

E  
440  
P8







1860 Association. }  
Tract, No. 2. }

# STATE SOVEREIGNTY

AND THE

# DOCTRINE OF COERCION,

BY THE

HON. WM. D. PORTER;

TOGETHER WITH A

## LETTER

FROM

HON. J. K. PAULDING,

FORMER SEC. OF NAVY.

—o—

# THE RIGHT TO SECEDE,

BY

“STATES.”

—♦—

 Read and send to your Neighbor. 

TO VNU  
ANBOLAO

E440  
P8



C. E. P.

# STATE SOVEREIGNTY AND THE DOCTRINE OF COERCION.

---

## TO THE MEN OF THE SOUTH:

The recent speech of Mr. Douglas at Norfolk, in which he threatened the Southern States with military coercion in the event of secession, ought to startle and arouse the people of those States, like the blast of a hostile trumpet at midnight! The time, the place, and the circumstances under which this threat was uttered, give the last finish to its audacity and sanguinary significance!

The election of Lincoln is now well nigh certain. Nothing short of a miracle can prevent it. Lincoln is the chief and exponent of a party that is purely sectional—a party that has no foothold or resting place south of a geographical line, precisely separating the slaveholding from the non-slaveholding States. In fifteen States of the Union it has no countenance or recognition. The avowed object of this sectional party in seeking power, is to inaugurate and establish a policy in the government hostile to the peace and safety of the slave States, derogatory to their honor, and ultimately subversive of their whole social polity; in a word, to proscribe them and put them under the ban of the government, with a view to their demoralization and ultimate ruin. This is their great, if not their sole, bond of union. Of course, some are animated by fanaticism, some by the hope of spoils, some by the lust of power, some by one motive, and some by another; but the principle of union, the cement, the thing that bands the party together and keeps it together, is hatred of slavery and slaveholders—a bitter, malignant, calculating hatred; and a settled determination to use all the powers and agencies of government to dishonor, cripple and destroy them. *The powers and agencies of government!* Consider it for a moment in this point of view. If there be any virtue in government, it consists in justice, equality and the duty of protection. Its proper func-

tions, in reference to its own citizens or subjects, are those of peace and security. It is intended as a shield, not as a sword; as a dispenser of blessings, not as a scatterer of curses. What *do* you, what *can* you, think of that government which, forgetting its own nature, abandoning its proper duty, and perverting to the purposes of annoyance and destruction what was intended for the most kindly and beneficent action, shall deliberately and avowedly employ its resources and its powers to promote discord, to stir up sedition, to rend the country asunder, and array one part of it in mortal hatred against another—to proclaim and inaugurate between the institutions of one section and those of the other *an irrepressible conflict*, which must inevitably lead to issues of life and death, and can terminate only in subjugation on one hand or disruption on the other! And what are those powers and resources? The purse and the sword—the revenue, the mail, the army and the navy! Money which is called the *sinews of war*—and the army and navy, which have been aptly styled the *talons* of national power! These resources, drawn from the bosom of the country, to be turned against it for the purpose of rending, subduing and crushing it! Have you pondered well what it is to have the whole power of a great government like ours, civil as well as military, in the cabinet as well as the field, legislative, executive and perhaps judicial, systematically directed to your injury and oppression? The appeal is to *you*, men of the South! I know you have thought of it, but I fear you have not measured it in all its length and breadth and depth. You have thought of it speculatively; but you have not yet been called to feel, by *experience*, the iron hand of a hostile government laid upon you in deadly earnest. When you shall have felt it, your day of safety will have been well nigh spent. Ireland could tell you a tale! and Poland and Italy! and from Italy you may yet learn another and a nobler lesson!

Are not the designs of the Republican Party aggressive, hostile, and deadly? I say of the *Party*, for as long as these designs were confined to individuals, although insulting and mischievous, they could not aspire to any great dignity or consequence. But since they have been adopted and proclaimed by a great sectional party embracing a majority of the States of the Union, and that party is about to be called, by the popular voice, to assume the responsibilities and wield the entire power of the national government, it is abundant time, (if indeed it be not too late,) for the weaker and the menaced section, to anticipate the coming blow, to repudiate the degrading domination, and taking counsel of its courage and its hopes, rather than of its fears, to resume into its own hands, the means of safety, and the control of its destinies for the future. And because the people of some of the Southern States, in view of an exigency of so great peril, have dared to discuss their grievances and their remedy, and have announced their determination not to be made the subjects and slaves of a



consolidated despotism, Mr. Douglas has thought proper to put forward his veto and his threat! Not a Black Republican! from such it would have been in perfect keeping, and although it might have excited indignation, would not have occasioned surprise. But Mr. Douglas, a Democrat, the professed friend of the South and Southern rights, standing on the soil of Virginia consecrated by the birth and triumph of the true State Rights doctrines, has proclaimed in the face of a portion of her people, his hope that "the President, whoever he may be, would treat all attempts to break up the Union, by resistance to its laws, as Old Hickory treated the nullifiers in 1832," and his determination to sustain "with all his energy," the President in so doing. If the genius of the proud Old Dominion looked down upon the scene in which this insulting bravado was greeted by some of her own sons with "applause" and "cheers," how must she have bowed her head in sorrow and shame at the degeneracy of her children! If Mr. Douglas was bold, defiant, and menacing, how supple and submissive were his hearers! *He* threatened a sovereign State with coercion; *they*, the citizens of a sovereign State that was the nursing mother of the right of secession, and has maintained it without question for over sixty years, received the threat of chastisement, not only without a murmur, but with manifestations of delight. Shades of Henry, of Mason, and of Jefferson! where has your spirit fled—how have your teachings been despised? This is, indeed, to kiss the hand and the rod that are uplifted to smite!

But is it *legally and constitutionally true*, that a State cannot withdraw from the Union, (however urgent the causes,) without incurring the penalty of being coerced into submission? If her honor and safety demand a separation from the federal government, has she so parted with the control over her own internal life and destiny, as to be powerless in her own behalf, nerveless for her own defence? Has she stripped herself so bare, and bound herself so fast, that no attribute of sovereignty remains to her for the protection of the property, liberties and lives of her citizens within her own limits, against the avowed hostility of a *Federal Union*, which has assumed its worst and most dangerous form—that of a sectional domination, animated by fanaticism and the lust of spoils and power? These are grave questions, and upon their solution the very existence of the Southern States may be said to depend.

At Norfolk, Mr. Douglas had no hesitation in saying that he would advise and vindicate resistance to "*the Southern States*," if they undertook to secede from the Union upon the inauguration of Abraham Lincoln. At Jones' Wood, near New York, he attempted to explain or qualify, by drawing a distinction between a State, and the citizens of a State. The distinction between citizens acting without the authority of their State, and citizens acting not only with the authority but under the mandate of their State

1  
is just and well founded; but this is not the one recognized by Mr. Douglas. He says that a State cannot commit treason against the Federal Government, but that her citizens may. What a pitiful evasion! This is his concession to State Rights! Who ever supposed that the State, as *an abstraction*, could commit treason; could be tried, condemned, and executed! The whole question is whether or not the State can release her citizens from their obligations to the federal authority, and protect them under the sufficient shield of her own sovereign authority! This is the right which Mr. Douglas absolutely denies, except in the way of revolution; but which Herschel V. Johnson, his colleague on the presidential ticket, has said, is "the last and only hope of the South." If there be such a right, then the States are sovereign and independent; if there be not, then they are amalgamated and fused down, hopelessly and helplessly, into one government and one people. In the one case the government is a union of States founded upon good will, confidence and affection; in the other it is a consolidated despotism, to be held together by the sword and the bayonet. In the one case, the States have in their own hands the right and the power of peaceable redress for intolerable wrongs; in the other, they must wade to it through blood and slaughter. It behooves the South, as the weaker section, (when the government is about to become purely sectional,) to see that she does not surrender or compromise a right which will be her only hope of salvation, unless she rises in her might and rends the Union into fragments. The people that cannot or will not protect themselves—that are not sufficient to their own protection, are already no better than slaves. They have their masters; and their property, their liberties and their lives are no longer in their own keeping. Their doom is sealed, and it is a doom of infamy! And what is worst of all, they will have invited and deserved it!

Our doctrine is that the States, before the adoption of the Constitution, were sovereign and independent; that the Federal Union is a union of States, and that the Constitution is a covenant or compact between them and the fundamental law of their Union; and that inasmuch as the covenant or compact was between sovereigns, and there is no umpire or common interpreter between them, each has the right to judge for itself of infractions of the contract, and to determine for itself the mode and measure of redress.

If these premises be true, it results from the sovereign character of the States and from the nature of the compact of union, that any State, which conceives herself aggrieved beyond endurance, may, at her sovereign will and pleasure, shake off the bonds of a broken covenant and seek her safety in a separate nationality; and that the true and only check on the capricious or unwise exercise of this great sovereign right, is to be found in the condition of isolation and comparative weakness to which she will expose

herself in so doing. Of the prudence and expediency of this last resort, her people must judge for themselves and their posterity, under the gravest and most solemn responsibilities that can be devolved upon them. But they will so judge, feeling and knowing that there can be no greater calamity, than a voluntary submission to tyranny.

