SOME NEW BOOKS.

Early Efforts at Nullification and Secession.

It is a useful contribution to our political history which is presented in the volume entitled *Nullification and Secession in the United States*, by EDWARD PAYSON POWELL (Putnams). In as many chapters the author recounts the six attempts at nullification or secession made during the first century of the Republic, and in each instance the narrative is supplemented with original documents bearing on the particular subject. It is time, as Mr. Powell says, to recognize that of the six attacks upon the Constitution two of the four earliest proceeded from New England, and that the nullification resolutions of 1798, which were passed by the Legislatures of Virginia and Kentucky, were justified by the tyrannous character of the acts of Congress at which they were aimed.

In an introductory chapter the interesting fact is recalled that John Adams, answering the question, Did every member of Congress, on the Fourth of July, 1776, cordially approve of the Declaration of Independence, replied: "Majorities were constantly against it. For many days the majority depended on Mr. Hewes of North Carolina. While a member one day was reading documents to prove that public opinion was in favor of the measure, Mr. Hewes suddenly started upright, and, lifting up both hands to heaven, as if in a trance, cried out: 'It is done, and I will abide by it.' I would give more for a perfect painting of the terror and horror of the faces of the old majority at that moment than for the best piece of Raphael." Jefferson gives a synopsis of the arguments for and against a declaration. The debate showed that "New York, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina were not matured for falling from the parent stem; but, as they were fast advancing to that state, it was thought prudent to wait a while for them." On July 1 the delegates from South Carolina and Pennsylvania still voted against the declaration, and those from New York, obeying old instructions, did the same, contrary to their private convictions and to the later instructions of their State. The States rapidly changed those delegates who were opposed, and a close approach to unanimity was reached on July 2. The draft of a declaration was adopted on July 4, but it was not until the 2d of August that it was signed by all the members except John Dickinson. It was not until 1781 that the Articles of Confederation were formally adopted by all of the States, by which time their insufficiency had been already demonstrated. Under the Articles of Confederation nullification was the rule. Each State decided for itself whether to respond to the demands of Congress. Under the new union formed in 1789 this habit was not easily forsaken. When our present Constitution was finally offered for adoption it was accepted in nearly all cases with qualifications or recommendations of amendments. New York voted ratification on the declared premise that "the powers of government may be reassumed by the people whensoever it shall become necessary for their happiness." Other States used similar language. It was clearly understood that those who put the Government together could take it down again. Hamilton seems never to have hesitated to repeat his lack of faith in the perpetuity of the Constitution and of the government established under it. In 1791 he said: "I own it is my opinion, though I do not publish it from Dan to Beersheba, that the present government is not that which will answer the end of society, and that it will be found expedient to go into a different form." In March, 1798, Rufus King of New York and Cabot of Massachusetts did not hesitate to say that if the appropriation bills failed to pass they would "throw up the game." Dexter was an avowed believer that the Presidency must be changed to a life tenure.

It is a mistake to suppose that the effort of eleven States to break loose from the Union in 1860-61 was an episode dependent on a new reading of constitutional rights, or that it was solely a consequence of the desire to perpetuate a social system based on slavery. The purpose of Mr. Powell's book is to prove, and it succeeds in proving, that it is a very partial and partisan reading of American history which fails to see that from the acceptance of the Constitution in 1789 there has been a tendency to assert the right of States to nullify national enactments, or even to sever their relations to the Union. The tendency, indeed, has been a shifting one; exhibited now at the South and again in the North. Of overt acts there have been six. The first of these occurred in 1798, and, in Virginia and Kentucky, took the shape of nullification resolutions. The second was the effort of New England in 1803 to create a Northern Confederacy, consisting of five New England States, with New York and New Jersey. The third was a desperate effort of Vice-President Burr to create a cleavage in the Southwest, including the Mississippi Valley, and, as he hoped, Ohio. The fourth proceeding of the kind was the practical withdrawal of the New England States from coöperation in the war of 1812-14, ending in a convention of those States convoked for the purpose of formulating sectional autonomy. The fifth act assumed the form of nullification, and was confined to South Carolina. The sixth and final act took place in 1861, when eleven States withdrew their representatives from Washington and created a distinct confederacy.

I.

