can be accomplished (viz., a constitution). A thirst for power, and the bantling—I had like to have said the monster—sovereignty, which have taken such fast hold of the States individually, will, when joined by the many whose personal consequence in the line of State politics will in a manner be annihilated, form a strong phalanx against it."*

The colonial charters were, indeed, the only patent and legal fashionings of our early politics, and after the Declaration of Independence they constituted the only lines of demarcation visible to the lawyer's eye, so that a confederacy such as it was attempted to establish under the Articles of Confederation, naturally suggested itself, but there were from the earliest times deeper causes at work which steadily led the portion of the Saxon race and the descendants of other European nations to form one nation; and throughout the history of this people the tendency toward the formation of a nation, until the nationality is legally pronounced in the formulation which we call the Constitution, is discernible. The Constitution did not make the people or nation, but the framers strove or felt impelled by necessity to enounce it, and to establish something far higher, more serviceable, and more consonant with modern civilization than "a mere treaty, a league between States," as Madison called depreciatingly the Articles of Confederation.

The causes which were always at work toward the formation of a nation were; first, the descent of the chief settlers, for they came from England, the country in which the people has been organized into a nation far earlier than in any other European country, and which had enjoyed the manifold benefits of a national government, when other countries were harassed by the fragmentary state of things derived from feudal confusion—it was the inherent tendency of the Anglo-Saxon race—the natural

* Jay's Life, Vol. I., page 258.

effect of the very period in which they came and spread in this country, characterized as our modern period is by the fact that the national polity is its normal type of government, as the fental system had been the normal type of the middle ages, or the city-republic that of free antiquity—secondly, the geography of our country both with reference to its being separated from the mother country by a wide sea, and to the unitary and inter-supplementing character of the country. The symptoms of nationality, growing distincter as our history advances, may be indicated thus: At no period were the inhabitants of one colony considered as strangers in another, and always could the citizen of one portion settle in another, and the Declaration of Independence calls the inhabitants of all the revolted colonies, Fellow-Citizens; the so-called Albany Plan of Union (in 1754)—an unsuccessful but very palpable attempt at establishing political unity in this country preceded the revolution by many years; in this Plan the colonies were called, as they were always styled in the revolution, United Colonies, until the term United States (derived from the Netherlands, which called themselves United States and United Provinces indifferently,) was adopted; the Continental Congress, ostensibly acting under distinct powers and instruction, appointed Colonel Washington, in June, 1775, “General and Commander-in-chief of such forces as are, or shall be, raised for the maintenance and preservation of American liberty; this Congress doth now declare that they will maintain and assist him; and adhere to him, the said George Washington, with their lives and fortunes in the same cause.” This sounds indeed more like a national declaration than the commission of a General-in-chief, and was indeed a breath breathed forth by the coming nationality.

Another symptom is the remarkable fact, that this Congress exercised all attributes of a national government, and was seconded by the people, without having any distinct authority—it issued paper money, it raised troops by requisitions, issued commissions, and actually declared Independence in 1776, while none of the Constitutions made in 1776 and 1777, before the Articles of Confederation were adopted—those of New York, Pennsylvania, Maryland, and North Carolina, says aught about the treaty-making power, or that of declaring war, so well was it understood that this belonged to the nation, or to the Whole, as the Greeks called it, and not to the parts.

Even the Articles of Confederation indicate in many passages the spirit of Unionism or Nationality, and the struggle of the Revolution was carried through by the American consciousness of One People alone, and not indeed by haggling petty jealousy of small communities, or by provincial pomposity. As to the

Declaration, of Independence it is national, from its Alpha to its Omega ; and as to the great men of our Revolution—Washington, Franklin, Adams, Hamilton, Madison, Pinckney—they were national men. Grote, the historian, correctly observes, that the distinguished men or States of ancient Greece, were always greatest, or truly great, when they were Pan-Hellenic. It was so in our Revolution, and has been ever since so in our history. Has there ever been a great American that was not Pan-American, that is, National-American, or who was not great because he was National-American? National-Government was the name given by all our earlier statesmen, Thomas Jefferson included, to the government of the Union, and the term Country was freely used at all periods, while it may be added here, that it was actually made a reproach to the writer, by some state-rights men, that in an address which he delivered in 1851,* he had maintained that the Constitution had established a representative *government* over the whole.

The feeling of the Americans has been from early times, that they are One People, requiring a Country, and whether they consciously expressed it to themselves or not, they felt, that Modern Civilization stands in need of Countries, having far outgrown the City-States of old, and the Provincial Sejunctions of times nearer to their own. They were conscious that socially they formed a nation, and that politically, they ought likewise to constitute a nation. Wisely said Hamilton: "A nation without a national government is an awful spectacle;" for, it presents the enfeebling pain of protracted labor, and the failure of its high mission among the civilized nations of the earth.

Each great period in political history has its pervading type of government, or political dispensations, as they might be called. Our Ciscaucasian race has passed through many such times. Neither the City-State, nor the Feudal System, nor Asiatic Monarchy, consisting of conquests agglomerated but inherent; nor the government based on castes, nor the League, nor even the pure Confederacy, is the form of government characteristic of modern times. Our race has happily passed beyond all these. Be it repeated, the normal type of government in our period of political civilization is the National Polity. Whether monarchical or republican, whether imbued with the principle of self-government or centralized, whether of a unitary or federal character, the efficient government of a great nation, must be of the national type, and few things have been more propitious for England's welfare and her manly freedom, than that

* It has been reprinted since several times, among others as No. 77 of this Society.

she adopted a national government long before the other European countries gave up the fragmentary feudal system.