No fact in our political history is more certain than that the thirteen colonies began the contest with Great Britain as distinct communities, and came out of it severally sovereign and independent States. Even the articles of confederation, which was a mere league, offensive and defensive, was not ratified by any of the States until three years after the beginning of the war, and two years after the Declaration of Independence; and it was three years more before it was ratified by all of them. Any colony might have declined to enter upon the revolution. Upon the Declaration of Independence, each became *de jure* an independent and sovereign State, and upon the acknowledgment thereof each became sovereign and independent *de facto* as well as *de jure*. Whether small or great, they were severally States or nations, and had their separate local governments in full and efficient operation. And each or any of them might have continued in a condition of separate nationality to this day, according to its own will and pleasure, subject only to the hazards and vicissitudes to which all nations are subject.

A second fact is, that each State adopted the Constitution of 1787 for herself, and would not and could not have been bound by it, except through the action of a Convention of her own people. The seventh Article says, "the ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution *between the States so ratifying the same*." In point of fact, two States, North Carolina and Rhode Island, did not ratify, until some time after the other eleven; and it was in their option, as it was in the option of each and every State, to have refrained from so doing altogether.

A third fact to be noted is, that the Union created by the Constitution, was between *States* or *nations*, co-equal in all the essential attributes of Sovereignty. Thirteen distinctive States, (each a nation, however small or weak,) loosely held together by a league offensive and defensive, agreed to form between themselves "a more perfect Union;" and to that end ordained a Constitution for the "*United States*, of America." This phraseology is in utter contradistinction to what would be employed for the purpose of describing the fusion or consolidation of one collective people. A Union of independent and sovereign bodies implies *ex vi termini*, a league, an alliance, a partnership: and the Constitution adopted by them for that purpose, is the compact or fundamental law of the league or partnership.

After all, whatever shape this controversy may assume, it comes back at last to the old question between centralism and State



Rights ; between a consolidated nation, and a confederated Republic of Republics. The political facts above stated furnish the key to the whole controversy ; and it is only by losing sight of them, that any real question can be raised. All States are sovereign, and when they deal with each other, they deal only as sovereigns. There is no such thing as Sovereignty in any political machinery. Government is simply an agency or instrumentality, and it is the people of States that make and unmake governments. When States or peoples make a government, they delegate the necessary powers and authorities : but delegated power is never sovereign, for sovereign power is inherent, original, and self-existent. The people that govern themselves in their affairs, domestic and foreign, either separately or in common with others, through chosen agents, and by delegated authorities, have not parted with their sovereignty, and are still in fact and in truth a nation. The powers of the State governments, as well as the powers of the Federal government, are derived from the peoples of the States respectively. These peoples are the creators—and the governments are the things created : the former are the principals, the latter are the agents or functionaries. Is it not passing strange that ideas should be so confounded, and the order of things so perverted as that the inferior should be placed above the superior ; the changeable and fluctuating above the permanent and fixed ; the thing made above the power which made and can unmake ?

It is a common error to suppose that the delegation of what is recognized as a part of sovereign power, makes the recipient a sovereign, and derogates in the same degree from the sovereignty of the bestower. Towns and cities exercise sovereign powers, as, for example, that of taxation ; but is the town or city the sovereign, or the State rather that gives them their charters and can revoke them at will ? And, on the other hand, is any State or nation the less sovereign because, for a time, and for its own purposes, it has conferred these high faculties upon local government agencies ? So long as these faculties or powers are exercised by delegation, in its behalf and for its convenience and benefit, the State or nation is *self-governing*, because it acts through its chosen agents ; and is unimpaired in its essential attributes of sovereignty, because so soon as shorn of these, it ceases to be a State. Nor does the principle vary at all whether the delegation has been made to a municipal government, a State government or a federal government ; whether it has been made in a separate or in a confederated form of polity, or in both combined. The United States Government derived its being and its powers from precisely the same source that the local governments did, to wit : from the peoples of the States respectively. There is no mysticism about its origin. It can claim no higher birth—no more dignified ancestry. Nor has it any divine right wherewith to hedge itself about, except so far as the voice of many peoples is

the voice of God. It is of limited powers and for specified purposes; its range is circumscribed; there are many things which it cannot do, and what it can do, it does in the name and by the authority of the States that called it into existence. Whatever of power it has, is derived from others, and is held in trust for others; and it is, therefore, in no proper sense of the word, *sovereign*.

We may safely assume, then, that the States were sovereign and independent before they adopted the Constitution and entered into the Union. Have they ceased to be so, by their participation in the formation of the federal government?

The people of the United States live under two systems of government: a system of local government for internal purposes, and of general government for external purposes. And in forming the one as well as the other, they establish *Constitutions*; and out of these constitutions sprung *the governments*, which are nothing more than public trusts or agencies. What then is a *Constitution*? According to the American understanding, it is a written instrument duly authenticated, specifying the powers and functions delegated for the purposes of government, and defining the extent and limitations of the same. By whom was the Constitution of the United States prepared? By the *States* through their delegates in convention, at Philadelphia. To whom was it submitted? To the *States*, separately and respectively, to be approved or rejected by them in their respective conventions, each acting for itself. Upon or between whom was it to be obligatory? We answer, in the very words of the 7th Article of the instrument itself, already quoted: "*Between the States so ratifying the same.*" By whom was it actually ratified? By the *peoples of the several States* assembled in their respective conventions. It is clear, then, that the parties to this instrument—call it covenant, compact, treaty, constitution, or what we will—were *States*, sovereign and co-equal; and that it must be subject to the same tests and governed by the same rules which apply to all other compacts or engagements between sovereigns.

From the imperfection of language and the ingenuity of the human mind, such an instrument as the Federal Constitution must be liable, in the nature of things, and in good faith, to a diversity of interpretations, as to the extent and limitations of the powers granted or reserved. Who, then, is to be the final judge—the common arbiter? The Constitution itself does not name any, so far as relates to political questions—the partition lines of power between the States and the General Government. The jurisdiction of the Supreme Court extends only to "cases in law and equity," and to parties who are amenable to the process of the court; it embraces judicial, not political questions—for there are modes of oppression and usurped power which, under our forms of law, could never be drawn within the cognizance of that department. But the conclusive answer is, that although



the proposition was frequently and distinctly submitted in the Convention, to make the Supreme Court "the tribunal to decide in doubtful cases," it did not prevail in any form, and never became a part of the Constitution. Attention was expressly directed to the matter, and some leading members manifested great anxiety because no tribunal had been provided to determine finally in controverted cases between the two Governments.

The question then recurs—who, in the absence of any express constitutional provision, is to judge, in the last resort, between the contracting parties? The only true and sufficient answer is to be found in the rule applicable to Sovereigns. *Each must judge for himself.* Sovereigns have no superiors: each is equal to the other. Honor and good faith are their only bonds. An engagement between them broken in part, is broken in whole; and the party injured is released from all obligations. No Sovereign who believes and declares that a covenant has been violated can *rightfully* be required to observe it longer. Even Mr. Webster, who will hardly be suspected of too strong a leaning towards State Rights, used the following language in his Capon Spring's speech, in 1851:

"I do not hesitate to say and repeat, that if the Northern States refuse wilfully and deliberately to carry into effect that part of the Constitution which respects the restoration of fugitive slaves, the South would no longer be bound to observe the compact. *A bargain broken on one side is a bargain broken on all sides.*"

Let it not be supposed for a moment that the States are less than sovereign in consequence of the adoption of the Constitution and the formation of the government. A voluntary delegation of power in trust does not derogate from sovereignty; nor does any compact, treaty or alliance. States frequently enter into engagements with each other of the most solemn character and under the gravest sanctions, whereby they impose upon themselves restrictions and prohibitions; but no person at all conversant with such matters, ever supposed that they became thereby a whit the less independent or sovereign nations. A striking illustration is to be found in the articles of confederation. Each State expressly reserved therein "its sovereignty, freedom and independence," and at the same time, all pledged themselves that the articles should be inviolably observed by every State, and that *the Union should be perpetual*. It is clear that they did not consider the preservation of their sovereignty and independence at all inconsistent with the obligations of even a perpetual union; and we do not suppose a doubt was ever anywhere entertained but that it was competent for any one of them, upon cause deemed sufficient by itself, to withdraw from the Confederation and determine the Union. Nor is there anything in the present Constitution to prevent the exercise of the same high and sovereign right on the part of any aggrieved State, whenever her grievances shall become, in her deliberate judgment, no longer tolerable.

There is a theory that we are one nation—one consolidated people; and hence the ideas of the indissolubility of the Union, and of the right to coerce a refractory member. If this be so, is it not singular that we have no distinctive name of identity as a nation. We call ourselves in common parlance Americans; and yet we are no more Americans than any and all of the other peoples of the continent, North and South. The Canadians are Americans as well as ourselves, but still they have their distinctive national title; and so of the Mexicans, the Columbians, the Peruvians, and every other State or Nation on the continent. We were certainly not so poor, but that we could afford ourselves a baptismal name. It would have cost nothing, and would certainly have *nationalized* us, if there had been any such design. It is believed that Dr. Franklin did suggest the name of *Fredonia*, but it is certain that the suggestion was not accepted. The constitution calls us the “United States of America,” or by inversion the “*States United of America*,” the very title by which we were called under the old confederation, when nobody has ever pretended that we were one nation, and certainly the most descriptive and appropriate title that could be applied to a confederacy of sovereign States in contradistinction to a consolidated nation, of which individuals are the constituent members, and States only the districts or provinces. Kossuth, whose political insight is the flash of genius, and whose mastery over language is almost a miracle, displayed a more intimate and profound knowledge of our system than half of our native-born politicians and statesmen, when he characterized us, not as a nation, but as a “*Confederate Republic of Republics*.”