In the chapter allotted to the nullification resolutions of 1798 the author has some preliminary comments on the Jay treaty which deserve careful consideration. It is pointed out, in the first place, that the war between England and the United States was, as a matter of fact, not ended by the treaty of peace in 1783. Each party to that treaty charged the other with breaches of the contract. England insisted that the Tories had been outraged and that hindrances had been put in the way of collecting debts due to British subjects. The Americans answered: You carried off thousands of our negroes; you have not surrendered the Western posts, as you were bound to do by treaty, and you are using those posts to incite the Indians to hostility. John Adams, who was our Minister at London in 1785, wrote that the treaty of Paris had only gained this for us, that we could now fight "without halters around our necks." "There is," he wrote to Jay, "no chance for anything but retaliations, reciprocal prohibitions and imposts." England, he said, hated us all the worse for having been forced to yield our independence. He added in 1786: "I cannot get rid of the persuasion that the fair plant of liberty in America must be watered in blood." It was this state of affairs that made President Washington anxious to negotiate a commercial treaty with England and bring the strain to a relaxation, if not to a satisfactory conclusion. In Mr. Powell's opinion, however, it must be conceded that the first political disaster which befell the young nation was the Jay treaty of 1795. We had compelled Great Britain to acknowledge our independence, but our national rights continued to be exposed to insult and robbery. Jay, it had been supposed, was sent out to vindicate our rights and defend our honor. When, nevertheless, the treaty was received, it was kept locked up till the Senate could be called together to act on it. That body saw fit to meet with closed doors. Protests came in from every quarter, but the treaty was ratified by a vote of 20 to 10, although its contents, even then, were not made known to the public. They soon leaked out in part, and presently one of the Senators, Mr. Mason, gave his copy to the press. The country fell at once into a rage of resentment. Indignation meetings were called in Boston, New York, Philadelphia, and Baltimore. Hamilton, when he endeavored to harangue a crowd in defence of the treaty, was stoned. Address after address was sent to President Washington requesting him to withhold his signature. As a matter of fact, he did not sign the treaty until Aug. 15, 1795, although it had been ratified in secret by the Senate on June 24; not till March 3, 1796, was the treaty proclaimed as supreme law. It was, in truth, an extraordinary document for a free people to assent to. The twelfth article forbade American vessels to carry from American or English ports to Europe any coffee, cocoa, sugar, molasses, or cotton. It did nothing to stop impressment of our seamen or intrusion upon our vessels. It gave Great Britain the right to use all our rivers and ports, but it shut us out of Canadian waters. For twelve years England had illegally retained certain western posts that she had pledged herself to surrender at the close of the war. The Jay treaty gave her a year and a half more of possession. Not the least objection to the contract was that France, which had stood by us in our hour of trial, was aggrieved, and her interests were outraged as badly as our own, for the sake of peace with Great Britain. The treaty of alliance which had existed between our country and France was forthwith abrogated by the latter power. The inevitable outcome of such a treaty was war, and, in 1812, both the United States and England welcomed the chance to get rid of what remained of its articles. The Jay treaty confined the United States in a position unendurable for any length of time, and gave Great Britain a right to domineer over us and insult us. The only contemporaneous apology for the Jay treaty put in print was the general one that "It was calculated to remove a variety of causes of uneasiness, of complaint and of recrimination." John Adams wrote: "It certainly cannot be ranked as a triumph for American diplomacy, but it is better than war." As a matter of fact, it did not avert war, but, on the contrary, made war unavoidable.

II.

The Alien and Sedition laws enacted under the Administration of John Adams, at the suggestion of Alexander Hamilton, were despotic to a degree that now seems to us scarcely credible. The Sedition act made it felonious and punishable with a fine of $5,000 and five years' imprisonment for persons to combine in order to impede the operation of any law of the United States, or to intimidate persons from taking Federal office, or to commit or advise a riot or insurrection or unlawful assembly. It also declared that the writing or publishing of any scandalous, malicious, or false statement against the President or either house of Congress should be punishable by a fine of $2,000 and imprisonment for two years. This law rendered it impossible freely to discuss an act of the Federal Legislature or the conduct of the Federal Executive. It was intended to be a death blow to freedom of speech and of the press. Edward Livingston declared the law would have "disgraced Gothic barbarism." Infinitely worse, however, was the Alien act, passed by the same Congress at the same session. Under plea of civil commotion, resulting from the residence of foreigners in the States, it was enacted that any aliens might be summarily banished without assigned cause, and at the sole discretion of the President. There need have been no suit, nor even public charges. Any suspected person might be ordered to depart within a specified time from the limits of the Union, and, if he failed to obey, he might, on order of the President, be imprisoned for three years. Imprisoned aliens might be deported, if the Executive so chose; and masters of vessels were obliged to report, on arrival, all aliens on board. Of the Alien act Adams boasted to Jefferson, as late as 1813, that it was not executed by him in a single instance. It was Hamilton's legislation, he said, and he did not approve of it. In a letter written to Pickering, however, in 1799, Adams certainly did recommend the deportation of an obnoxious enemy. Pickering, in return, suggested getting rid of Dr. Priestley, and implied in the correspondence that Adams gave him authority to expel a certain Gen. Collot. At all events, if the Alien act was not rigorously carried out by President Adams, the Sedition act was enforced. The outrages perpetrated on personal liberty under the Adams Administration were as serious as any complained of under royal colonial Governors. The persecutions which took place under this statute passed from the oppressive to the grotesque. For example, President Adams, passing through Newark, was complimented by the firing of cannon. A man named Baldwin said he wished the wadding might hit the President's backsides. For this he was arrested and had to pay $100. Frothingham, an editor, was imprisoned and fined for saying that Hamilton "attempted to buy the *Aurora*, in order to suppress it." Thomas Cooper was kept in prison six months and fined $400 for saying that President Adams, in 1797, was "hardly in the infancy of political mistakes." Ten printers and editors were among those prosecuted for sedition. Among these were B. F. Bache, Thomas Cooper, and Abijah Adams. A new moral as well as criminal code was created. In the case against Callender, Judge Chase harangued the jurors against the accused, and ordered the marshal to put none but Federalists on the jury. On Callender's lawyers Chase threatened to inflict corporal punishment. Judge Peck of Otsego, N. Y., circulated a petition for the repeal of the offensive acts. For this action he was indicted and taken to New York city for trial. Matthew Lyon, a representative in Congress for Vermont, when canvassing for re-election, charged the President with "unbounded thirst for ridiculous pomp, foolish adulation and a selfish avarice." For this utterance he was thrust into jail and held for four months, besides being made to pay a fine of $1,000. Sent by his constituents back to Congress, an attempt was made to prevent him from taking his seat. Such was the determination of the party then in power to perpetuate its rule and to suppress criticism. In 1840 Congress refunded to Lyon's heirs the amount of his fine, with interest.