The writer of these pages has given, on a former occasion, his views on this subject in a manner as distinct as he is able to express them; he begs permission, therefore, to repeat what he then said:

It is a fact or movement of the greatest significance in the whole history of the human race, that this great continent was colonized by European people, at a period when, in their portion of the globe, great nations had been formed, and the national polity had finally become the normal type of government; and it is a fact equally pregnant with momentous results, that the northern portion of this hemisphere came to be colonized chiefly by men who brought along with them the seeds of self-government, and a living common law, instinct with the principles of manly self-dependence and civil freedom.

The charters under which they settled, and which divided the American territory into colonies, were of little more importance than the vessels and their names in which the settlers crossed the Atlantic; nor had the origin of these charters a deep meaning, nor was their source always pure. The people in this country always felt themselves to be one people, and unitedly they proclaimed and achieved their independence. The country as a whole was called by Washington and his compeers America, for want of a more individual name. Still, there was no outward and legal bond between the colonies, except the Crown of England; and, when our people abjured their allegiance to that crown, each colony stood formally for itself. The Articles of Confederation were adopted, by which our forefathers attempted to establish a confederacy, uniting all that felt themselves to be of one nation, but were not one by outward legal form. It was the best united government our forefathers could think of, or of which, perhaps, the combination of circumstances admitted. Each colony came gradually to be called a State, and called itself sovereign, although none of them had ever exercised any of the highest attributes of sovereignty; nor did the States ever after do so.

Wherever political societies are leagued together, be it by the frail bonds of a pure confederacy, or by the consciousness of the people that they are intrinsically one people, and form one nation, without, however, a positive National Government, then the most powerful of these ill-united portions must needs rule; and, as always more than one portion wishes to be the leader intestine struggles ensue in all such incoherent governments. It has been so in antiquity; it has been so in the middle ages; it has been so, and is so in modern times. Athens and Sparta,

Castile and Aragon, Austria and Prussia, are always jealous companions, readily turned into bitter enemies. Those of our forefathers who later became the framers of our Constitution, saw this approaching evil, and they observed many other ills which had already overtaken the confederacy. Even Washington, the strong and tenacious patriot, nearly desponded. It was a dark period in our history; and it was then that our fathers most boldly, yet most considerately, performed the greatest act that our annals record—they engrafted a national, complete, and representative government on our insufficient confederacy; a government with an exclusively national executive, in which the Senate, though still representing the States as States, became nationalized in a great measure, and in which the House of Representatives became purely National like the Executive. Virginia, which, under the Articles of Confederation, was approaching the leadership over all (in the actual assumption of which she would have been resisted by other rapidly growing States, which would inevitably have led to her Peloponnesian war)—Virginia was now represented according to her population, like every other portion of the country; not as a unit, but by a number of representatives who were bound to vote individually, according to their consciences, as national men. The danger of internal struggle and provincial bitterness seemed to have passed, and our country now fairly entered as an equal among the leading nations, in the course where nations, like Olympic chariot-horses, draw abreast the car of civilization. We advanced rapidly; the task assigned to us by Providence was performed with a rapidity which had not been known before; for we had a National Government commensurate to our land and, it seemed, adequate to our destiny.—So far our former passage.

Yet, the peaceful history of our country, calling, comparatively speaking, but rarely, for energetic action of the National Government; the universally observed tendency of the swelling and even arrogating importance of the minor or local powers when the uniting authority is weak or rarely called into action; the constant and, it is feared, occasionally willful confusion of a national authority with *centralization*, and even with despotism, (as if there were no such thing as local absolutism and local oppression!) and, on the other hand, the confusion of self-government (the very pride and honor of our race) with sovereignty; the ultimate, open, and total denial that we form a nation, and have a country,* accompanied by a tendency of some of our

* It was stoutly maintained by the Nullifiers that we have no country and ought to have none—that the absence of a name for our country was not an accident, but that the fact of our having a name, which simply indicates a political

most gifted men to consider the weakening and the lowering of the National Government almost an object of patriotism,—all these tendencies, almost always accompanied by a tendency to render the State governments as centralized and absolute within the boundary of each separate State as possible, ultimately led to that theory of State Rights which proclaimed the wisest *League* the choicest of politics, if polity, indeed, it can be called, and which has brought this country to the strait in which we now find it.*

system, was evidence of our having no country, and that if the term Nation could be used at all in the United States, it must apply to the united people of each single State. The nation of South Carolina was frequently spoken of in the times of nullification, and again, in the year 1850, when an attempt at separate secession was made. The writer was denounced as *abominably national*, while Wm. C. Preston called out to him significantly, when he first saw the writer after it had been decided, in 1850, that S. C. would not secede—*We have a country yet!*