Look through the Constitution, and you will not find from beginning to end, from the preamble to the clause of execution, one single *national* phrase, idea, or epithet. *The States* are the dramatic personæ, the actors in the scene, the figures that stand out in distinguished, nay, in almost exclusive prominence. The government, the Congress, the Treasury, the President and the Vice-President, are all of the “United States.” The citizens of each *State* are entitled to all the privileges and immunities of citizens in the *several States*. The United States guaranty to each *State* a republican form of government. Fugitives from crime or from service in any one *State* are to be delivered up. And the whole was “done in convention by the unanimous consent of the *States* present.” Instances might be multiplied; but these will suffice, in the absence of any one of an opposite character, to show that the whole scheme was federal, and not national; and that the States were recognized as being “not the fractions of a unit, but the integers of a multiple.”

But *the Union is ināissoluble!* This is the catch word of politicians, and the standing theme of declamation for *Hail Columbia* and *Star Spangled Banner* travelling orators! And it is received with immense enthusiasm by those who find the Union a good

thing, and are naturally reluctant to lose its benefits. People who wish to believe, never require much reason for their belief. If this idea of the indissolubility of the Union means anything, it means that a dissolution of the Union cannot be brought about in any other way than through the action of the people collectively, with or without arms in their hands; that there is no practicable way in which the States, as sovereign members of the Union, can quietly and peacefully accomplish that result. If ours were a consolidated, popular government, such would undoubtedly be the case. Let us bring it, then, to the test, and see whether there is any mode or process whereby the States or some of them, in their corporate capacity, and irrespective of the people collectively, can arrest the action of the government, and so dissolve the Union. By the Constitution, the Senate of the United States is composed of two Senators from each State, chosen by the legislature thereof; and each Senator has one vote. This provision was intended to illustrate the equality of the States as independent communities; for in the Senate, Rhode Island is as potent as New York. Now suppose that a majority of the States, the least populous, if you please, and representing but a small minority of the aggregate popular vote, should refuse through their legislatures or their conventions to choose Senators to Congress; and that the executives of such States should in obedience to the will of their people respectively, decline to make temporary appointments. What would be the result? There would be no Senate—and consequently, no Congress, because “the Congress of the United States shall consist of a Senate and House of Representatives,” and “a majority of each House shall be a quorum to do business.” These are not mere rules of procedure, but *constitutional provisions*. In the case supposed, the legislative powers of the Union would cease to have an abiding place; and the government be reduced to a state of utter prostration. Here is no levying of war or shedding of blood; and no regard whatsoever to the people of the United States in their aggregated or consolidated character. All is done by States, and done quietly and effectively. Does not this amount to moral demonstration that the States in their separate capacities, and without any regard to popular numbers, can refuse to participate in the government, by withholding their representation, and so, by a single stroke of peaceful, sovereign action, reduce it, at once, to a *caput mortuum*? What sort of *coercion* would be applicable to such a case of treason to the Union? Would the Sergeant at Arms summon the States to the bar of the Senate? And by what process could he compel the attendance of members who had not been appointed? Who would coerce, and whence would come the sinews of war, without a Congress? It is too plain for argument, that the government would be at a stand, and in the event of the persistence of the States, at an end. What a delusion is this idea that the Union is indissoluble, or that it cannot be dis-



solved, except by a revolution of the people in mass, or what is the same thing, by force of arms !

Mr. Webster, in his controversy with Gen. Hayne, and President Jackson in his famous proclamation against South Carolina, laid great stress upon the allegations that the Constitution created a government proper, and that it established direct relations between this government and the individual citizens of the States. There is a class of statesmen in this country who, although they do not acknowledge it, believe implicitly in the divine right of the government, just as prerogative men in the old world believe in the right divine of Kings. And whenever an opportunity occurs, as in 1832, 1851, or 1860, the cloven foot shows itself. They clamor for State rights; but they are the advocates of force and the champions of the inviolability of the Union. There can be no doubt that government is an institution of divine origin; but this is very far from implying that any particular government or form of government is either sacred or necessary. Government consists of functions, and functionaries—of law making, law expounding and law executing departments; but far above these, the author and parent of all these, is the *Constitution-making* power—the power of the people or peoples that ordained both the Constitution and the government. How hard it is to make such persons realize the idea that government is only a trust—an agency;—not an end, but a means to an end. Its pomp and ceremonial, its imposing exhibitions of power dazzle and betray them. They look upon it as self-existing and self-sustaining. They cannot or will not take it home to their understandings, and *keep it there*, as an elementary eternal truth, that however it may be elsewhere, here, at least, in these United States, government is servant, not sovereign; that its symbols and insignia are a borrowed plumage; and that its faculties and functions,—its armies and navies, and treasuries and tribunals, all belong, not to its administrators or functionaries, or any ideal entity or entities, but to those who fashioned and delegated them, in order to establish justice, insure domestic tranquility, provide for the common defence, and secure to themselves and their posterity the blessings of liberty forever. Whatever may have been the source or origin of other governments, we know that the peoples of these States, each for themselves, made the government of the United States; and it is impossible to escape the logical inference and conclusion that the same sovereign parties who delegated the powers and established the relations, may, each for themselves, and not for others, recall and annul them whenever they become destructive of the ends for which they were instituted.

It may be said that if one party has a right to judge of infractions, all the other parties have the same right. This is conceded, but the concession does not carry with it the right of the *government* to compel obedience to its authority by force of arms. Who are the other parties? The government of the United States

did not make itself, nor did it have any hand in making itself; it had nothing to do with the formation or ratification of the Constitution; it is only a result of the Constitution. As the States, by their peoples, severally and not collectively, adopted the Constitution; so must they each individually and upon their own responsibility, judge of infractions. One State for some alleged breach may declare the compact at an end, so far as relates to herself, and choose secession as her mode and measure of redress; another State or States, denying the alleged breach, may declare war to enforce the observance of the compact. But the State that secedes becomes *ipso facto* a separate power, and, therefore the war that is declared against her by her former co-States becomes like any other war between sovereigns. It is an international war; nothing more, nothing less. States and nations have the right of making war with each other, and are responsible only to the tribunal of public opinion. But this is a different thing from the right of a King or an Emperor to reduce to subjection an insurgent province, or an integral part of his dominions in insurrection. The government of the United States has no such kingly or imperial prerogative. Even in the case of the American revolution, which was that of revolting colonies against the authority of the mother country, those taken in arms, were treated not as traitors or rebels, but as prisoners of war.

From what part of the Constitution is derived the right and authority to coerce a State that may, through a convention of her people, withdraw herself from the Union as her only means of safety, and her refuge from intolerable oppression? It is said that it is the duty of the President to "take care that the laws be faithfully executed." These words, it is true, are in the Constitution; and upon these words the great power in question is founded. But this is to beg the question—to assume the whole matter in controversy. I have already spoken of the distinction between the action of a sovereign State and the action of unauthorized combinations of individuals. So long as a State recognizes the authority of the Union, her citizens have no choice but to obey the laws of the United States; but, if according to our view, she may rightfully secede, then, upon the exercise of that right, her relations with the Union are terminated, her delegated authorities are resumed, and the laws of the United States are, within her territorial limits, of no more virtue or binding efficacy, than the laws of any other foreign nation whatsoever.

But have we no historical proofs or evidences on this point of the power to dragoon a State? It could hardly be supposed that a matter of such magnitude would altogether escape the attention of the convention of 1787; and in point of fact it did not escape attention. The journals show that the 6th resolution of Edmund Randolph's propositions, provided that the federal executive should have power "to call forth the force of the Union against any member of the Union, failing to fulfil his duties under the arti-



cles thereof." And Mr. Patterson, also, in the 7th Resolution of his propositions, after making acts and treaties the supreme law, provided as follows: "And if *any State*, or body of men in any State, shall oppose or prevent the carrying into execution such acts or treaties, the federal executives shall be authorized to call forth the powers of the Confederate States, or so much thereof as may be necessary, to compel obedience to such acts, or an observance of such treaties." In both of these instances, the convention was distinctly invited to authorize the employment of the *force* or *powers* of the Union against any State or member of the Union, that should fail to fulfil its duty, or oppose or prevent the execution of acts or treaties; but no such provision was inserted in *the Constitution*. And whatever force bills or bloody bills, Congress, in the folly or madness of the time and in the fancied plenitude of its powers, has thought proper to enact into laws, it has not yet proceeded to such a pitch of infatuation, as to disfigure the federal statute book with any act or acts designed to coerce the submission, or compel the return of any sovereign State, that might solemnly determine, in full view of all the consequences and responsibilities, to sever forever her connection with the Union, and to place the lives, property and liberty of her citizens under the protection of her own separate sovereignty.