The popular indignation aroused by these acts of Congress rapidly passed into alarm. Virginia, in her General Assembly, adopted resolutions calling on the State to nullify within its limits the enforcement of the Sedition law. The resolutions declared that Virginia promised support to the Government of the United States in all measures warranted by the Constitution; but declared the acts of the general Government "no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable and dangerous exercise of other powers not granted by said compact, the States who are parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authority, rights and liberties appertaining to them." This General Assembly thereupon declared by law of the State of Virginia that the Alien and Sedition laws were unconstitutional, and invited other States to coöperate in resisting them, "in order to maintain unimpaired the authorities, rights and liberties reserved to the States respectively or to the people." Madison himself drafted these resolutions; and they expressed not his views only, but those, also, of Jefferson, of George Mason, of Patrick Henry and of nearly every other eminent Virginian. The action of Virginia was seconded by that of her territorial child, Kentucky. Not only was this done at the suggestion of Jefferson himself, but, in the main, the resolutions were the work of his hand. The Kentucky resolutions declared that where powers were assumed by the national Government which had not been granted by the States, "nullification is the rightful remedy;" and that every State has an original, natural right "to nullify, of its own authority, all assumptions of power by others within its limits." The hope was expressed that the States would recur to their natural right in all cases not made Federal, "to take measures that improper laws shall not be exercised within their respective territories." In our author's judgment every citizen of the United States will now concede that the provocation to the passage of these resolutions was extreme. Neither does he believe that any citizen will set a high value upon a Union that would, for any considerable time, permit such an arbitrary exercise of power. Under such a state of things citizenship would be intolerable. Only a class of men in power would be safe from confiscation, imprisonment, or banishment. Exercise to the possible limit by any Administration of the Alien and Sedition laws would give it a perpetual lease of power.

III.

It will be observed that the Virginia resolutions described the Constitution as a compact. The fact leads the author of this volume to discuss the question whether Daniel Webster was justified in asserting that the term compact was not applicable to our Federal organic law. Of course, the controversy hinges on the inquiry: Who were the contracting parties to the formation of the United States? It is Mr. Powell's opinion that, notwithstanding Webster's ingenious argument that the people, as a whole, created the nation, it still remains true that, in doing so, the several sections of the people acted in their separate organic capacities as States. It is true, of course, that the Constitution opens with the preamble: "We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America." On the other hand, the instrument closes with Article VII., which is, "The ratification of the conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same." Washington set his name after the words, "Done in convention by the unanimous consent of the States present." In the Constitutional Convention the voting was by States, each State having one vote. Article X. of the Amendments to the Constitution, proposed by the Congress of 1789, and adopted two years later, reads: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." It is obviously open to question whether the words States and people in this clause are used as synonyms or as distinguishing some reserve powers as belonging to the people not considered organically.

Here Mr. Powell recurs to certain facts at which he had already glanced in his introductory chapter. He there pointed out that, had the events of the first ten years of national life been foreseen, it is certain that Virginia and New York, with North Carolina and probably Pennsylvania, would not have ratified the Constitution. It is, as he afterward undertakes to prove in the third and fifth chapters of this volume, equally certain that, could New England have looked far enough ahead to see the events of the fourteen years following 1800, it would never have entered the Union. In the second chapter Mr. Powell directs our attention to the fact that the Constitution, if it had been passed upon by the people directly, would not have been adopted. Concerning this point, he quotes Chief Justice Marshall, himself a strong Federalist, who allows that "So small in many instances was the majority for the Constitution as to afford strong ground for the opinion that, had the influence of character been removed, the intrinsic merits of the instrument would not have secured its adoption. Indeed, it is scarcely to be doubted that, in some of the States, a majority of the people were in opposition." In our author's judgment, therefore, it is a case of *suppressio veri* to say that the people were the contracting parties in constituting the nation, when it is admitted that, if they had voted directly on the Constitution, it would not have been adopted. It was the people, acting as States, and in that capacity only, that constructed the Federal Union. We have already seen that, in the ratifying act passed by the State of New York, the assertion was made that "The powers of government may be reassumed by the people whensoever it shall become necessary to their happiness." Virginia said that "The powers granted under the Constitution, being derived from the people of the United States, may be resumed by them whensoever the same shall be perverted to their injury or oppression; and every power not granted thereby remains with them, and at their will." This seems to imply a right of the States not only to nullify an act of Congress, but to withdraw from the Union. The endeavors of John Marshall and Daniel Webster to draw a distinction between "the people" and "the State" lead the author of this volume to examine another chapter of our history. He recalls that the convention of New Jersey, ratifying the Constitution, said, "Whereas the Legislature of this State did pass an act to authorize the people of the State to meet in convention, deliberate upon, agree to, and ratify the Constitution of the United States, we, the delegates of the State of New Jersey, do hereby ratify," &c. Connecticut said in convention: "We, the delegates of the people of the said State, pursuant to an act of the Legislature, do ratify," &c. Virginia met "in pursuance of a recommendation of the General Assembly." Her convention not only ratified the Constitution as it was, but recommended an amendment "that each State in the Union shall respectively retain every power, jurisdiction, and right which is not, by this Constitution, delegated to the Congress of the United States."