* A candid opponent of the National Government cannot assert that there ever was a tendency toward *centralization*, so often denounced, observable in Congress. What has been actually observable, at one period, was the tendency of a portion of Americans toward democratic absolutism at the time when General Jackson was called the Tribune of the people, and high-handed measures were asked at his hands by that portion of the people; but this portion consisted of so-called State Rights Men. The confusion of a National Government with Centralization is so wilfully and unfairly persisted in, and has formed so prominent a characteristic of Nullifiers, State Rights Men, and Secessionists, and is so illogical withal, that it may be well to say a few words on this subject, even though it be but in a confined note. The Centralist desires a government which unites all Power, unchecked by any institutions of self-government, and undivided into co-ordinate independent branches of government. Centralization may be, and frequently is democratic, as well as monarchical. Indeed all democratic absolutism has a direct and swift tendency toward monarchical centralism. France and Napoleon I. furnish us with a modern illustration. The Federalist (not taking the term as a party name) considers a confederation of independent or nearly independent States the best government. When France exhibited absorbing centralism more and more, since the times of Richelieu and Louis XIV., many political philosophers thought they discovered safety in the opposite—in federalism. Lord Brougham, generally admitted to be the author of the "Political Philosophy," published in 3 vols., by the Society for the Diffusion of Useful Knowledge, goes so far as to praise even the organization of the former German Empire! The Nationalist believes in the necessity of national or unitary government, as opposed to the mere States General or Diet of a League, such as the present Diet at Frankfort is, or as the Diet of the Swiss Confederacy used to be. But a national government may be a centralism, as the French is, or a government with many institutions of liberty and self-government, as the English; it may be monarchical, or republican, as ours is and is intended to be. A general government need not be on that account a national government, which requires a *nation*, and must extend with uniformity over the whole. The ancient Asiatic governments were general governments over vast Empires, but there was no Persian or Assyrian nation. It shows either ignorance or a perversion of mind to confound nationalism with centralism; and I am sustained by fact and history, when I say, in the text, that those American statesmen or partisans who most assailed the National Government, and who pretended, and actually continue to pretend, that they are fighting for liberty when they attack the National Government and declare it to be a mere agent; that those American statesmen who were always bemoaning the

How, then, are the American people to declare and settle forever, by their fundamental law, that they will not admit of this calamitous sort of State Sovereignty? That they know that modern civilization stands in need of *countries*, and that neither City, nor Province, nor Petty Dominion, is sufficient for the modern *patria*. The Constitution cannot enter into a discussion, and if it did, it would be of no effect.

It is believed that the question can be approached in two distinct practical ways, namely, through the subject of allegiance, and by the definition of treason.

Allegiance is that feeling of pride and adhesion, and that faithful devotion to a person's nation which every generous man is conscious of owing to his country—cast into the highest obligation of obedience to the highest agent, politically representing the country or the nation. This definition is given with a perfect recollection of Blackstone's definition to the contrary, and of the fact that acts of Parliament have declared that Allegiance is due to the person of the King and not to the crown, which latter theory is "damnable."* English history sufficiently proves that, despite of the law books, allegiance is essentially due to the crown, that is, to the country, and not "due by nature to the person of the King." How else could it be apparently transferred by a convention or revolution from one monarch to another person wearing the same crown, which means, of course, the representation of the country? The relation of a son to a father is a natural one, and no act of Parliament can unfather a father.

"centralization," the "tyranny," the "despotism" of the "General Government," were all of them, so far as I can recollect, men who worked to concentrate within their respective States, all power in the Legislature—the only body offering itself in this country, and at the time, for *centralism*. The whole idea which they have of Liberty is the barren idea of opposition to the General Government. There were highly distinguished men among them, yet all of them fell into the vulgar error of considering liberty to consist in negativism. As to the National Government itself, it was treated by the school of States-Rights Men as if it had been erected for the sole purpose of being degraded in every possible way—as if it were some unsightly fence or wall run up at the outskirts of the town, seemingly erected for no purpose but to be defaced with caricatures and grotesque placards of the invading bill-sticker.

*The Act called *Exilium Hugonis de Spencer Patris et Filii*, and the repeals and re-repeals of acts concerning allegiance, with much that interests the publicist and jurist, can be found in the *Trial of Dr. Henry Sacheverell*, Before the House of Peers, &c., &c. London, 1710.

The fact that Allegiance is inherently national, all Acts and definitions to the contrary notwithstanding and that history proves this to be so, is treated of at some length in *Political Ethics*, Boston, 1838.

That phase of State Rights doctrine, which acknowledged, at one and the same time, the sovereignty of the States and the sovereignty of the United States, admitted likewise of two allegiances—a contradiction in terms. A double allegiance would be a fearful see-saw for a conscientious citizen, and worse than the allegiance of the feudal times, which was a graduated allegiance, but not a double or multiplied one. We cannot faithfully serve two masters. We owe, indeed, obedience to the State Government, but so we owe obedience to many persons, laws and institutions without its amounting to allegiance. The so called double allegiance savors of the barbarous, and now extinct petty treason which the wife could commit in England against her husband, making him a sub-sovereign, to whom the wife owed sub-allegiance. Are such barbaric confusions of ideas to be repeated with us?

The inherent inconsistency of a double allegiance has always shown itself as soon as stern and testing cases have presented themselves—practical cases which call for actions and not only for apparent symmetry of verbal positions; while the other phase of the State Rights doctrine, which declared the States *bona fide* and exclusive sovereigns, leaving to the National Government the mere character of an attorney, with certain powers to be taken back at any moment by the party for whom the attorney acts, has led to the direst acts of dishonor and dishonesty.

Joseph T. Jackson, who died, as General of the so called Confederacy, with the soldierly name of honor and affection, Stonewall Jackson, seems to have been a man of singular directness of mind and purpose. He had all along believed in a double allegiance, but when the testing hour arrived, calling for decision, and showing the impossibility of two allegiances, his night-long prayer to be enlightened in his grievous perplexity showed that we cannot have two sovereigns. For one of the two he must decide, and he decided in favor of State allegiance, doubtless convinced for the rest of his life, that an honest acknowledgment of two allegiances is a matter of impossibility for an earnest man. Jackson was a Virginian, and there, on the same soil where he wrestled in prayer, another and a greater Virginian had uttered, long before him, those memorable words: "All America is thrown into one mass—where are your landmarks, your boundaries of colonies? They are all thrown down. The distinctions between Virginians, Pennsylvanians, New Yorkers, and New Englanders are no more; I am not a Virginian, but an American." Had these words of Patrick Henry never touched a chord in Jackson's heart, or at least showed him that two sovereigns being impossible, the question must be

whether the one of the parties, called the country, or the United States, had not rights too, and greater ones than Virginia? and had he never asked himself what original cause made Virginia so great and so exclusive a sovereign, and whether it had ever acted as real sovereign?