When the foregoing resolutions in relation to the employment of force against a delinquent State were under consideration in the Convention, the debates show that all such ideas were repudiated and abandoned, as utterly inconsistent with the form of government proposed to be established. No one single member advocated force: all of them who spoke on the subject, even Alexander Hamilton, the strong government man, *par excellence*, rejected and denounced it. I propose to fortify these assertions by citations from Madison's reports of the debates in the Federal Convention:

Mr. Madison observed, "that the more he reflected on the use of force, the more he doubted the practicability, the justice and the efficacy of it when applied to people collectively and not individually. An union of the States containing such an ingredient seemed to provide for his own destruction. The use of force against a State would look more like a declaration of war than an infliction of punishment, and would be considered by the party attacked as a dissolution of all previous compacts by which it might be bound. He hoped that such a system would be framed as might render this resource unnecessary, and moved that the clause be postponed. This motion was agreed to *nem. con.*"—1 vol., 761.

Mr. Madison again said, "that any government for the United States, formed on the supposed practicability of using force against the unconstitutional proceedings of the States, would prove as visionary and fallacious as the government of Congress."

"Could the national resources, if exerted to the utmost, enforce

a national decree against Massachusetts, abetted, perhaps, by several of her neighbors? It would not be possible."—1 vol., 822.

Alexander Hamilton, who had hitherto "remained silent," gave his views at large on the 18th June. In discussing the subject of *force*, he is reported as follows:

"*Force*, by which may be understood a *coercion of laws*, or a *coercion of arms*. Congress have not the former, except in few cases. In particular States, this coercion is nearly sufficient; though he held it in most cases not entirely so. A certain portion of military force was absolutely necessary in large communities. Massachusetts was now feeling this necessity and making provision for it. (The Shay's rebellion.) But how can this force be exerted on the *States* collectively? It is impossible. *It amounts to a war between the parties*. Foreign powers also will not be idle spectators. They will interpose, the confusion will increase, and a dissolution of the Union will ensue."—1 vol., 881.

Col. Mason was opposed to any plan that could not be enforced without military coercion. He is reported as saying:

"The most jarring elements of nature, fire and water themselves, are not more incompatible than such a mixture of civil liberty and military execution. Will the militia march from one State into another in order to collect the taxes from the delinquent members of the Republic? Will they maintain an army for this purpose? Will not the citizens of the invaded State assist one another till they rise as one man and shake off the Union altogether? Rebellion is the only case in which the military force of the State can be properly exerted against its citizens. He was struck with horror at the prospect of resorting to this expedient."—1 vol., 914.

Luther Martin said: "He was not against assisting States against rebellious subjects—thought the *Federal* plan of Mr. Patterson *did not require coercion* more than the *national* one, as the latter must depend for the deficiency of its revenues on requisitions and quotas."—1 vol., 916.

Can proof go further? Here is the evidence that the employment of force against the States was distinctly proposed; that every member who participated in the discussion, repudiated it; and that the proposition was postponed and finally abandoned. The reasons against it, assigned in debate, were unanswered and unanswerable; and well might the people of the States, with a knowledge of the proceedings of the Convention, rest in security that no coercion of arms, no *declaration of war*, as Mr. Madison properly calls it, would or could be made against them in their sovereign or collective capacity by the political machine which they called into action!

Upon examination of the ratifications of the Federal Constitution by the respective State Conventions, it appears that several of them asserted, in unequivocal language, the right of the people to resume the powers granted, whenever the same should be per-

verted to their injury or oppression. Nor does any exception appear to have been taken to such declarations. It was with this impression and upon this condition that the States ratified the Constitution; and when some States affirmed the right expressly, it was done only from abundant caution, and as declaratory of the common understanding. No one State could have, or reserve, a right that was not common to all; any other construction would be inconsistent with the idea that the States entered the Union upon terms of equality. "The people," in whose behalf the right was claimed, were, of course, the people of the States respectively; for there is not the slightest foundation in fact or history for the pretence that the people of the United States in the aggregate granted any powers at all, or that the powers of the Federal Government were derived from any other source whatever than the peoples of the several States, who accepted and ratified the same. In this point of view, the argument seems to lie in a very small compass. Once admit the *principle*, which no one in the country denies, that the people have the right to resume granted powers when perverted or abused; and then admit the *fact*, which is historical and cannot be denied, that the people of the States, respectively, each for themselves, granted the powers now exercised by the Federal Government—and the inference is logical and irresistible, that the people of any State, acting for themselves, may recall the authorities they delegated, whenever, in their solemn judgment, their honor or their safety demands it. This is not a question of arresting the operations of a Government while you remain a member of it; but it is a question of resuming powers granted for beneficial purposes, but wrested to purposes of oppression, and of peaceably dissolving connection with a Confederated Government, when that Government has ceased to answer the ends of confederation. In other words, it is not a question of *nullification*; it is a question of *secession* or *resumption*. The science of government has made but little advance in America if a sovereign State cannot retire from a Confederacy of States, in which she feels herself dishonored and oppressed, without the iron arm of power being employed to crush her to submission. If this be so, it will show that here, as in Europe, liberty can be had only at the price of blood. But this much is certain: that *here*, at least, liberty *will be had* at whatever price!

The delegates of *New York*, in their ratification, "declare and make known:"

"That all power is originally vested in, and consequently derived from the people, and that government is instituted by them for their common interest, security and protection.

"That the powers of government may be reassumed by the people whenever it shall become necessary to their happiness; that every power, jurisdiction and right, which is not by the said Constitution clearly delegated to the Congress of the United States or the departments of the Government thereof, remains to the people of the



*several States, or to their respective State Governments, to whom they may have granted the same," etc., etc.*

The New York Convention certainly stated the case with great precision and clearness. All power is derived from the people; Congress has no power except what is clearly delegated; all power not delegated remains to the *people of the several States, or their State Governments*; and the people may *reassume* all granted power whenever it shall be necessary for their happiness. There could not be a clearer epitome of the doctrine of secession or resumption. And that there might be no mistake or misunderstanding in the matter, the delegates say, in conclusion: "*Under these impressions, and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the said Constitution, &c., we assent to and ratify the said Constitution.*"

It must be observed that these are not proposed amendments of the Constitution, but declarations of right and of the common understanding in relation to the meaning of the Constitution. New York proposes her amendments in a separate paper.

*Virginia* in her ratification declares and makes known:

"That the powers granted under the Constitution, being derived from the people of the United States, *may be resumed by them*, whenever the same shall be perverted to their injury or oppression, and that every power not granted thereby, remains with them and at their will." "*With these impressions*, and with a solemn appeal to the Searcher of hearts," &c., she assents to and ratifies the Constitution. She also proposes amendments in a separate paper.

Virginia speaks of "the people of the United States." There is not the same precision of language as in the New York ratification. But the meaning is identical; for, as the people of the United States *collectively* granted no powers, they could resume none. Only those who give can take back. The people of the States were the grantors, and they alone had anything to resume. The reference of Virginia was to these people whom the Constitution was to *unite*. She spoke in the name of and in behalf of her own people.

*Rhode Island* declares and makes known:

"That all power is naturally *vested in* and *consequently derived from the people*—that magistrates therefore are their trustees and agents, and at all times amenable to them.

"*That the powers of government may be reassumed by the people, whensoever it shall become necessary to their happiness.*"

Has any one the hardihood to contend that these solemn declarations mean nothing, or mean only the right of revolution by force and with arms? On the contrary, do they not affirm and illustrate the one great leading distinction between the American and the European theory of government—between a free confederated republic and a consolidated kingdom or empire? Euro-

pean government is the government of *force*; American government is the government of *opinion*. If such be not the case, then did the men of the Revolution live and rebel and triumph in vain!

The question has been asked, whether Louisiana and other States, whose territories were originally purchased by the United States for a price, can possibly have the right to withdraw themselves from the Union, and take their affairs into their own keeping? Undoubtedly they have! When they were erected into *States*, they became sovereign, and when received into the Union, they came in upon precisely the same footing as the original Thirteen. There can be no discrimination between an old and a new State; nor can the rights of the original members of the confederacy, be in any way impaired or affected by the admission of new ones. The question must be determined upon the terms and meaning of the Constitution, or fundamental compact, and not upon any supervening facts or developments. When a *Territory* becomes a *State*, the pupil or infant attains the age, and assumes the character and attributes of the full-grown man. When a new comer is admitted into a copartnership, upon a footing of perfect equality, it matters not whether he has brought into the concern capital, or skill, or labor, or any other consideration. The United States must weigh the consequences of the act, *before* they convert a *Territory* into a *State*, and invest a dependency with the rights and faculties of sovereignty. *After* the act is done, it is too late to consider. The new-born commonwealth is the counterpart and peer of all the rest!

The Union of these States is a voluntary union—an association of equals, of their free will and by common accord. A State coerced, would be a subjugated province; no longer a voluntary or an equal member, but the conquest and the captive of the rest! With her freedom cloven down, and the emblems of her sovereignty trampled under foot and trailing in the dust, her lifeless body would be to the living members of the Union, like the dead body of Hector, dragged in brutal triumph by the victorious chariot of Achilles round the walls of Troy! Better that the last sparkles of her ashes were trodden out, and her name forever lost to history and tradition, than that she should live to swell the triumph of her conquerors! And this to preserve the Union! A union of the living and the dead, bound fast together in loathsome and indissoluble contact! Say rather a union of the *dying* and the *dead*, for the life of all will have received a mortal thrust, their independence but a name, their forms of liberty an insulting mockery, and their only privilege that of surviving until the iron heel of one or many despots shall be ready in turn to crush out the miserable remainder of their existence!