Mr. Powell's view is that the abstract distinction between "the people" and "State governments" was hatched by the fertile brain of Federalism, and he points out that the doctrine never took shape as a general principle until it was formulated by Daniel Webster in his debate with Hayne in 1832. Webster then laid down the fundamental principle that the Constitution is not a compact between the component States of the Union in their sovereign capacities, but a government proper, founded on the adoption of the people and creating direct relations between itself and individuals. Webster himself, however, had said, in his reply to Foote, in 1830: "I am resolved not to submit in silence to accusations which impute to us a disposition to evade the constitutional compact." John Quincy Adams's impatient comment was that "the Union is both of the people and of the States, and all constitutional government is a compact." Calhoun quoted Webster against himself with great force. The latter thereupon modified his position to "the Constitution *rests* on compact, and is no longer a compact; for, if it be a compact, States may secede." The author of this book finds in the history of the ratifying conventions further evidences that the Government was originally considered to be a compact of sovereign States. In the Massachusetts convention Fisher Ames argued that "the Senators represent the sovereignty of the States." John Sumner added: "The general Government depends on the State governments for its very existence;" and Judge Parsons declared "the Government is the mere result of a compact." And again: "The resolutions of ratification define the Constitution as a solemn compact." The same understanding is definitely incorporated in the discussions and ratifying resolutions of other States. To Mr. Powell no fact seems more certain than that the Constitution would never have been accepted on any other basis. He foresees, moreover, a great danger in drawing the Websterian distinction between the State and the people. For, if the people can act upon Federal affairs in any other capacity than by States, that is to say, in any other capacity than by delegates in State assemblies or State conventions, then we open the way to the assertion on the part of any section or any class of a law higher than an act of Congress. Jackson, indeed, did not hesitate to announce this doctrine in one of his veto messages. "Each public officer," he says, "takes an oath to support the Constitution as he understands it, and not as it is understood by others." A very similar sentiment was expressed by Channing and Seward when they spoke of a "higher law," by which they clearly meant to affirm the individual right to hold conscientious convictions counter to the decisions of the Supreme Court and to acts of Congress. If it be true that the general Government is not a compact of States, it is plain that federalism is a dream. The end will be centralization; a dissolution of State sentiment and Statehood.

IV.

It is well known that, in 1800, the Federalists, who had controlled the national Government for twelve years, made desperate efforts to prevent the election of Jefferson and the triumph of the new Republican party. During the campaign Alexander Hamilton, when replying to the toast, "A Strong Government," said: "If Mr. Pinckney is not elected, a revolution will be the consequence, and within four years I will lose my head or be the leader of a triumphant army." The Federalist clergy joined furiously in the opposition to Jefferson on the ground that he was an atheist. While the Sedition law quickly fined and jailed indiscreet Republicans, it allowed the Federalists to say whatever they chose. The campaign brought out the fact that Jefferson was the best loved and the most fiercely hated man in the United States. It seems probable that the Federalist party, although hitherto predominant, had been, from first to last, a party of leaders, and never a party of the people. It was avowedly based on a distrust of the people. "A democracy," said Dennis's *Portfolio*, "is scarcely tolerable at any period. It is on trial here, and the issue will be civil war, desolation and anarchy." Fisher Ames said: "Our country is too big for union, too sordid for patriotism, too democratic for liberty. Its vices will govern it by practicing upon its follies." Cabot said: "I hold democracy to be the government of the worst." John Adams was by instinct democratic, though by education autocratic; he was the truest to the people of all the Federalist leaders. At times, however, even Adams was very impatient and impetuous. In 1798 he said: "As to trusting to a popular assembly for the preservation of our liberties, it is the merest chimera. They never had any rule but their own will, and I would as lief be again in the hands of our old Committees of Safety, who made the law and executed it at the same time." Cabot, in 1793, is credibly reported to have openly advocated a President for life and a hereditary Senate. Hildreth thinks the Federalists never were a majority of the people, and it is certain that they had seldom possessed a majority of the House of Representatives. The views of the Federalist leaders being such as we have exemplified, it was to be expected that the survivors of the Tories of Revolutionary times would be enlisted on their side, and such, in fact, was the case.

In 1803 there was but little left of the Federalist party beyond a knot of hopelessly disaffected leaders. Among those who still remained in Washington were Tracy, Griswold, Plumer, and Pickering, the latter formerly of Pennsylvania, now of Massachusetts. These men beheld with dismay and horror the dissolution of the Federalist party and their loss of power. Accustomed to rule, they now not only found themselves turned out of the national executive offices, but saw Republicanism pursuing them into their own States, and depriving them of emolument and power, where, before the Union, they had been omnipotent. Desperation succeeded discouragement, and desperate measures followed political scheming. Judge Reeve of Connecticut wrote to Tracy in Congress: "I have seen many of our friends, and all that I have seen, and most that I have heard from, believe that we must separate; and that this is the most favorable moment." Col. Pickering was the chief conspirator. An unwavering believer in his own political sagacity, he was unwilling to brook a suggestion of caution or delay. Cabot seemed too slow and timid to Washington's Secretary of State, nor did Pickering consider that Hamilton was as much entitled to leadership as himself. If delay were tolerated, he insisted that Democracy would accomplish the work of ruin. Pickering believed that the proposition to secede "would be welcomed in Connecticut, and could we doubt of New Hampshire? But New York must be associated; and how is her concurrence to be obtained? She must be made the centre of the Confederacy. Vermont and New Jersey would follow, of course, and Rhode Island of necessity." Roger Griswold, examining the finances, had found that the States above mentioned, which were to be embraced in the "Northern Confederacy" "now pay as much or more of the public revenues as would discharge their share of the public debt due those States and abroad." Ex-Gov. Griswold wrote to Oliver Wolcott: "The project which we had formed was to induce, if possible, the Legislatures of the three New England States which remained Federalist to commence measures which should call for a reunion of the Northern States." The three States he relied upon were Connecticut, New Hampshire, and Massachusetts, which then included Maine. "The people of the East," wrote Pickering, "cannot reconcile their habits, views, and interests to those of the South and West." Hamilton, at a banquet in New York, expressed his views of popular government by shouting, "The people! Gentlemen! The people are a great Beast!" Cabot, however, wrote from Boston, after consulting Fisher Ames, Chief Justice Parsons, and two others, that, while some were of the same opinion as Pickering, most persons thought the time not quite ripe. His own opinion was that "a separation now is impracticable, because we do not feel the necessity of it. The separation will be unavoidable when our loyalty is perceived to be the instrument of impoverishment." In other words, Cabot and the "Essex Junto" saw the country so prosperous under Jefferson that they dared not precipitate secession. Griswold was in despair. He wrote to Wolcott that "whilst we are waiting for the time to arrive in New England, it is certain that the Democracy is making daily inroads on us and our means of resistance are lessening every day. Yet it appears impossible to induce our friends to make any decisive exertion."