On the other hand, men who believed, or pretended to believe in State Sovereignty alone, when Secession broke out, went over with men and ships, abandoning the flag to which they had sworn fidelity; thus showing that all along they had served the United States like Swiss hirelings, and not as citizens, in their military service. They did more; not only did they desert the service of the United States, on the ground that their own individual States, to whom they owed allegiance, had declared themselves out of the Union, but in many cases they took with them, or attempted to take with them the men who owed no such allegiance, being either foreigners or natives of other American States. In other cases they actually called publicly on their former comrades to be equally faithless, and desert with their ships or troops. The Swiss mercenaries used to act more nobly. Once having sold their services, and having taken the oath of fidelity, they used to remain faithful unto death, as they did on many a battle-field, and through long periods of history down to the revolution which dethroned Charles the Tenth of France.

The reader will find, at the end of this paper, in the amendments marked A and B, how it is proposed to provide constitutionally for a national expression on the necessity of the integrity of our country, on allegiance, the treasonable character of elevating so-called State sovereignty above the National Government, and for the extinction of the Dred Scott principle.

The easy life, which, in the course of history had been our lot, until the civil war burst upon us, engendered a general spirit of levity with reference to matters of government and laws, of which some persons predicted those calamitous consequences which have now befallen us. A trifling spirit is one of the greatest evils which can beset a nation. Levity has been the spirit of too many sad periods of sacred and profane, of early and recent history, from which peoples are rescued, if rescued at all, by searching punishments only, that we should oppose to these grave lessons the callous disregard of unimpressionable minds. "He that will not hear must feel," holds good in the school of life and nations, as in the schools of children. It is suggested, therefore, to the reader, whether an amendment such as is marked C may not be requisite. God admits of no favorites in history, and things will bear the same consequences with us that they have produced with others. Let us gravely treat

grave things, and not pass over serious evils with self-deceiving yet empty words. No honest physician does it; no serious statesman can do it; no citizen who sincerely believes in the greatness of his country's mission can do it.

Regarding slavery, little is to be added here. It is past discussion. The wide history of our whole race and the thousands of laws settle it, and the rapid course of events in our own three pregnant years has settled it. We, who know that negro slavery originated in unhallowed greed, braving at last the long resisting better opinion of the governments, at the very time when Europe had at length succeeded in eliminating slavery from her soil; we who believe that slavery is hostile to true civilization and to the longevity of nations, itself a requisite of high modern civilization; we who know that slavery has always been at best a deciduous institution, and that it has always proved itself a cancer wherever communities have neglected to extinguish it so soon as the humanizing system of wages, which acknowledges that the laborer is worthy of his hire, offers itself—we cannot be expected to allow this malignant virus to poison our system for ever.

We who have found, to our bitter cost, how perverting and estranging in statesmanship and morals the character of this institution is among people who call themselves Christians, so that slavery, and slavery alone, divided, for them, the country, the population, the parties, and their aims and views into two portions, pretended to be more distinct than ever language or religion have divided portions of mankind from one another; we who know from law and history, old and new, and from our Constitution, how futile is the attempt to combine the idea and characteristics of *humanity* or a *person* with those of a *thing* that can be sold and bought; we who have learned how bewildering a curse slavery becomes when rebelliously upheld against experience, against the opinion of nearly all men, and the principles of Christianity, which throughout the existence of the Christian Church from its earliest days have steadily wrought the emancipation of the bond—we cannot perpetuate this thing when a rebellion raised for the very purpose of extending and perpetuating it gives us the opportunity of extinguishing it forever.

We, who remember that we are bidden to “honor all men,” and believe that an auction table on which families are sundered by the hammer of an auctioneer, albeit that he is white, and that the big tears of the victims roll down on dark cheeks, is not an acceptable sight to a God, merciful and holy; we, who believe that comparing the relations subsisting between children

and parents, or citizens and their governments, with the relation of slavery is hypocrisy, insulting him to whom the argument is addressed, because supposing him to be possessed of the lowest understanding; we who think that justifying slavery on the ground that other classes in other countries are suffering from want or oppression, or that prostitution, too, is a wide spread evil, which will not be abolished for centuries to come, is unworthy of any upright man, because no one has ever pretended to raise pauperism or prostitution to the dignity of an unapproachable institution, nor called them of divine origin—we certainly must do away with this arch-mischief as soon as may be.

We who believe that no logical link between the inferiority of the negro race and the consequent necessity of enslaving it, any more than stupidity in a white man would "entitle him to slavery;"* who believe that it is a heaven-erying iniquity belonging exclusively to our age and our country, to maintain that "Capital is by nature entitled to *own* Labor," asserted at the very age which justly prides itself on the dignity of labor and its wedlock with science; we who feel ashamed that the Slavonic race should have outstripped ours in the broad emancipation of the serfs in the Eastern dominion, corresponding in vastness to our Western empire, where saddening willfulness declared, at the same period, that a new mansion of civilization should be reared on the corner-stone of Slavery, and that Slavery is a "moral, political, and economical benefit," while we know it to be a moral, political, and economical evil and bane, and while we know that, in our country, it has always been in reciprocal connection with the "State Rights doctrine," acting upon one another as cause and effect; we who know that the framers of our Constitution considered Slavery an evil which would soon die out—which was inconsistent with their Declaration of Independence—and which they felt ashamed to mention in the Constitution when they were forced to touch upon it: we claim it as a right to mention now, for the first time, the word Slavery in the Constitution, in order to abolish it.