Such and so disastrous would be the effect of coercion, even if successful. But it could not be successful,—least of all in a case of common feeling and common interest. The people of the States



are too spirited and sagacious, not to feel and know that the military conquest of one, in such a case, would involve, sooner or later, the military conquest of the rest. The ties of a common cause—one hope, one fear, one destiny; the promptings of generous manhood, and perhaps, above all, the over-mastering instinct of self-preservation, would drive them into irresistible sympathy and association with those, whose only fault would be a disinterested, if an indiscreet, devotion to the common cause, and whose prostration would consign it to hopeless and bloody ruin. And if the grievance or the quarrel were strictly and purely sectional, what human power, *in the event of blood*, could prevent the injured section from uniting as one man, and accepting one fate, whether for weal or for wo! Is it not the excess of infatuation, and the very extacy of madness for any one to imagine that the Union could be preserved through a war of sections? Blood is not the cement by which confederacies are held together, nor are bayonets the instruments. Good will and confidence are their only bond. The terrible passions evoked by war are death to them. Naught but a despotism can come out of an armed conflict of sections, in which one is conqueror and the other conquered. On one side centralization and absorption, enforced by the sword; on the other, utter subjugation, relieved only by the lurid and desperate hope of revolt! What a picture this of a free government! and a happy and glorious Union!

Hapless would be the condition of these States if their only alternative lay between submission to a government of self-constructed, or, in other words, unlimited powers, and the certainty of coercion, in case of withdrawal, by force of arms. The way of escape from both extremes is in the acknowledged *right of secession*—a right the exercise of which draws after it such grave and momentous consequences to a State, in her relations to the rest of the States and to the world at large, that she cannot but regard it as her *ultima ratio*—her refuge from intolerable evils—her last and ultimate resource to be called into play, only when all other hope of relief is utterly gone!

But if the right of secession be essential in a general view of our system, how truly indispensable is it to the Southern States, in view of the particular circumstances by which they are now surrounded. I here repeat the question already propounded, *are not the designs of the Republican party aggressive, hostile and deadly to these States?* To understand this question in its full and fearful import, it is necessary to bear in mind that the country is divided into two geographical sections, and that these sections are characterized by separate and different systems of labor and civilization. The system of the South, known as slavery, existed at the time of the formation of the Union, and has a distinct recognition in the Constitution, both as an element of representation, and as a fit subject of protection. For a considerable period of time, the two sections of the country were, for all prac-

tical purposes, in a state of equilibrium; but now the ascendancy in the number of States and in the federal representation has been acquired by the non-slaveholding section. If there were no antagonism of feeling and interest on the subject of slavery, and the constitutional guarantees in relation to it were observed in good faith and with fidelity, this ascendancy would furnish no good cause of apprehension or complaint. But the precise mischief and danger of the Republican party consists in this: that **IT IS A SECTIONAL, ANTI-SLAVERY ORGANIZATION, BASED CHIEFLY, IF NOT EXCLUSIVELY, ON THE PRINCIPLE OF HOSTILITY TO THE INSTITUTIONS OF THE SOUTH, AND PLEDGED TO CARRY THAT PRINCIPLE INTO ACTION, IN THE ADMINISTRATION OF THE GOVERNMENT.** Men of the South do you comprehend this idea? Do you take it into your understandings, in the whole extent of its significance and consequences. In the case of two sections and two systems of labor and civilization, what would any man of average honesty and average sense of justice, declare to be the duty of the common federal government? Surely that of equal favor and equal protection! But to wage an open warfare upon system and by programme, in behalf of one and against the other—and to employ, for that purpose, the agencies and resources of the common government, which owes to each a like protection because it receives from each a like support—if there be a peril more imminent, or a perfidy more atrocious than this, in the affairs of State, it is most difficult for the human imagination to conceive it, or the human tongue to give it utterance!

Will you submit to it? Will you suffer that yoke to be fastened upon your necks, and still claim to be men and freemen? You have long borne and forborne—but there is a time when submission becomes a crime and resistance a duty. Abraham Lincoln, our prospective President, proclaims the Republican party to be “*a progressive party!*” Mark the words, for there is more in them than meets the ear—something of admonition and menace! How *progressive* has been this whole anti-slavery agitation—this whole *warfare*—for it is nothing less—against the well being, the peace, nay, the very lives of millions of human beings, white and black! It began with *individuals*. Garrison, Tappan and Gerrit Smith were of the school. At first, we were told to despise their insane ravings; and we can well remember the day when abolitionists were hooted and pelted, and driven from pillar to post in the Northern cities. They persisted; and by degrees their doctrines infected larger bodies of men. They forced themselves upon popular assemblies, and soon invaded the school room and the school book, the pulpit and the prayer. The leaven spread itself. Women, and clergymen and politicians took it in keeping, and nursed it, and kept it warm. With some it was genuine fanaticism; with others a sanctimonious and pharisaical hypocrisy—an outcropping of puritanism; and with

others still, the football of a political game. In process of time, the spirit of abolitionism rose in power and in dignity. It lifted itself into the halls of legislation. It has since taken possession of the *State governments* at the North. *Every Northern State, east of the Rocky mountains, has wilfully and deliberately refused to carry into effect the provision of the Constitution in relation to the restoration of fugitive slaves*; some by prohibiting their officers and citizens from aiding in their restitution; some by denying the use of the jails and public edifices for their safe keeping; some by providing means of defence for fugitives from labor; some by declaring slaves absolutely free when brought into the State; and some by visiting fine and imprisonment upon masters seeking to reclaim their property: thus bringing into play every device and variety of legislative action, in encouragement and support of the inhospitable, lawless and piratical conduct of their citizens and mobs. And now, that the last element of strength and agency of mischief may not be wanting to this unnatural warfare, waged by one section of the country against the vital interests of the other, the common federal government, *our own government*, which was designed to insure domestic quiet and provide for the common defence, is to be seized and appropriated by an exclusive, one-sided and fanatical despotism, whose only idea and purpose it is, (apart from the spoils,) to wield the whole of this vast and powerful machinery for the disturbance of our peace, the subverting of our institutions, industrial and social, and the subjection of ourselves and our children, in all time to come, to the vexatious and degrading tyrannies of their vulgar and unprincipled domination. No *foreign* government, however hostile its intents, could be more malignant in spirit, or more powerful for mischief!

How can we judge of this Republican party otherwise or more fairly than by their own acts and declarations? What they have done is but an earnest of what they will do. The persistent agitation of the slavery question in the most offensive and insidious forms; the exclusion of the South from the whole of California—a territory for which the South had expended more of blood and treasure than any other section of the Union; the dismemberment of Texas, with the bayonet in one hand and a bribe in the other; the rejection of Kansas because the Constitution of Lecompton protected slavery; the raid into Virginia, the burnings and poisonings in Texas, and the movements, incendiary and insurrectionary, of Northern emissaries even now lurking in other parts of the Southern country; the sympathy with John Brown, at first hardly disguised, but now open and unmasked—a sympathy which is calculated, if not expressly designed, to incite other deluded fanatics to an imitation of his treason and a coveting of his traitorous doom: the endorsement of the atrocious Helper book by some sixty members of their party in the present Congress, and the broadcast circulation of it as one of their campaign



documents, in the current canvass—all these things, and more, many more, which it sickens me to rehearse, demonstrate, beyond all doubt or cavil, a hostility of purpose, an antagonism of spirit and feeling, a deep and settled hate which, so far from being consistent with the duties and relations of brethren and fellow countrymen, would be a shame and a disgrace to natural and hereditary foes!

William H. Seward is the spokesman of this party—the author and finisher of the Black Republican faith! He is a statesman of clear and well-defined, but not large views, and his vision is as accurate and thorough, within his limited range, as that of any man of his day and country. Cold, sagacious and calculating; too continent and self-possessed to be rash, and yet bold enough when boldness is consistent with prudence. He is the author of the phrase, if not of the idea, of “the irrepressible conflict between opposing and enduring forces;” and also of the doctrine of the “higher law”—the invention of a vagrant political conscience to override all fixed constitutional obligation, for the express purposes of putting under foot the rights of the South, and the duties of the North on the subject of slavery. He sneers, in cold blood, at Virginia and Texas, for being “convulsed with panics because of slavery being brought into debate among a portion of their citizens!” The foundation principle of his theory is, that free labor and slave labor cannot exist under the same government; and that “the United States must, and will, sooner or later, become a slave holding nation, or entirely a free labor nation.” To the end that the latter branch of this necessary alternative may be the final consummation, he demands that every new State shall be a free State; that the army and navy shall be abolished, because they are of no service except to protect the slave States from servile insurrection or foreign invasion; that the Supreme Court shall be destroyed or altogether reformed, and arrayed on the side of freedom instead of the side of slavery; and that the perfect freedom of all men, black as well as white, should go through the fifteen slave States, as it has gone through the eighteen free States. And he declares to his followers that “if they do not suffer differences among themselves or any other cause to divide them, ONE SINGLE ADMINISTRATION WILL SETTLE THIS QUESTION FINALLY AND FOREVER.” In anticipation of the coming triumph, already has he proclaimed that *the battle is ended, and the victory won!*

Abraham Lincoln is the standard-bearer of the party. He was considered the more available as their candidate, because his antecedents were not so conspicuous as those of his great master. But he is the more dangerous of the two, because he is probably the more honest in his convictions. The one idea certainly has complete possession of his brain. Some have advanced his claim to the original authorship of the “irrepressible conflict;” without using the phrase, he certainly promulgated the doctrine when he

declared, in 1858, that "this government cannot endure permanently half slave and half free." Let it suffice for the present that Mr. Douglas define the political position of Mr. Lincoln, which he did in the following words, in the course of their great senatorial contest:

"In other words, Mr. Lincoln **ADVOCATES BOLDLY AND CLEARLY, a war of sections, a war of the North against the South, of free States against slave States—a war of extermination**—to be continued relentlessly, until the one or the other shall be subdued, and all the States shall either become free or slave."