V.

Unable to move ahead without the coöperation of New York, the more resolute of the New England Federalists undertook to gain control of that Commonwealth through a coalition with Aaron Burr, then Vice-President, who, although much discredited at home, still had a certain political following. A Governor of New York was to be chosen in 1804, and Burr was nominated for that office by a few Republicans in February of that year. The candidate of the Federalist party in New York was Morgan Lewis, who was backed by a large number of the Republicans. Notwithstanding the fact that Burr had failed to secure the indorsement of Hamilton and of the New York Federalist caucus, the Federalist leaders of New England—Pickering, Griswold, Wolcott, and others—put their heads together, and agreed to throw all their influence for Burr, on the understanding that, thus securing New York, he should carry it into the proposed Northern Confederacy. Griswold wrote: "If Col. Burr is elevated in New York to the office of Governor by the votes of Federalism, will he not be considered, and must he not, in fact, become the head of the Northern interests? What else can we do? By supporting Mr. Burr we gain some support, although it is of a doubtful nature, and of which, God knows, we have cause enough to be jealous. In short, I see nothing else left for us." Pickering wrote: "The Federalists anxiously desire the election of Mr. Burr. Mr. Burr alone, we think, can break the Democratic phalanx. If a separation should be deemed proper, the New England States, New York and New Jersey, would naturally be united." Hamilton, however, clearly perceiving that such a conspiracy would end in displacing himself as the great leader of the Federalists, threw all his weight against Burr. The battle at the polls was a sharp one, and Burr failed by only 7,000 votes of carrying the State, and he did carry the city of New York. There was nothing left for the New England conspirators but to retire into their own States, and thus ended the first effort to create a Northern Confederacy. Mr. Powell points out that the most notable feature of this episode in American history was the fact that the masses remained loyal. The rank and file of the Federalists, as well as the Republicans, were true to the Union as it was, and to the Constitution. The popular vote now began to be cast with increasing independence of those leaders whose ambition had been oligarchical. There was more, indeed, than the alliance with Burr to show that the Federalist leaders despised the people. It was impossible for them to conceal the correspondence that betrayed their contempt for popular government. The people from 1804 began to believe what Jefferson had said, that there had been one revolution in favor of the rights of man in 1776, and another of like character and equal importance in 1800. The fact is brought out with due emphasis in the book before us that not once during this plotting of 1803-4 was the right of a State, or of a group of the States, to secede disputed. The only arguments against secession were, first, the immaturity of the plot and the unripeness of the people for the projected movement, and, secondly, the probability that nothing would be gained by the withdrawal of the Eastern States into a smaller confederacy. Hamilton's only argument against the later phase of the movement was that the real trouble was not so much union with the South or even the influence of Virginia, as it was democracy; and he could not see that, by subdivision of the Union, any other result would be achieved than to make, in some parts of the country, democracy all the more concentrated and troublesome. Two or three of the Federalist leaders were beginning to think that possibly the people, after all, might not be very bad repositories of power, and were trimming their sails to catch the popular breeze. Rufus King and Oliver Wolcott were among these. Not one of them, however, argued that neither New England, nor New York, nor any other section, had a *right* to leave the Union. Washington, it is true, had worked for "an indissoluble union;" but his colleagues, clearly, did not suppose the Union to be indissoluble. Cabot, while unprepared for precipitate action, wished, as we have seen, not to be misunderstood. "A separation now is impracticable, because we do not feel the necessity or utility of it. Separation will be unavoidable when our loyalty to the Union is generally perceived to be the instrument of debasement and impoverishment." This quotation represents the average height of the logic used—secession rather than poverty. Cabot thought it possible that the Administration could be involved in a war with Great Britain, and that such a war would be so unpopular in New England as to give a chance for disunion. Meanwhile, the conspirators must wait. The relatively patriotic section of the Federalists, headed by John Adams, was, indeed, of another spirit; even its members, however, did not contend that secession was impossible. They simply proposed to make it hot for those who plotted it.

VI.

It is well known that the embargo imposed by President Jefferson proved especially burdensome to New England shipping. While the ostensible purpose of the measure was to insure our vessels against capture, it was really intended to make the inhabitants of Great Britain and France suffer for lack of commodities only to be secured from the United States. A measure, however, which might be endurable for an agricultural people could be productive only of misery for a commercial one. For some years past New England had become less and less agricultural and more and more manufacturing and commercial. It could not eat its goods; it must send them to market. Now, however, its ships were rotting at the wharves. Under these circumstances, the Eastern States soon grew restless, and the almost suppressed leaders of 1804 emerged from their retreat. Pickering denounced the embargo as a first step toward war with England, and the Massachusetts Legislature, which had at first indorsed the measure, in its next session condemned it. In the early part of 1809 a Force bill was passed by Congress, which allowed the use of the army and navy in enforcing the embargo and making seizures. In the Boston papers this act was printed in mourning and public meetings were held to memorialize the Legislature. The Legislature took strong ground in the way of justifying Great Britain, and demanding of Congress the repeal of the embargo and a declaration of war with France. The Enforcement act was declared "not legally binding," and resistance to it was recommended. This was, of course, as clear an example of nullification as had been afforded by Virginia in 1798. The truth is that, at this time in Massachusetts, ministers preached nullification and politicians urged it from the platform. Nor was Connecticut a whit behind her neighbor. We have the authority of John Quincy Adams for the statement that at this time (1808-9) the "Essex Junto" planned a New England convention to consider the expediency of secession. Adams himself was so outspoken in opposition to the plotters that the Massachusetts Legislature passed a vote of censure upon him, whereupon he resigned his seat in the United States Senate. There is no doubt, however, that New England was really suffering, and this time it was not the Federalist leaders alone who created the revolt. The embargo was unendurable, and it was raised in March, 1809.