We who know that Matrimony, the Family, and Property have been acknowledged from the earliest periods of our race as the very elements of civil society and starting points of civilization; so much so that ancient and modern heathens deified those benefactors who "introduced Matrimony and Property;" and that Slavery makes war upon these elements of humanity; we who know that it was the settled purpose of the slave-owners to

* These are the sarcastic words of Henry Clay.

re-establish Slavery in the North; we who witness daily that solemn and symbolic act in our country's history, of black regiments marching along our streets to their embarkation for the Southern battle-fields, and legion after legion of armed negroes receiving our own starry standard at the hands of our own patriotic women; we, of course, must be expected to do our utmost that Slavery be forever abolished in our land, and that its fundamental law shall put its seal on the perpetuity of this retarded act of justice, reason, right, and wisdom.

The amendment marked E, in the Appendix, will show the reader how we think that the requisite amendment might best be worded.

If Slavery is abolished in the United States, it will be necessary to amend that portion of the Constitution which establishes the basis of Representation. At present three-fifths of the slave population are added to the number of free persons, in order to make up the number of persons entitled to a proportionate number of Representatives in Congress. If, then, Slavery is abolished, the number of two-fifths of the present slave population would be added to the number to be represented in Congress, without giving them the right to vote for the Representative. The few white citizens who have been in rebellion would, therefore, gain by the extinction of Slavery, so far as the number of Representatives is concerned. The latter portion of amendment E, therefore, is necessary.* It will be observed that the words used in this portion of the amendment have been taken, as far as it was feasible, from the Constitution itself, Article I, section 2, paragraphs 1 and 3.

There are other amendments which either seem to be desired by most Americans, or have been pronounced desirable by some of our greatest statesmen, or else, which appear to us highly desirable on practical grounds, such as the extension of the presidential term to six years, and not allowing a second election, or of giving to the President the authority of vetoing single items of the appropriation bills, without thereby vetoing the whole—a change highly desirable, it seems, in the advanced state of our country, with its large, manifold, and tempting appropriations. So may the paragraph of section 9 of the Constitution, which begins: "No capitation or other direct tax," require an amendment making it clearer, or else it may be found

* The reasons, which have led the writer to the proposition of this amendment, have since been published in a letter to Senator E. D. Morgan—No. 79 of the tracts of this Society.

advisable to omit it altogether. It may be wise to consider the propriety of constitutionally declaring polygamy a crime (including polyandry, for what does not happen in our days?) Those who, like ourselves, believe the presence of Cabinet Ministers in either House of Congress of great importance, and who, nevertheless, think that the spirit of the present Constitution forbids it—in which we do not agree with them—will deem it necessary to provide for the presence of the Ministers by some amendment.

We restrict our proposed amendments, however, to those great points which present themselves with painful clearness in the present contest of the American people.

As to the Amendment F, it will suffice to state that that which is proposed to be established by it exists, we believe, in every other country and its colonies, even in Spanish Colonies, where slavery continues.

According to the law or usage as it now stands, colored people may freely testify in the Courts of the United States in some States, in others they cannot testify against or for a white man; but they may in actions or trials of colored people; yet if they do so, it cannot be done on oath, as though the color of a man invalidated the binding power of the oath, and as if evidence thus acknowledged to be weak and not to be relied upon, was, nevertheless, good enough to decide on property or life and death of a colored person! And all this exists in a system of adjudication and trial in which Things and Circumstances are allowed as evidence, whose proving efficacy is to be weighed by judge and jury. It indicates a confusion of the ideas of truth and fact, and the means of establishing them—of the absolute character of facts and the importance of the person who establishes it, or with reference to whom it is established, according to which the questions concerning a mathematical problem were not whether it is proved, but whether a Frenchman or a German had proved it—a commoner or a nobleman. We are involuntarily reminded of the barbarous age described by the great Bishop, Gregory of Tours, who tells* us that in his time persons of a vile condition were obliged to take successively more oaths, each on a different relic, to substantiate the same fact, than persons of a better condition; and that, on the other hand, more witnesses were required to prove an offence against personages, as their rank was higher, so that it took between twenty and thirty witnesses to prove an offence against a Cardinal, and we forget how many to substantiate an accusation of misconduct against a Queen. In much later, yet still half barbarous times, Jews, whose treatment

*In his *Historia Francorum*.

in the middle ages resembles much the treatment which the negroes have received at our hands, were not allowed, in some countries, to testify against Christians, while in others, two or three, or still more, Jewish testimonies were requisite to be equivalent to one Christian testimony, and the same was repeated with reference to natives in portions of Asia which had been colonized by Europeans. The "History of Human Folly," if that work is complete in any degree, must have a large chapter on the laws and rules of evidence to which men have resorted;* but shall we continue them?

If it be objected that this abuse might be remedied by an Act of Congress, and does not require an amendment of the Constitution, we would reply that so startling a corruption of the rules of evidence ought not only to be remedied by law, but had better be placed beyond the possibility of relapse, and deserves to receive in a period of reform the stamp of the nation's moral consciousness, and the nation's constitutional frown.