And this same Mr. Douglas proposes to put the South to fire and sword, because it would retire peacefully from the field, rather than become a party to this fratricidal strife of sections, or a meek and submissive victim to this relentless war of extermination!

Men of the South! you will soon be called to make choice of your destiny,—to bow your proud necks to the yoke of the task-master, or to rise in your strength and rend the manacles that would bind you. It is not a question of policy; but of honor, of liberty, of peace, of existence! Your whole civilization is at stake! It cannot be disguised that there is danger on both sides; but on one side is honor, on the other dishonor; on one side the sure hope of freedom and prosperity; on the other, the certain doom of demoralization and ruin. In the folly and madness that rule the hour, an attempt may be made to coerce you; but it cannot possibly succeed. You are millions in number; but your hearts and arms will be as one in defending the sanctity of your hearths and homes! To a people who have once been free, anything is better than the living death of conscious degradation, and the withering contempt of those who have put the yoke upon them. Oh! choose as becomes your lineage and your history! Choose so that these proud commonwealths may receive no detriment; so that the liberties in which you were born may be kept entire; so that the heritage of your children may be one of honor and not of shame, of freedom and not of servitude!



# LETTER

FROM

## HON. J. K. PAULDING.

---

[The following letter from Hon. J. K. Paulding, former Secretary of the Navy, is worthy of attention, not only for the sound views it contains, but also on account of the latitude from which it comes.]

HYDE PARK, Dutchess county, N. Y. }  
September 6th, 1851. }

GENTLEMEN : Your letter directed to me at New York, conveying an invitation to address a meeting of the citizens of Charleston district, to be held in Charleston, South Carolina, on the 17th inst., has just reached me at this place, where I now reside.

For the compliment thus tendered, and the language in which it is conveyed, I beg you to accept my acknowledgments, accompanied by regrets that I cannot comply with your wishes. Distance and space, the burden of years I should bear with me, and more than all, my incapacity for public speaking, compel me to decline a task for which I am totally unfitted. What I have to say, I therefore hope you will permit me to address to you, through a medium to which I am more accustomed.

As it appears from the tenor of your letter that you are already sufficiently aware of the opinion I entertain with regard to what is whimsically called the Compromise, I will only trouble you with a brief recapitulation. In my view *it was a gross and palpable violation of that great fundamental principle of State equality, which pervades every provision of the Constitution, and forms the basis of this Confederation ; a most unjustifiable attack on the rights, interests, safety, and happiness of one-half the States composing it, accompanied by insult and obloquy ; a pretended concession, wrested by mere force of numbers from a minority ; and that, in its consequences, it will prove more fatal to the repose, prosperity, and happiness, if not the very existence of the Union,*

*than any measures that may be resorted to in attempting to obtain redress for the past, or security for the future.*

Such being my views of the subject, I am and always have been, of opinion, that the stand originally taken by South Carolina, and most of the Southern States, in opposition to the principles embodied in that series of measures, was not only justifiable, but demanded by a proper regard for their *rights* and their *honor*; and that an abandonment of the position they then assumed, and an acquiescence in measures they repeatedly declared they would resist, "at all hazards and to the last extremity," *unless accompanied by a frank acknowledgment of having been wrong in the first instance*, would, in the language of the printed resolutions appended to your letter, be, "what they could not submit to without dishonor." If such an abandonment of all previous pledges and declarations were the result of a subsequent conviction of having greatly erred in making them, it would be honorable and magnanimous. But such appears not to be the case; since even the advocates of acquiescence still continue to assert the principles on which these pledges and declarations were based, as well as the wrongs which first called them forth.

The Association is, I believe, right in its second resolution—declaring its belief that the co-operation of any of the Southern States with South Carolina, either in resistance or secession, is at least improbable, so long as the influence and patronage of the General Government are arrayed against State rights. Nor do I see any reason for believing that any probable change of administration will produce a change of measures; since, as you will perceive, from their repeated declarations, all parties in the North unite in denouncing slavery, and maintaining the constitutional right of Congress, as well as its inflexible duty, to prohibit its extension to any State that may hereafter be admitted into the Union. From all present appearances, *the principles embodied in the compromise will continue to be the basis of the future policy of the Government*. It seems also probable, *that the States which have submitted to past, will be equally quiescent under future wrongs*.

Having thus briefly stated my views with regard to your first and second, I will now revert to your last and most important resolution, namely, "that, failing in a reasonable time to obtain the co-operation of other Southern States, South Carolina should alone withdraw from the Union."

It seems rather late in the day to be called on to combat the old exploded doctrine of *passive obedience, and non-resistance*, the assertion of which cost one monarch his head, and sent another into perpetual exile. Yet, as that doctrine has lately been revived by some of the highest names of the Republic, it calls for a passing notice in connection with the subject of this letter. It seems strange, too, that this long-buried monster, which received its death wounds in the two revolutions of Eng-

land and America, should have been dug up and resuscitated by distinguished Democratic Republican statesmen. From all but the darkest regions of the civilized world, this portentous phantom has been banished, as it would appear, only to find refuge in that which professes to be the most free and enlightened. *There is not a European writer, or statesman, or theologist, of any established reputation, that would now venture to proclaim the slavish principles which have been asserted by Republican leaders in the Halls of Congress of Republican States.*

A thorough discussion of this doctrine of passive obedience and non-resistance on the part of equal members of a Confederation of States, would require more space than is proper for me to occupy, and more time than you can spare on this occasion; nor do I deem it necessary. The right of resistance by force, as respects States and communities, is only an extension of the individual right of self-defence, which is a law of nature, antecedent and paramount to all laws and all constitutions, which cannot be alienated or surrendered by the adoption of any system of social organization. This doctrine is established beyond controversy, by the unanswered and unanswerable arguments of Sidney and Locke; by the assent of all the great ancient as well as modern authorities on the law of nature and nations; and, if such were not the case, it has always been, and always will be, acted upon when the occasion arises, in opposition to all authorities. It is true that none of the writers who assert or concede the right of resistance, have attempted to define the precise line where resistance becomes justifiable, because it is not susceptible of definition. *It is a matter of feeling, and can neither be analyzed or defined.*

An eminent American statesman, high in office, and a candidate for still higher honors, whose opinions I wish to treat with all due respect, has lately attempted to establish a broad distinction between revolution and secession; in other words, the *right to resist*, and the *right of retiring out of the reach of the necessity of resorting to resistance*. His position, if I rightly comprehend him, is, that though a people or State may have a right to resist by force in certain contingencies, they have none to retire peaceably beyond the reach of injury and oppression. It seems they have no alternative; they must either peaceably submit, or forcibly resist, for they cannot get out of the way. It follows that all radical changes in the political relations of a State with a Confederation of States, must necessarily be brought about by violence and bloody contentions. Those who cannot live together in peace, must not part in peace; they must resort to the right of the strongest, and fight it out.

Thus the extermination of a portion of our fellow-creatures, perhaps our countrymen, is an indispensable preliminary to all great political changes; and hecatombs must be offered up on the altar of liberty, before she can become a legitimate goddess.



The establishment of this principle, conceding the right of revolution, and denying that of secession, would, in its application to the case now under consideration, leave no resource to any member of this confederation, under the most intolerable oppression, but civil war, with all its aggravations. It leaves open no appeal to the great tribunal of reason, justice and humanity; the right of the strongest is the right divine; and dissensions among a confederation of Christian States, can only be adjusted, like those of the wild beasts of the forest, by a death struggle. I am aware that this has been the almost invariable practice of mankind in every age and country; but never till now do I recollect seeing it asserted that it was the only justifiable mode of settling controversies among States and nations; and it is with no little regret I see this doctrine sanctioned by one whose opinions are of such high authority among a large portion of the American people. I have dwelt more emphatically on this topic, *because I consider the right of secession as by far the most important of all the questions involved in the present controversy*; and the attack on it *as one of the most insidious, as well as dangerous blows, ever levelled at the rights of the State*, all of whom are deeply interested in the issue; since those who are now the aggressors, may one day be placed in a position where it will be their only refuge from the uncontrolled despotism of a majority.