Meanwhile, it was evident that war between the United States and Great Britain was inevitable, and secret agents of the latter power were commissioned to travel through New England to find out how much disaffection existed, and to foment it. The commission of one John Henry was made out by Sir James Craig, Governor of the British provinces of North America. This commission asked for "the earliest information as to how far, in the case of war, England could look for assistance." Henry reported that "the Governor of Vermont made no secret of his determination, as Commander-in-Chief of the State militia, to refuse obedience to any command of the general Government." Vermont, it should be noted, was the only one of the five New England States which Madison carried in 1808. From Boston, the British secret agent wrote in a similar vein, but, not conceiving himself well treated by his employers, he, presently, turned all his papers over to our Government. The Committee on Foreign Relations, to whom these documents were submitted, reported that the British Government had been deliberately pressing measures to divide the States. When, in June, 1812, a formal declaration of war against Great Britain was made, the Federalists in Congress issued an address to the people of New England declaring the war needless and unwise. The Massachusetts House of Representatives thereupon denounced the war as a wanton sacrifice of the interests of New England. It called upon the citizens of the State to assemble in town meetings for the purpose, not of aiding the Federal Government, but of hindering it. "Express your sentiments without fear" was the advice given, "and let the sound of your disapprobation of this war be loud and deep. Let there be no volunteers, except for defensive war." By this advice to the citizens, the State of Massachusetts asserted its right to overrule an act of Congress, and, furthermore, refused to fight in any war when not assailed on its own soil. This, of course, was nullification in an unmistakable form. About the same time Gov. Griswold of Connecticut professed that he did not believe the militia of that State could be ordered to obey a Continental officer. Gen. Dearborn then agreed that the militia in each State should be commanded by Majors from the State furnishing them, whereupon Gov. Griswold promptly adopted another basis of complaint. In other words, the New England States undertook to thwart the general Government, and that, too, in time of war. To justify their nullification policy they criticised the method in which the war was carried on. The Supreme Court of Massachusetts affirmed that the States had a right to decide whether exigencies existed that warranted the calling forth of the militia. This meant that any Governor could nullify a declaration of war by the national Government, and could refuse to furnish troops. The Legislature of Connecticut resolved "that the conduct of his Excellency the Governor in refusing to order the militia of this State into the service of the United States on the requisition of the Secretary of War meets with the entire approbation of this Assembly." President Madison, in his message, dated Nov. 4, 1812, said of the course pursued by the Governors of Massachusetts and Connecticut: "It is obvious that, if the authority of the United States to call into service and command the militia for the public defence can be thus frustrated even in a state of declared war, the United States are not one nation for the purpose most requiring it; and that the public safety may have no other resource than in those large and permanent military establishments which are forbidden by the principles of free government." Elsewhere Madison said that the course taken by New England had practically destroyed the Union as Washington conceived it, and as the Federalists had insisted upon making it so long as they were in control.

VII.

The embarrassments of the Madison Administration were not limited to disasters in battle and to the opposition of the Federalist faction. The Treasury was bankrupt. The banks of New England refused to aid it. On the other hand, the English received substantial assistance from that quarter. Provost wrote to Bathurst: "In fact, my lord, two-thirds of the army in Canada are, at this moment, eating beef provided by American contractors." MacMaster points out in his history that "the road to St. Regis was covered with droves of cattle, and the river with rafts destined for the enemy. On the Vermont side of the lake the highways were too narrow and too few to accommodate the herds of cattle that were pouring into Canada." "Were it not for these supplies," wrote Gen. Izard to the Secretary of War, "the British forces would soon be suffering famine." Naturally England was grateful for such material proofs of Federalist sympathy, and exempted Massachusetts, Connecticut, and New Hampshire from blockade.

In 1814 New England was, practically, in rebellion. Gov. Chittenden of Vermont had issued orders to Vermont's regiments in New York to return home. On the very day when the city of Washington was captured by the British, the Governor of Connecticut withdrew all the State militia from the command of national officers, and ordered them to obey only a Major-General of militia. Gov. Strong of Massachusetts, in a message, declared our Government the offender as against Great Britain. After Lawrence's sea fight, the nation held a holiday, but the Massachusetts Legislature passed a resolution that "it did not become a religious people to express any approbation of military and naval exploits not immediately defensive." There were men in New England who went to the edge of overt treason. Commodore Decatur detected blue-light signals to give the enemy warning of his movements in New London harbor. From that time "Blue-Light Federalists" became a party sobriquet and stigma. It was not, however, until October, 1814, that measures of a positively treasonable sort were openly taken. On the very day when despatches from Ghent announced the peace proposals from England the Massachusetts Legislature issued an invitation for a conference of New England States, to be held at Hartford. Connecticut and Rhode Island promptly responded. The Boston *Centinel* declared that the Union was as good as dissolved, and spoke of Massachusetts, Rhode Island, and Connecticut as the first three pillars "in a new Federal edifice." It was proposed to make a separate treaty with England. In the conference at Hartford there were twenty-six delegates, representing not only the three States named, but parts of Vermont and New Hampshire. Precipitate action was checked by the character of two or three of the leaders, who, as they came close to overt secession, quailed before possible consequences. The Federalist newspapers, however, were largely in favor of prompt action. Pickering, writing from Washington, spurred on the delegates: "Abandoned by the General Government, except for taxation, we must defend ourselves; so we must secure and hold fast the revenues." The Massachusetts Legislature declared that for New Englanders there remained no alternative but either to submit to the foreign enemy or control their own resources. It further said that the Constitution had failed to be of the benefit to New England that had been expected, and that it must be supplanted. Gouverneur Morris, writing at this time, said of the delegates to the Hartford Convention: "If not too tame and timid, you will be hailed hereafter as the patriots and sages of your generation." Popular gatherings resolved to pay no more national taxes until the convention had decided the course of New England. The Federalists in Congress were incessantly urging the delegates at Hartford to extreme action. "How," asked one of them, "are the powers reserved to the States respectively, or to the people, to be maintained but by the respective States, judging for themselves, and putting their negative on the usurpations of the general Government?" This was language identical with that which was to be used by the nullifiers of South Carolina.

