

WASHINGTON.

"Liberty and Union, now and forever, one and inseparable."

SATURDAY, JULY 24, 1847.

THE LATEST PROCLAMATION.

The Californian document, which we copied into our paper of Saturday last from the New Orleans Picayune, seems beyond question to be authentic. It is copied from a journal published at Puebla, where the main body of Gen. Scott's army was then in possession, and was there copied from the Government press of Mexico, the *Diario*.

This new manifesto is, from beginning to end, but a re-production of the previous SLOAT and KEARNY proclamations, long since disavowed by the Executive here; but, as some time since we were compelled to show, disavowed without the slightest sincerity. The present paper is, we repeat, substantially the same, the chief difference being that the stretches of power assumed by Gen. KEARNY, as bestowed upon him by the President, are less plainly worded in some points. It is therefore evident, we think, that this instrument has been supplied to the Executive Viceroy in Monterey at a period subsequent to the murmurs of astonishment with which the disclosure of the first Santa Fe and Californian proclamations was received through the United States at large. As, then, both the external and internal evidence of authenticity satisfies us, it is our duty not to let pass, without a strong if brief exposure, the fresh flagrancy of such an Executive act.

This proclamation dates above four months back. The authority, therefore, under which it is issued must have been granted by the Executive probably as early as December last. If bestowed, however, subsequently to the assembling of Congress, these extraordinary powers were bestowed, without consulting either branch of it, out of the personal, not the official power of Mr. POLK alone; for the President of the United States neither has nor can delegate any such authority; and if these merely usurped, illegal, voluntary, discretionary authorities were bestowed before the meeting of Congress, the President—or rather Mr. POLK—has not chosen even to seek to obtain, by a legislative sanction, such cure as Congress could give, by its assent, to merely imperial acts; nor even to do the Legislature and the country the grace to inform them of these astonishing assumptions. Nay, the Executive has actively concealed, by denial of the fact, these monstrous violations of not only all that is legitimate under domestic and constitutional but even national law; and, dispensing himself from these, has equally dispensed himself from even the poor decorum of asking the Senate's concurrence in the bare appointment of a Governor to a perpetual Territory of the United States, constituted such by his own single and absolute individual pleasure alone.

We have called the appointment itself vice-regal; yet that name falls far short of the sweeping and universal powers which this proclamation now incontestably exhibits Mr. POLK (not the President, for he could not) as conferring upon Gen. KEARNY. Never did the absolute monarch of Spain bestow upon any viceroy set over Mexico such unlimited faculties; for even such royal deputies held under the laws of Spain at least, and could not, at their will, declare in force (as Governor-General KEARNY may do) whatever code liked them. Nor, indeed, did Spanish despot ever appoint viceroys without at least consulting the Council of the Indies. The new office and the new province, then, are more like those satrapies which, at the height of the Persian power, the potentate whom the Greeks were accustomed to call "the Great King," sent out with unlimited command of life and death. Never was Roman consul or pro-consul invested with such rights until, all freedom having ceased, an Emperor, like Domitian, no longer deigned to assemble the Senate, except to mock them with idle and insulting questions.

It must be recollected that the only possible excuse for this war, as made by the President, is that the Rio Bravo is the rightful boundary of Texas, and that the act of annexation constituted all on this side of it legally and actually a territory of the United States. If so, we need not say that Santa Fe and its population were subject to no law, and could have no governor, except such as are given by the ordinary legislative, judicial, and executive authorities of the Union. By what has been done in Santa Fe, then, the President—or rather Mr. POLK—has involved himself in this inextricable dilemma: that either he has invaded Mexico, or that he has upon a United States territory trampled upon every law and every right.

Nor, though different, is the case less monstrous which he has made against himself in California. Whether, previously or subsequently to his taking possession there, a part of the United States, the Executive is a mere usurper, and the wantonness of usurpers, when he undertakes to do any acts there which do not inure in the ordinary Executive power over a Territory of this Union.