In this latter respect Amendment G resembles the proposed amendment marked F. The Foreign Slave Trade is declared piracy by Act of Congress, but a person who had been Judge declared in open Court in the city of New York, in 1860, when certain persons were tried for having been engaged in the African Slave Trade, that the law was, in fact, as the District Attorney had stated it, but that the universal opinion of the people regarding the criminality of the act had materially changed. On the other hand, the opinion had spread far and wide in the South, before secession broke out, that the Act was unconstitutional †; while a District Judge of the United States declared on the bench, in Charleston, in 1860, ‡ after the nefarious traffic in negroes had actually been

* In most countries, whose law is founded on the Roman Law, the rule used to prevail that two strong suspicions were equivalent to one positive testimony, or, that strong suspicion incurred one-half of the penalty incurred by the offence substantiated by proof positive. But these times are past; jurists feel ashamed of them.

† This opinion had become so prevalent, or was at least so generally advanced, that Wade Hampton, Esq.—now, unfortunately, as General of Cavalry, in arms against what he then considered his own honored flag—delivered a speech on "the Constitutionality of the Slave Trade Laws," in the Senate of South Carolina, December 10th, 1859, and his friends distributed it widely under this title. It was published in Columbia, S. C., 1860.

‡ This opinion of Judge Magrath, one of the early seceders, and re-appointed Judge by seceded South Carolina, is given at length in a pamphlet, now very rare. The opinion has probably never been regularly reported, and the full title of the tract may be acceptable to the readers of the law profession; it is "The Slave Trade not declared Piracy by the Act of 1820.—The United States vs. Wm. C. Corrie. Presentment for Piracy. Opinion of the Hon. A. G. Magrath, District Judge in the Circuit Court of the United States for the District of South Carolina, upon a motion for leave to enter a *Nol. Pros.* in the case. James Conner, District Attorney, A. H. Brown, F. D. Richardson, W. D. Porter, defendant's Coun-

resumed, that the slave trade had not been declared piracy by the Act of 1820. Under such circumstances, honest and earnest citizens will think it advisable to engrave as indelibly on our Twelve Tables, as we are able to do, the people's conviction concerning so dark an international crime, and their will concerning its possible recurrence. It is, indeed, one of the essential rules of wise government, not to forestall development by fretful or conceited details in the fundamental laws; but it is also one of the highest duties of civic uprightness to settle doubts and stabilize rights which have been shaken, concerning the elements of politics, and to prevent the consummation of dangers, drawing nigh in threatening clouds.

No person who remembers the open declaration of helplessness in the Report of the Attorney-General of the United States to President Buchanan, confessing that what then was perpetrated in the South was treason, indeed, but that the President had no power to protect the United States, will judge Amendment D unnecessary. The ancient Romans were said to have omitted providing for the punishment of parricide, because so monstrous a deed had not occurred to their minds. Our forefathers omitted to provide for the place of the trial of treason and rebellion, when, apparently at least, a whole community commits it. The dark deed did not occur to their minds, and it is thus our duty to remedy the omission.

In view, then, of all the foregoing remarks, and in solemn re-

eel. Charleston, 1860." The case is *The United States vs. William C. Corrie*, April Term, 1860.

The preface of this pamphlet will interest every lawyer. It is here given, therefore, in full:

"The principles discussed in the opinion of the Court, in the case of the United States vs. William C. Corrie, have been considered by many persons of that importance which required that they should be preserved in a form more permanent than the columns of our daily papers.

"These principles are (1.) That the Act of Congress of the 15th May, 1820, entitled "An Act to continue in force an Act to protect the commerce of the United States, and punish the crime for piracy, and also to make further provision for punishing the crime of piracy," is not any part of the laws of the United States passed for the suppression of the slave trade; but relates to the specific offences which it enumerates; and these specific offences have not been, and are not to be, confounded with the slave trade. (2.) That in the trial of all crimes and offences against the laws of the United States, the place or places for trial are, and must have been, ascertained by law; and no power can be admitted to interfere with the trial at such place or places. The right of the accused to be tried at such ascertained place or places is secured by the Constitution of the United States. (3.) That in the United States, the right of a Court to take cognizance of a crime or offence, must be found in the law; and to the law which creates an office, and prescribes the duties of an officer, is his responsibility to be referred in all cases.

"The ability, research, and luminous discussion of principle by which this opinion is characterized, will recommend it to the careful perusal of all who take an interest in questions which touch the rights and liberties of the citizen."

lection on the needs of our nation, and on the degeneracy which slavery has wrought in the South, and on the pertinacity with which some persons continue to brave the deep conviction of our race, and on the patent effects of this trying and sanguinary struggle, we now respectfully submit the following amendments to the consideration of the American people. Doubtless, a far better instrument might be devised, if men of the stamp of the Framers; with their boldness and their circumspection, and with the addition of all our experience, could meet in a constituent convention, and revise the whole fundamental law. This cannot be done; the confidence of the whole nation cannot be obtained at a period like this. Neither times nor men would be propitious for so comprehensive a work of so exalted a character. Too many theories have seized on the minds of men, and the present period is plainly not favorable to the creation of a new constitution. The many State constitutions of recent date do not show a general progressive improvement in this respect. Let us build additions to the mansion we dwell in, though perfect symmetry may not be obtained. Indeed, very few periods in the course of history can be called propitious for so great a work, but the necessity of certain amendments is there; it is pressing upon us. We propose nothing of a speculative meaning. We propose measures of a direct and urgent practical character, and for these the times appear as fit as the call for them is direct and begins to be loud. The irons have been heated in the forge of civil war; let us have them on the anvil while it is time yet to fashion them with earnest and with skillful blow in the smithy of the Constitution.