VIII.

It is easy to see what must have been the outcome of the feeling leading to the Hartford Convention within the ensuing six months, had not New England been put to shame by two unexpected events. We refer, of course, to Jackson's victory at New Orleans and to the diplomatic triumph achieved by the American Commissioners at Ghent, where the representatives of England gradually withdrew all of their original demands. England's original proposals, which the members of the Hartford Convention and other New England Federalists had declared to be "just and liberal," were that the United States should yield almost all of the Northwest, including Michigan, Wisconsin, Illinois, a large part of Indiana and one-third of Ohio, which territories were to constitute a perpetual barrier between Canada and the United States; we were also called upon to renounce our right to keep armed vessels on the lakes, or military force upon the shores thereof. And, further, we were required to relinquish a considerable portion of Maine. Little by little the English Commissioners gave way, until nothing was left of their demands but a claim on the part of England for a free use of the Mississippi, and an equivalent for fishing off Newfoundland. Even these requirements were withdrawn in the end.

Under the circumstances, it was fortunate for the members of the Hartford Convention that they had among them some men of caution. Cabot, who was made presiding officer, said to a young delegate, "We are going to keep you young hotheads from getting into mischief." It is certain that any overt act of treason would have met with instant resistance, and that civil war would have broken out in Massachusetts and Connecticut. The large majority against the Madison Administration did not mean that an equally large majority would sustain disunion. Willing to wound, and yet afraid to strike, the Hartford Convention ultimately reported that "if the Union be destined to dissolution, some new form of confederacy should be substituted among those States which shall intend to maintain a Federal relation to each other." And again: "That acts of Congress in violation of the Constitution are absolutely void is undeniable." This nullification principle, however, the convention proceeded to modify as follows: "It does not, however, consist with the respect and forbearance due from a Confederate State toward the general Government to fly to open resistance upon every infraction of the Constitution." Amendments to the Constitution, seven in number, were proposed, and three demands were to be submitted to Congress. If the demands should not be granted, it was "resolved that it will be expedient for the Legislatures of the several States to appoint delegates to another convention, to meet at Boston, with such powers and instructions as the exigencies of a crisis so momentous may require." What this meant is obvious. It was nullification, followed by a threat of secession.

It is well known that the demands of the Hartford Convention were never presented to Congress. When the delegates of that convention arrived in Washington they found a complete change in the situation. Not one of their assumptions had proved well founded. New Orleans had not been taken, and the English people had backed down completely. Peace had been declared, although every one of the British demands had been rejected, and notwithstanding these demands had been pronounced just by votes at the New England elections and by resolutions at New England conventions. In the face of such events the delegates could only have incurred ridicule by obeying their instructions, and they quietly went home. The men who had nearly led their State into treasonable conduct were never again heard from, and, for some time, Massachusetts was so discredited that she scarcely ventured to express a complaint of the Federal Government. As John Quincy Adams said: "Every complaint by her press was answered by the ironical advice that she should call another Hartford Convention."

For Burr's attempt to cleave off the Southwest, and for South Carolina's nullification of a Federal statute, we must refer the reader to the book itself, where, also, he will find some eighty pages devoted to the movement which culminated in the secession of the Confederate States. Of interest, also, is a concluding chapter in which are indicated some of the dangers to the permanency of the republic. We should note, however, that we cannot accept the author's view of the Income Tax, nor do we share his apparent desire to minimize the powers of the United States Supreme Court. We are glad to record, on the other hand, that he does not entertain the notion that there has been deterioration in the character of our public men during the last hundred years. He reminds us that a member of the First Congress, after the Constitution, penned a letter to another: "What a damned set of rascals we had in that Congress." Yet those Congressmen were largely made up of what the Federalists called "the best people." In 1796 Oliver Wolcott, a member of Washington's Cabinet, wrote: "I believe there never was a public body that deserved less of public confidence, who were more ignorant, vain, and incompetent than the mass of the present House of Representatives." Well founded, also, is Mr. Powell's protest against the growing tendency to criticise the Federal Senate, and to demand its reconstruction on a different basis. It is, of course, possible constitutionally to provide that the Senators apportioned to each State shall be elected by the people of that State, instead of by its Legislature. But not even by a constitutional amendment is it possible to deprive any State of equal representation in the Senate without its own consent. It is idle, therefore, for Dr. Von Holst to urge the unwisdom of allowing "the Legislature of Nevada, with a population barely sufficient for a third-class city, to delegate two men to stagnate 70,000,000." Equally futile is it for Gen. Trumble to descant on the absurdity of allowing those same Senators, "representing 40,000 people, to pair with those of New York, representing 6,000,000." As Mr. Powell reminds us, this inequality existed in 1787, and the members of the Philadelphia Convention were keenly alive to it; nevertheless, they allowed Delaware to balance Virginia, New Jersey to balance Pennsylvania, and Rhode Island to balance Massachusetts. But for acquiescence in those balances no Constitution could have been framed by the Convention. The key of the Federal Union is State equality in the Senate. There lies the safeguard of the Federal principle, the only principle that can combine together a whole continent in political fellowship.