If he would shelter himself (as his apologists say he may) under the military power of commander-in-chief *ex officio*, that does not better the matter: for, as commander of the armies of the Union, he can take no civil powers; or, if he can, he can equally take them over the entire Union, and has just as much right to send Gen. KEARNY to Virginia and North Carolina, there to take upon him all authority, alter their laws, remove or abrogate their officers and their State functionaries, as to do this in California.

We have said that these usurpations are most wanton. It is now about a year since military measures were taken for annexing New Mexico and California. The success of those measures was considered, by the Executive, certain; arrangements were therefore taken for the administration of legal and permanent acquisitions: instructions were issued for their civil government: territorial officers were provided. Now, all this was done before the meeting of Congress. Say that there might be circumstances under which a temporary and provisional establishment of this sort might be justified, as necessary; here, no such necessity can be pleaded: a military possession was the only one which could be pretended or has been effected. But had it been otherwise, it was the inevitable duty of the Executive to terminate, at the earliest date, that illegal state of things, by coming to Congress for the legal enactments which were wanted. Mr. POLK has suffered an entire session of Congress

to pass away, not only without taking that necessary step, but has not even deigned to refer to Congress the great and paramount question which they alone were competent to decide—the question whether or not we would annex to the United States countries which not even Conquest can make rightfully ours, until Mexico shall, by a treaty of peace and session, have given us a title.

The President has, says this new rescript, "devolved" upon Mr. KEARNY the civil government of California. Is this new phrase some ingenious invention of Strict Construction, meant to avoid the Constitution, which says that the President may, by and with the advice and consent of the Senate, appoint? Mr. POLK has not appointed Mr. KEARNY: he has "devolved" him!

Is not the new civilian still a Brigadier General in the Regular Army of the United States? And can there be any thing more contrary to all the spirit of our institutions, or to every thing republican, than this uniting in the same person the civil and the military functions? But Mr. Viceroy cumulates even upon these: he is supreme legislator, and, if he likes, Chief Justice of California, our eternal territory! He may give these perpetual citizens of the United States as much or as little of their new birthright, the Constitution, as he shall judge wholesome for their young stomachs: babes are not fed with meat.

Of their joint skill in such interpretation, we are already favored with an exquisite sample: the Constitution says that "Congress shall make no law respecting an establishment of religion or abridging the free exercise thereof;" and the very first thing which the potentate and sub-potentate do is, to make a law respecting an establishment of religion, and abolish the established church of California! These profound and cautious jurists have evidently construed the Federal Constitution as conferring on Congress the power actively to bring about religious equality; whereas the whole object was to prevent their meddling at all with religious matters. One would think that the President of the United States at least might know that religious disabilities against the Catholics existed, until of late, in the State from which he draws his origin, North Carolina; or that they still exist in the superlatively Democratic State of New Hampshire.

"It is the desire and intention of the United States" (these new freemen are condescendingly informed) "to procure for California as speedily as possible a free Government, like that of their own Territories; and they will very soon invite the inhabitants to exercise the rights of free citizens in the choice of their own representatives, who may enact such laws as they deem best adapted to their interests and well-being." Happy freemen! that shall be free some day or other! Happy citizens of the United States—in prospect! Fortunate territory, that shall have "a free Government like one of our own Territories," at some future time! But by what hocuspocus has all this been found out? "It is the desire and intention of the United States!" Who has any authority to say so?—unless *ego et rex meus* are the United States!

The Californian magistrates are to remain in authority, provided they swear to be faithful to the Constitution of the United States. This is better and better. That they are not capable of understanding what they are to administer is certain enough; but no matter.

The operation by which the New Mexicans were through Gen. K., erected (he called it "absolved") from their allegiance to their own native and voluntary Government, is now, by virtue of a proclamation, repeated upon the Californians: the President and the Governor—who are the United States—take the Californians to themselves.

The Californians "that be regarded as citizens of the United States;" will be to say, regarded as citizens in every thing but the rights of citizens: as citizens who may be hung, shot, or whipped, at the pleasure of courts martial or a grand jury of foreign soldiery!