With regard to the expediency of the State of South Carolina exercising this right of secession, either now or at any future period, it would, I conceive, be presumptuous in one so far removed from the scene of action to offer his opinion, or intrude his advice. In such a crisis, *South Carolina must act for herself, and rely on herself alone*. I would only observe, that in taking a step so decisive as that of withdrawing from the Union, unanimity among her citizens, or something nearly approaching it, seems indispensable. It appears, however, that many distinguished men among you, whose reputation is national, whose opinions are entitled to great weight, and who have heretofore taken the lead in opposing the Compromise, believe that the time for secession is not yet come; that the co-operation of at least a majority of the Southern States is absolutely necessary to the successful issue of such a measure; that it is best to wait for further injuries, or at least to see whether they will be attempted, and if so, whether they will produce such co-operation. Those whose views coincide with the resolutions adopted by your Association, on the other hand, believe that immediate secession, or secession after "waiting a reasonable time" for the co-operation of other States, is indispensable to the safety and honor of the State of South Carolina. Which of these parties will eventually predominate, remains to be seen; and until that is decided, I shall content myself with *asserting the right of secession*, leaving the expediency of its exercise to be decided by the result. Should it be found that a very considerable minority is not only *opposed*,



but will *resist* a resort to this remedy for their grievances, I conceive its immediate adoption would be hazardous in the extreme. BUT WHEN GREAT INTERESTS ARE AT STAKE, MUCH SHOULD BE RISKED IN THEIR PRESERVATION. For myself, I will only say, that were I a citizen of South Carolina, or any other Southern State, *I trust I should not be found among those, who, after placing themselves in front of the battle, and leading their followers into a position whence they could not retreat without dishonor*, RETIRED FROM THE FIELD, ONLY, IT WOULD SEEM, TO SEE IF THE ENEMY WOULD PURSUE THEM.

A few words more, Gentlemen, in order that I may not be misunderstood or misrepresented, and I will no longer trespass on your time and patience.

If I know myself, and the innermost feeling of my heart, I am a better friend to the Union than many of those who, while loudly professing their devotion, are steadily pursuing a course of policy that has already alienated a considerable portion of its citizens, and will assuredly bring about its dissolution. It is under the influence of this attachment, that I have lent my feeble aid in opposition to that policy. *Neither force nor coercion can preserve a Union voluntarily formed on the basis of perfect equality*; nor do I believe it possible to preserve or perpetuate this Confederation by any attempts to extend the powers of the General Government beyond the limits prescribed by the Constitution, strictly construed, agreeably to its letter and spirit. *The first attempt to coerce any one of its members WILL BE THE HANDWRITING ON THE WALL, predicting the speedy and certain fate of the Union.* It is not to be presumed that great States, many of them equal in extent to powerful kingdoms, and inhabited by increasing millions of freemen, jealous of their rights, brave, high-spirited, and energetic, can be held together except by a voluntary cohesion. This Confederation may be likened to the great system of the universe, and it is, only, by the benign and gentle influence of attraction, that the bright stars of our constellation can be kept in their orbits. Those who attempt to bridle or spur them, will, in the end, fare like the rash fool who aspired to direct the chariot of the sun.

I am, gentlemen, your obd't serv't,

J. K. PAULDING.

To F. D. Richardson, H. H. Raymond, W. H. Peronneau—Committee, &c., &c.

Charleston, South Carolina.

## THE RIGHT TO SECEDE.

---

We are living in an age of "Construction," and where neither the letter nor the spirit of the Charter, will suit the Constructionist, a higher-law-doctrine is referred to, and the "bed of Procrustes" is to settle the question. Let us search the history of the world; let us exhaust the records of every nation on the globe; let us go back to the days of Genesis, and let us examine them, as we progress, to the period which produced Washington, and Hamilton, and Jefferson, and Marshall, and Madison, and Jay; let us continue to our own time,—the time of Webster, and Clay, and Calhoun,—and we shall find nothing more illustrative of this proposition—this wild and insane construction, than is visible at the very moment we are writing; than the efforts now making to subvert the Constitution of the United States, by quoting the Constitution itself as authority for the enormities which its enemies are striving to perpetrate! It is claimed that we are "one people"—but truth is fearlessly denied: falsehood is recklessly and knowingly affirmed: and the Bible is to be remodeled to answer the purposes of fraud and violence: and the human heart is to be changed, and embittered, that hatred to the Slaveholder may be freely indulged. Verily, it would seem that Mr. Seward is right, and that the "conflict" between the North and South is "irrepressible"!

As the Scriptures themselves were intended to inculcate a firm belief in the attributes of a Supreme Being, and to encourage a full reliance upon *His* mercy; so was the Constitution of the United States conceived, and executed by brave and pious men, to establish a solemn and incontrovertible fact—to assure mankind, both at home and abroad, "That the People" of these States consented to be "united" for certain great and *declared* purposes; and those purposes being achieved, none other could emanate from the instrument *they*, the *States*, had created, but *with* their concurrence and *for* their benefit: and that the Sovereignty, by virtue of which they agreed to be united, remains, and will forever remain, as perfect as though the Convention, which adopted the Constitution, had never assembled, and the *league* had never

been thought of. The spirit of mis-rule has simply mistaken the *exercise* of Sovereignty for the *abandonment* of Sovereignty.

We quote the first words of the Preamble of the Constitution, where it is written, "We, the People of the United States, [why not *we*, the People of North America—or *we*, the People of the American Nation?] "in order to form a more perfect union; establish justice; ensure domestic tranquility; provide for the common defence; promote the general welfare; and secure the blessings of liberty, to ourselves and our posterity, do establish *this* Constitution, *for* the United States of America." Each State of the "Old Thirteen" *had*, and now *has*, its own Constitution; and each of these thirteen consented to the creation of another Constitution—the first for *separate*; and the second for combined purposes, and for united action, to carry out those purposes—but on specified *conditions*: and those *conditions* are plainly enumerated.

Now if it can be shown that these were enacted by Sovereign States; and if it is made manifest that these purposes, are *each* and severally, being daily violated and disregarded, by certain parties to the Compact; we would ask, by what principle of international law, the conclusion is obtained, that other parties to the compact, in which *all* are Sovereigns and therefore all are equal, have neither remedy nor redress? Aye, none, save *that* which is furnished by an abject or hopeless submission! or by war and revolution and by successful resistance to invasion and coercion! When a compact is violated, it ceases to be a compact *quoad* those who are injured by the violation, This is Mr. Webster's doctrine; and it is the doctrine of common sense and of common justice: else every bargain would be a fraud; and every league, a fallacy; and every union a despotism. Let us turn now, even at the risk of being tiresome, to the bond we have given and see whether the conditions, without which its validity cannot be sustained, have been faithfully performed.

1st. To our "more perfect Union." *This* has ended by a public declaration, that *we*, of the South, habitually earn our daily bread by an institution which is hateful to the sensibilities of our Northern brethren, at variance with every moral obligation, and necessarily to be abolished.

2d. Our desire to "establish Justice" is made to mean, not only that the labor of the South is to enrich the North, but that it is to be directed and controlled by fanaticism and madness; or that it is to be rendered by a causeless hostility to *us* and to our institutions, the bitterest curse that ever humanity was afflicted with.

3d. We bargained to "ensure domestic tranquility," and in furtherance of *this*, Virginia, as a *Slave* State, is invaded and assailed; *her* soil, desecrated; *her* citizens, murdered; *her* laws, ridiculed: and our co-obligors to the bond, so far from interposing, express no other regrets but that the incendiaries and



assassins have been punished; and make no other demonstration, but by expressing their utter horror and disgust, that the shedding of innocent blood has *not* been considered as a sacred service to God and as a solemn duty to *His* creatures.

4th. In order to "provide for the common defence," one section of our country enthusiastically encourages rebellion in another; and in every Cotton State in the Confederacy, slaves are to be provided with arms to be used against their masters.

5th. To "promote the *general* welfare," the *particular* interests of *fifteen* States are to be sacrificed; the internal commerce of *thirty-three* States, now estimated at four thousand millions of dollars, is to be abolished. And why? That four millions of negroes, who have been accustomed to restraint, may be turned loose upon the world, and that their legitimate owners may forthwith be in bondage.

6th. In order to "secure the blessings of liberty to ourselves and our posterity," we, of the South, are to be deprived of our property; to be branded as enemies of the human race; and, finally, according to the diction and taste of a Senator from Massachusetts, (Mr. Sumner), to be "driven, like poisoned vermin, to die in our holes;" and, as if to suit the action to the word, already we are called on to see the inhabitants of a sister State\* selected as victims to that poison, which the philanthropy of our Northern brethren has so generously and bountifully supplied.