John Hampden's motto was: *Vestigia nulla retrorsum*. So let it be ours in this momentous time. No step backward, but on, on—in the field, and in the legislature; in our aims, in our acts—in our national rights and duties, calling and justice—in all the work before us and around us.*

* At the very moment when the pen was laid down, after reading the proof of this last line, a hastily written letter was received from a prominent citizen of North Carolina and former planter of extensive possessions. The letter is dated on the memorable day when Richmond fell, and contains this following passage, which reads like a response to the concluding lines of this paper:

"By all that is sacred, prevail upon the leading men of the country to urge the States to the adoption of the *Amendment*, and thereby place beyond cavil the abolition of slavery. If they have any love for their Southern brethren, ratify the Act of Congress, and destroy the lingering hope that many still have of the perpetuation of slavery, and which is now preventing thousands from striving with manly hands and hearts for an honest and comfortable living. I am strongly—*overwhelmingly*—convinced by contact with 'the people' that they are ready and willing for it. In fact, *the act completed* will bring rejoicing, but so long as there is hope, uncertainty and inactivity will reign. The abolition of slavery by the constitutional ratification of the States, will strengthen the Union cause in North Carolina and Virginia, the present battle grounds of the rebels. The gambler, standing over the gaming table, watches the turn of the cards so long as he has one dollar invested: destroy the *game* and he will cast about for a living by other means."

PROPOSED AMENDMENTS.

“ Articles in Addition to, and Amendments of the Constitution of the United States of America.”

(Amendment A.)

Article XIII.—Every native of this Country, except the sons of aliens whom the law may exempt, and Indians not taxed, and every naturalized citizen, owes plenary Allegiance to the Government of the United States, and is entitled to and shall receive its full protection at home and abroad.

(Amendment B.)

Article XIV.—Article III, section 3, first paragraph of the Constitution, shall be amended, so that it shall read as follows :

Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort, or in assisting them in forcible attempts to separate from the United States any State, territories or unorganized districts, or any parts thereof; or in applying to foreign governments, or people, for

aid or support, whether such separation, or resistance to the United States for the purpose of separation, be intended or is already carried out for the time being.

No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or to the same positive act, (where the treason consists in applying to foreign states or people), or on confession in open Court.

(Amendment C.)

Article XV.—It shall be a high crime directly to incite to armed resistance to the authority of the United States, or to establish or to join Societies or Combinations, secret or public, the object of which is to offer armed resistance to the authority of the United States, or to prepare for the same by collecting arms, organizing men, or otherwise. No person shall be convicted of this crime unless on the testimony of two witnesses to the same act, or on confession in open Court, and Congress shall declare the punishment of this crime.

(Amendment D.)

Article XVI.—Trials for Treason shall take place in the State or district in which the crime shall have been committed, unless the administration of Justice shall be interrupted or impeded at the time by rebellion or war. Congress shall provide by law that trials for treason

shall be held in places where Justice may be administered without hindrance.

(Amendment E.)

Article XVII.—Slavery shall be forever abolished, after the day of the year , in this country, the States, Territories, unorganized districts, or any parts or places thereof—and shall never be re-established under whatever form or by whatever authority; and all persons who are now or shall hereafter come and be within the limits and protection of the United States shall be deemed free, all claims of foreign persons or powers, whether at war or in amity with the United States, to the contrary notwithstanding.

Representatives shall be apportioned among the several States which may be included within this Union, according to the respective number of male citizens of age having the qualifications requisite for electing members of the most numerous branch of the respective State Legislatures. The enumeration of said citizens shall be made by each census of the United States.

(Amendment F.)

Article XVIII.—Knowingly taking part in any Slave-trade, directly or indirectly, shall remain piracy, and shall be punishable accordingly.

Holding a person as a slave or in involuntary servitude, (except by authority for crimes duly proved), selling or

buying a human being, abducting a human being for the sake of selling him or holding him as a slave, and aiding in taking human beings from one place to another, whether within this Country or beyond its limits, for the purpose of selling them, shall be high crimes, and punishable with death or otherwise, as may be directed by Acts of Congress.

(Amendment G.)

The free inhabitants of each of the States, Territories, Districts, or places within the limits of the United States, either born free within the same or born in slavery within the same and since made or declared free, and all other inhabitants who are duly naturalized according to the laws of the United States, shall be deemed citizens of the United States, and without any exception of color, race, or origin, shall be entitled to the privileges of citizens, as well in Courts of Jurisdiction as elsewhere.



LIST OF PUBLICATIONS.