But "as long as the sun shall shed its light, the stars and stripes shall wave over California!" So have royal and viceregal will pronounced. The United States have no voice, Mexico no rights, in the matter! This is, indeed, throwing off the mask entirely, and dismissing all pretences of justice, or peace, or settlement. Nor is it less perfidious than unjust, nor less foolish than either. At this instant, the Executive is pressing upon Mexico for a negotiation, terms of fair and honorable peace for both sides; while here its envoy, Mr. TRIST, is confronted with its proclamation that it means to keep, subject to no negotiation, near one-half of the Mexican territory!

A thing more monstrous in the eye of National Law or Justice has not been done for centuries. Even in Afghanistan and China, Britain took as hers nothing but as a momentary advantage, subject to treaty and restitution. And, finally, we raise our voice once more in warning to the country, that the President is making no real conquests in Mexico: it is only the Constitution of his own country that he is conquering.

ALABAMA.—GOVERNOR MARTIN, who was elected Governor of the State of Alabama in 1845, in opposition to the regular Democratic candidate, has withdrawn from the canvass this year, and left a clear field to Mr. REUBEN CHAPMAN, the nominee of the Democrats, and Capt. NICHOLAS DAVIS the candidate of the Whigs.

An examination of the Midshipmen attached to the Naval School at Annapolis is now going on under the supervision of the following gentlemen: Com. THOS. A. C. JONES, President of the Board; Commodores PARKER and SLOAT, and Captains DRAKE and PAULDING.

The Secretary of War has instructed Lieut. Col. IRVIN, of the second regiment Ohio volunteers, recently returned from Mexico, that, if the regiment is reorganized so as to consist of a large portion of the old officers and men, its services will be received for the war in Mexico. Col. IRVIN has communicated this order to the officers of the regiment, some of whom are endeavoring to reorganize it.

A letter written from China, and addressed to a person in the city of Nantes, in France, by a French missionary, states that several captains of vessels, belonging to the marine of the three nations of France, England, and the United States, had been received into the presence of the Emperor of Japan, from whom they had solicited the opening of the ports of his kingdom to the commerce of Europe and America.

The Alexandria Gazette says that examinations are making in Prince William county, Virginia, for copper, and that so far they have been quite successful. The Gazette adds that 2,500 pounds of ore have been shipped to Boston with a view of determining its quality.

COMMERCE AMONG THE STATES.

The Chicago Convention has been made the occasion, on the part of several Administration journals, for renewing all the common-place objections to the exercise by the Government of the power of internal improvement. The editor of the official journal in particular, by way of sustaining the doctrines of the Veto of President POLK, has occupied several numbers of his paper with a reputation of the almost forgotten quiddities of "construction construed," and other antique Virginia authorities, which it would have been more charitable to permit to slumber undisturbed on the shelf. The folly of this resuscitation of antiquities, on the part of the government editor, is rendered the more signal from his having selected the letter of Mr. WEBSTER to the Chicago Convention as the text for his lucubrations—a selection certainly more commendable for its boldness than his discretion. The opinions offered by Mr. WEBSTER in that brief letter, naked and unargued as they are, have all the force of self-evident truths and will be found as impregnable to the shafts of the editor of the "Union" as the same opinions proved in the Senate to the best abilities of the ablest champions of the "strict-construction" school. The fact is, that the common sense of this practical age has settled these questions irrevocably against the school of abstractionists, and we hardly know of one in the whole range of constitutional powers of which it were now more needless to enter on a formal argument. As, however, the editor of the "Union" has taken occasion to re-assert opinions which it devolved upon us years ago and oft to controvert and expose, we will briefly repeat some of the more obvious arguments on the other side, in respect to that branch of internal improvement had in view by the Chicago Convention.

The Constitution of the United States declares that "Congress shall have power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes."