Thus has the North performed the conditions of the bond. What are the results to the South? Whole towns have been laid in ashes. Farms have been desolated. Crops, which were the result of industry and of labor judiciously applied, have been laid waste and destroyed. Fathers and brothers were to be butchered; mothers and daughters, exposed to brutalities, the most atrocious and revolting; children, exterminated; and the first act in the drama requires *us* to become the executioners of slaves, transmitted to us by our ancestors as persons we are bound to protect and defend. And let the South be admonished that all this is to be done, because a domestic institution is not abandoned—an institution ordained by the Creator and recognized by *His* law; that feeds and clothes the world; that gives to the barbarian a knowledge of God and the consolations of a benign religion; that confers on the savage the benefits of civilized life; that protects the negro against the vicissitudes of infancy and old age; that keeps him in the only position, where he can be useful to society and harmless to himself; that is *expressly* provided for in the Constitution: because it is not abolished even at the cost of endless suffering; of anarchy and chaos, where order now prevails; of servile conflict, where allegiance now exists; of misery and anguish to black and

---

\* Texas.

white, where now the happiness of both is secure; of poverty and want, where abundance and comfort are now. And, my countrymen, let us now ask a single but an essential question: Is this fiction or is it fact! If we have spoken truthfully, as we assuredly desire to do, is there a solitary condition on which we signed the bond, that has not been openly, barbarously and insultingly violated? Is there any injury so consuming as *that* with which we are threatened? Is there any epithet, the vilest and the basest, that has not been applied to us? Is there any fallacy so extreme as the idea that liberty can exist where these atrocities have neither check nor remedy? There is a remedy. The sovereignty of the States; and this sovereignty is recorded in every article and in almost every section of the Constitution; on every page it is made manifest; and by every reasonable construction, it is intended to be regarded as the cardinal principle by which the government "lives and has its being." The difficulty is, not to perceive arguments to sustain this doctrine, but to find time to express them. Take the legislative branch of the Government. The House of Representatives is the most democratic; and in it population alone is represented. Do the people of the United States elect? or do the several States choose? An ordinary freshman may answer the question. The States of course. The States fix the time and manner of holding elections; and the States count the votes and declare the result. So much for the *popular* branch of the Federal Legislature. As to the Senate, States and only States are there recognized—Delaware taking rank with New York: and in all appointments to the Supreme Court; of Ministers to foreign countries; of officers of every grade, at home and abroad; "Confirmation" must be obtained equally from Rhode Island and Pennsylvania, or equally from the largest and the smallest: because all are Sovereign. Again. In the event of vacancy in either branch of the Federal Legislature, the Executive of the States issues writs of election; and the people of the States vote or do not vote, just as *they* please.

If the President is to be elected, who appoints the electors? The people in their aggregate capacity? or the States as individual communities? The States, as the Legislatures of each shall direct: and if no election is made—what then? Why the Senate, where the people are not known and where States are supreme, having ascertained this failure to elect, sends the case to the House of Representatives, and *there* the vote is taken—how? by numbers? No. But by States: each State having *one* vote, without reference to territory or to population. And if here again, no decision is obtained by a given time—fourth day of March—the Senate, or States representing Sovereignty, resume all power, and from two names, (the highest on the list,) declare, by a single ballot, who shall be President; and the person so chosen is President beyond the reach either of people or numbers. Is there no sovereignty in all this?

Turn to Section 8th: "Congress shall have power to levy and collect taxes," &c., &c. Mark, not right, but power. From whom was this power derived? I answer, from the Conventions held in the States, and which adopted the Constitution. And how did those Conventions assemble? I answer, again, by consent of each separate State. And where did they assemble? Again, I answer, within the borders of *each* State, and under the protection of each State. And what other authority existed at the time for legislating or for deciding on the subject? None on earth. What more is required? But to make assurance doubly sure, see 10th article of Amendments, where it is written that powers not delegated, &c., "are reserved to the States respectively, or to the people." How and by whom reserved? Why by those who had the power to delegate, that is the States, which could adopt or reject the Constitution as they pleased, and without consulting any human tribunal.

In sense, in letter, and in spirit, "people" meant, and now mean people of the States, and not of the United States, in their aggregate capacity; and if the Constitution is now to be amended, the States only can do so: they created, and they only can amend.

The Government of the United States has a flag—and does that flag show its consolidated supremacy? No. It declares to the world that it is a Government made up of delegated powers; and it shows by the number of its stars the number of sovereign States, which have delegated to the Federal Government all the power that it possesses.

Sovereignty clearly exists in the States, and is, in its nature and essence, separate and distinct. And if it exists, it may be exercised, and that exercise can depend only upon its own will—its own conception of what is due to policy or to character.

The Old Thirteen, assuredly, entered the Union as Sovereigns. Their *voluntary* entrance was an act of sovereignty. They delegated, for the *purposes* named in the preamble to the Constitution, the powers enumerated in section 8; and subsequently by the 10th article of Amendments, they expressly reserved to themselves those which were never delegated: in a word, they parted with no rights—they simply conferred powers, that duties might be performed. They had the right to retire from the Convention. They never compromised that, or any other right: and that of seceding from the Union is as perfect now, as was then the right to enter into it. It is absurd to talk of this right to secede not being conferred by the Constitution. The Constitution can confer no right upon the States; and the simple and only inquiry is, where is the power to coerce a State delegated to the Federal Government? If that power is not given, the argument is at an end.

The injured party has a right to secede, quietly and in peace; and the denial of that right is just cause for war, Mr. Douglas to



the contrary notwithstanding. No amount of oppression or of violence, can destroy that right: because it is not *derivative*, but *inherent* in the party possessing it and defending it. The States earned and acquired *that* right by the Revolution of 1776, and *they* hold it in fee. The Constitution acknowledges it; the Laws of the United States acknowledge it; and the Mother Country acknowledges it. Let the bonds of South Carolina, or of any other State be placed in market in London or Liverpool, and we shall see at once how far the States are known and trusted.

It is not our purpose to enter into any metaphysical discussion as to the difference between right and power; but we will briefly say, that while *power* is oftentimes exercised by robbers, pirates and highwaymen; *right* is forever vested in the legitimate owner.

One word more. We have said that any State that feels herself aggrieved, may retire from the Confederacy and seek safety within her own borders; or she may join other retiring States, who having a common interest, may rest upon a common remedy. Does any sane man doubt that Massachusetts could, either alone or with other communities in New England, take the ground that Slavery is repugnant to *her* sense of morality, and therefore that her political association with Slaveholders is no longer possible? Can it be doubted that such being *her* solemn convictions, she could find *her* remedy in those reserved rights alluded to in the 10th Amendment? And what Southern man would hesitate to stigmatize him as a ruffian, who would propose to coerce Massachusetts into measures at variance with her happiness, destructive to her society, and fatal to her relations with her fellow-men in every quarter of the globe? And who is there on our side of Mason and Dixon's line, that would excite against her, the John Browns that can always be found when murder is to be committed? Who is there that would subscribe to send emissaries to invade her soil; to burn her barns and her dwellings; to poison her wells and her water courses, or avail themselves of *temporary* strength to put *her* beyond the pale of civilization; to send armies or navies to shed the blood of *her* people, or to trample her into submission? If there be such a man, he is no countryman of ours. No; we should say, "throw the tea overboard" if you please; *we* shall neither help you nor harm you. Yes! we should say so, upon the ground that each State has a right to secede from this Union, because this is the principle upon which the Republic was formed; it is the principle of all Constitutional Law, and it is for the injured parties (who perceiving that ruin and desolation make the alternative) to decide upon the *application* of the principle; and if *that* prerogative is denied, then are they living under a *tyranny* more or less revolting or degrading, as a corrupt majority may decide to inflict. The gravity of this measure of secession and the

stupendous consequences connected with it, will always furnish as much restraint as is sufficient or wholesome.

The staples of the South have been necessary to the North. *We* have continuously furnished those staples, and *we* have consented to see *her* enriched by *our* labour. *We* have warned her that a separation would follow their continued and unholy assaults. They have rejected these warnings and elected Mr. Lincoln. They have dared us to resist; they have taunted us with our weakness; they have menaced us with war and invasion from without, and with sedition from within. We have submitted, and are submitting, to their rapacity, their cruelty and their hatred. But it is possible, we have greater evils yet before us. When new States are admitted; when Abolition becomes stronger and stronger; when the Supreme Court is remodeled; when the power to amend develops the power to destroy—how are we to stem the torrent or avoid the cataract? In what place are we to seek for shelter, if the right to retreat before our enemies, or to retire within our borders, is repudiated and denied? When the two-fifths doctrine is expunged; the rendition of fugitive slaves is looked upon as a remnant of barbarism; when the eligibility to hold office is confined to those who eschew slavery as a sin; when we are threatened with fire and sword, even in our hiding-places at home; and when poison is openly prescribed and provided for the Cotton States of the Confederacy—where, then, shall *we* be? Who will be our masters? Where will be the spirit of our ancestors? Who will teach us the footpath to their graves? What says the South?

STATES.





14 DAY USE  
RETURN TO DESK FROM WHICH BORROWED

## LOAN DEPT.

This book is due on the last date stamped below, or  
on the date to which renewed.

Renewed books are subject to immediate recall.

	REC'D LD
REC'D LD	MAR 9 '65-1 PM
MAY 1 1960	
24 Nov '61 JX	JUN 12 1961
REC'D LD	
NOV 16 1961	
14 Nov '64 SG	
REC'D LD	JUN 9 1961
DEC 18 '64-8 AM	
21 Mar 65 GR	
Due end of FALL Quarter subject to recall after —	NOV 15 '71 01
REC'D LD	
LD 21A-50m-4, '60 (A9562s10) 476B	General Library University of California Berkeley

U. C. BERKELEY LIBRARIES



C093553963

**LIBRARY USE**  
**RETURN TO DESK FROM WHICH BORROWED**  
**LOAN DEPT.**

THIS BOOK IS DUE BEFORE CLOSING TIME  
ON LAST DATE STAMPED BELOW

LIBRARY USE

MAY 7 '64

REC'D LD

MAY 7 '64-8 PM

LD 62A-20m-9,'63  
(E709s10)9412A

General Library  
University of California  
Berkeley