- No. 1. Future of the Northwest. By *Robert Dale Owen*.
2. Echo from the Army. Extracts from Letters of Soldiers.
3. Union Mass Meeting, Cooper Institute, March 6, 1863. Speeches of *Brady, Van Buren, &c.*
4. Three Voices: the Soldier, Farmer and Poet.
5. Voices from the Army. Letters and Resolutions of Soldiers.
6. Northern True Men. Addresses of Connecticut Soldiers—Extracts from Richmond Journals.
7. Speech of Major-General Butler. Academy of Music, New York, April 2, 1863.
8. Separation; War without End. *Ed. Laboulaye.*
9. The Venom and the Antidote. Copperhead Declarations. Soldiers' Letters.
10. A few words in behalf of Loyal Women of the United States. By *One of Themselves.*
11. No Failure for the North. *Atlantic Monthly.*
12. Address to King Cotton. *Eugene Pelletan.*
13. How a Free People conduct a long War. *Stille.*
14. The Preservation of the Union, a National Economic Necessity.
15. Elements of Discords in Secessia. By *William Alexander, Esq.,* of Texas.
16. No Party now, but all for our Country. *Francis Lieber.*
17. The Cause of the War. *Col. Charles Anderson.*
18. Opinions of the early Presidents and of the Fathers of the Republic upon Slavery, and upon Negroes as Men and Soldiers.
19. **Einheit und Freiheit, von Hermann Rafter.**
20. Military Despotism! Suspension of the Habeas Corpus! &c.
21. Letter addressed to the Opera-House Meeting, Cincinnati. By *Col. Charles Anderson.*
22. Emancipation is Peace. By *Robert Dale Owen.*
23. Letter of Peter Cooper on Slave Emancipation.
24. Patriotism. Sermon by the *Rev. Jos. Fransioli,* of St. Peter's (Catholic) Church, Brooklyn.
25. The Conditions of Reconstruction. By *Robert Dale Owen.*
26. Letter to the President. By *Gen. A. J. Hamilton,* of Texas.
27. Nullification and Compromise: a Retrospective View. By *John Mason Williams.*
28. The Death of Slavery. Letter from Peter Cooper to Gov. Seymour.
29. Slavery Plantations and the Yeomanry. *Francis Lieber.*
30. Rebel Conditions of Peace. Extracts from Richmond Journals.
31. Address of the Loyal Leagues, Utica, October 20, 1863.
32. War Power of the President—Summary Imprisonment. By *J. Heermans.*
33. The Two Ways of Treason.
34. The Monroe Doctrine. By *Edward Everett, &c.*
35. The Arguments of Secessionists. *Francis Lieber.*
36. Prophecy and Fulfillment, Letter of A. H. Stephens—Address of E. W. Gantt.
37. How the South Rejected Compromise, &c. Speech of Mr. Chase in Peace Conference of 1861.
38. Letters on our National Struggle. By *Brigadier-General Thomas Meagher.*
39. Bible View of Slavery, by John H. Hopkins, D. D., Bishop of the Diocese of Vermont. Examined by *Henry Drisler.*
40. The Conscription Act: a Series of Articles. By *Geo. B. Buller.*
41. Reponse de M. M. De Gasparin, Laboulaye, &c.
42. Reply of Messrs. Gasparin, Laboulaye, and others.

No. 43. Antwort der Herren De Gasparin, Labonlaye, Martin,
Cochin, an die Loyal National League.

44. Proceedings of First Anniversary Meeting of the Loyal Publication Society, February 13, 1864.
45. Finances and Resources of the United States. By *H. G. Stebbins*.
46. How the War Commenced. From Cincinnati *Daily Commercial*.
47. Result of Serf Emancipation in Russia.
48. Resources of the United States. By *S. B. Ruggles*.
49. Patriotic Songs. A collection by *G. P. Putnam*.
50. The Constitution Vindicated. *James A. Hamilton*.
51. No Property in Man. *Charles Sumner*.
52. Rebellion, Slavery, and Peace. *N. G. Upham*.
53. How the War Commenced. (German Translation.) By *Dr. F. Schutz*, for the Society.
54. Our Burden and our Strength. *David A. Wells*.
55. Emancipated Slave and his Master. (German Translation.) By *Dr. F. Schutz*, for the Society.
56. The Assertions of a Secessionist. *Alex. H. Stephens*.
57. Gowley's Income Tax. By *T. E. Arthur*, Phil.
58. Emancipated Slave and his Master. *James McKaye*, L. P. S.
59. Lincoln or McClellan. (German.) By *Francis Lieber*.
60. Peace through Victory. (Sermon.) By *Rev. J. P. Thompson*.
61. Sherman vs. Hood. *Broadside*. By the Secretary.
62. The War for the Union. By *William Swinton*.
63. Letter on McClellan's Nomination. *Hon. Gerrit Smith*.
64. Letters of Loyal Soldiers. Parts 1, 2, 3, 4. By the Secretary.
65. Submissionists and their Record. Parts 1 and 2. By the Secretary.
66. Coercion Completed; or Treason Triumphant. By *John C. Hamilton*.
67. Lincoln or McClellan. (English.) By *Francis Lieber*.
68. The Cowards' Convention. By *Charles Astor Bristed*.
69. Whom do the English wish Elected? By *Frederick Milne Edge*.
70. Collection of Letters from Europe. By *G. P. Putnam*, L. P. S.
71. Lincoln or McClellan. (Dutch Translation.)
72. Address of Dr. Schutz, at Philadelphia, October 5, 1865.
73. Address of N. G. Taylor, on Loyalty and Sufferings of East Tennessee.
74. The Slave Power. By *J. C. Hamilton*.
75. The Great Issue. Address by *John Jay*.
76. Narrative of Sufferings of U. S. Prisoners of War in the hands of Rebel Authorities. By U. S. Sanitary Commission.
77. Address on Secession. Delivered by *Dr. Lieber*, in South Carolina, in 1851.
78. Proceedings of Second Anniversary Meeting of the Loyal Publication Society, February 11, 1865.
79. Letter to Hon. E. D. Morgan, on Amendment of Constitution. By *Francis Lieber*.
80. America for Free Working Men. By *C. Nordhoff*.
81. General McClellan's Campaign. By *F. M. Edge*.
82. Speech on Reconstruction. By *Hon. Wm. D. Kelley*.
83. Amendments of the Constitution. By *Francis Lieber*.

Loyal Leagues, Clubs, or individuals may obtain any of our Publications at the cost price, by application to the Executive Committee, or by calling at the Rooms of the Society, No. 863 Broadway, where all information may be obtained relating to the Society.