M. W. H.

Spain in the Nineteenth Century.

It is a timely book which Mrs. E. W. LATIMER has given us in the volume *Spain in the Nineteenth Century* (Chicago, A. C. McClurg & Co.). It is, so far as we know, the only continuous English history of Spain during the period mentioned, in the course of which Spain has had no fewer than seven Constitutions, and, occasionally, two at a time. It is a pity that the author of this book did not set forth in some detail the Constitution established after the restoration of the Bourbon monarchy, which, with some amendments, exists to-day. She brings out clearly, on the other hand, the fundamental cause of the difficulty experienced by the dynastic parties, whether nominally Conservative or nominally Liberal, in carrying on the Government. That cause is the existence of two irreconcilable parties, neither of which will be content with anything short of the subversion of the present Constitution. We refer to the Carlist party, which retains considerable strength in the Basque provinces, in Navarre, in Aragon and in Catalonia, and to the Socialist or Red Republican party, which has a good many followers among the workmen in the large cities and among the agricultural laborers of Andalusia.

In a concluding chapter on Cuba, Mrs. Latimer makes the mistake of assuming that two-thirds of the population of the island are colored persons. "Can the United States," she asks, "want a million more free blacks to be added to our population?" The last census showed that persons of "color," including under that term every trace of negro blood, were outnumbered by inhabitants of pure white descent in the proportion of 2 to 1. There is no ground, either, for her apprehension that the establishment of a regular Government would not bring back to rural labor the men who now constitute the rebel forces. It is the guerrillas who fight upon the Spanish side that may be fairly described as "brigands," and they would, doubtless, give some trouble, even after the independence of the islands was acknowledged. But they would soon be rooted out, for the vast majority of the population is law abiding. We are glad to see, however, that the author of this book is at pains to correct the impression current in England and France, that the insurrection is sustained almost exclusively by bands of savages, outcasts from Cuban society, and negroes, who carry on an irregular warfare of rapine and murder. Touching this point, she quotes with approval the statement of a well-informed and trustworthy witness who spent five weeks with the Cuban insurgents. It is admitted by this witness that the rank and file of the rebels in the east are blacks, but further west they are almost exclusively white, and here a negro is an exception in the insurgent forces. In Maceo's army a few of the officers were black, but usually they were white Cubans. The staff of Gen. José Maceo was largely composed of the sons of wealthy Cuban planters, of doctors, and other professional men, many of them educated in the United States and speaking excellent English and French. In fact, "almost every Cuban on the island is in sympathy with the insurrection. Nothing is more false than to suppose that only those who have nothing to lose favor the revolt. Rich and poor, educated and uneducated, even the children born in Cuba of Spanish parents, all are against Spain."

The American Geographical Society.

The American Geographical Society, established in this city, admitted 127 new members on Monday night. Besides increasing thus rapidly in its membership, it is established on a solid financial basis and its growing activity in the special field it occupies is most creditable. The day is not far distant when a new and more commodious building will house the geographical treasures it has been accumulating for many years and afford even better facilities to working geographers who have use for its large collections.

The latest statistics of the geographical societies of the world, in the *Geographisches Jahrbuch*, shows that the American Geographical Society, in its invested funds, is the richest in the world, though its income from annual dues is far exceeded by the Royal Geographical Society of London. Besides giving it much time and thought in their lives, some of its zealous friends remembered it liberally in their wills, and thus funds have been carefully husbanded, are still increasing, and there is no doubt that they will be wisely utilized in behalf of geographical interests.

The *Bulletin* of the society will hereafter be issued every other month, except during the summer, and members may now take books from the library for perusal at home, a great advantage for geographical workers and students. In some respects this library is unequalled by any of the book collections made by any other society at home or abroad. It contains much of the richest and rarest material, and when it is fully and conveniently displayed, as it will be in the new house, it will be a place of great attractiveness to all workers in geography.

Judge C. P. Daly, the President, has lived to see fulfilled the splendid promise of usefulness and influence for the society whose foundations he and his co-workers laid so hopefully. With its capital and collections it should become eventually by far the greatest geographical centre in this country. The day of pioneer exploration is nearly over, and the society may easily find better uses for its resources than the fitting out of expensive expeditions. In encouraging the best methods of school instruction in geography, promoting a higher standard of commercial map making, collecting new data for cartographic use, and all the manifold materials needed for reference by geographical workers, undertaking researches in special lines, and in publishing a periodical that will fully represent the best geographic study and progress, the society will have a field for useful activity.

Wouldn't Take $10,000 for His Tree.

From the Boston Record.

Jay, Me., claims one of the biggest trees in Maine. It stands on the bank of the Androscoggin, on the lawn of the late Dudley Bean. The circumference four feet from the ground is 23 feet, diameter 7 feet. About six feet from the ground there are seven branches radiating from its trunk which are from 18 inches to 24 inches in diameter. The branches spread over a space of ground 270 feet in circumference, or 90 feet in diameter. Where the branches leave the trunk of the tree, about seven feet from the ground, there has been erected a band stand, which seats twenty-five persons. A cooler place on hot days cannot be found. A Boston gentleman was riding by recently, and the tree attracted his attention. He examined and measured it, and was astonished at its dimensions. He went away with the remark that if the tree was on his lawn $10,000 wouldn't buy it. It was set out forty-two years ago by Lafayette Bean on the day of his departure for California, whence he never returned.