Under this power Congress have not only regulated foreign commerce, by imposing duties upon articles of foreign growth and manufacture, but they have legislated upon all the exigencies arising out of an enlarged commercial action. The instruments of commerce—such as the vessels in which it is carried on; the papers which identify and give a character to the cargo; the duties of the men who work the ship; and, in short, every thing which pertains to a commercial intercourse with foreign nations, is a subject for national legislation. But the power is not limited to these objects. It has been exercised on the seaboard to enlarge our harbors and make them safe, by the construction of piers, breakwaters, and other works. Lighthouses have not only been established at our Atlantic harbors, but on our sea-coast, as guides to our vessels. The pilot laws of the States have been adopted by Congress, which make them, in effect, national acts. All this, and much more, has been done under the general power to regulate foreign commerce.

Now the question is, whether this same power may be exercised in the regulation of commerce "among the several States." The power is given in the same sentence, and in words of the same import; and, unless there be something in the reserved powers of the States, or in the local circumstances of the case, it may be exercised to the same extent.

Before the adoption of the Constitution, counteracting commercial regulations were made by the respective States, which excited local hostilities, that endangered the peace of the Confederacy. This was one of the principal causes which led to the formation of the Union. In the Constitution the object is declared to be "in order to form a more perfect union, establish justice, ensure domestic tranquillity," &c. The power "to regulate commerce among the several States" being vested in Congress, the same power cannot be exercised by a State, or by any number of States less than the whole, and in the form authorized by Congress. A State may regulate its own internal commerce independently of the Federal power. The words "among the States" limits the National power to two or more States. And it may be admitted that Congress cannot, among the States, adopt any commercial system which shall operate unequally. They cannot raise a revenue to the Union by taxing articles imported from one State to another. By the fifth clause of the sixth section of the Constitution it is declared that "no tax or duty shall be laid on articles from any State," &c., and "vessels bound to or from one State shall not be obliged to enter, clear, or pay duties in another."

In our foreign commercial relations we adopt, either by treaty or legislation, such regulations as are deemed politic and just with a nation, without regard to other nations. The States of our own country, in regard to this power, are a unit, and stand upon an equality. But, whatever differences there may be in the Federal exercise of the commercial power "with foreign nations and among the several States" in respect to the imposition of duties and other matters, there is none in regard to the facilities of commerce. Lighthouses may be placed upon our lakes, bays, and rivers, the same as upon the sea-shore; and the obstructions to commerce may be removed, and harbors opened and improved, in the one case the same as in the other.

If Congress may construct a breakwater over the Delaware to protect our vessels, they may do the same thing in our navigable rivers and bays falling into the Gulf of Mexico. Congress requires the registration of vessels engaged in internal commerce as it does of those engaged in external commerce. Officers of our internal ports have been appointed under their authority. Steamboats, which ply between places and ports in different States, have been regulated; and obstructions have been removed, until recently, from the Ohio, Mississippi, Red, and other rivers. This commercial power has been exercised by Congress in a greater or less degree from the formation of the Constitution; and it is unaccountable how, upon any established rule of construction, a different decision is now maintained. Whether we look to the Constitution or to its established construction, the power under consideration is equally clear. And we may remark that the commerce among the States requires the fostering care of the Federal Government as much as our foreign commerce.

The commerce among the States is three times greater in amount than our foreign commerce. Indeed, the property that annually floats upon our Western rivers and lakes is in value much greater than that which we export to and receive from foreign countries. Is it not extraordinary, then, that under such circumstances the new construction

of the commercial power should find advocates in the West?—a construction not only against the letter and spirit of the Constitution, and in violation of the long-established rule on the subject, but fatal to the commercial prosperity of the West?

For commercial purposes, Congress have jurisdiction over navigable rivers and lakes, which in no respect interferes with the jurisdiction of the respective States. Over the quays extending to low-water mark on our rivers, bays, and lakes, the Federal Government can exercise no jurisdiction, nor can it exercise a jurisdiction over similar improvements on tide water. No one doubts that, under the commercial power, Congress may adopt any system of laws to facilitate our commercial action, which shall apply to our internal as well as our external commerce. The principles of the maritime law may be thus extended, as has been done over our lakes and the rivers which fall into them.

THE FOURTH IN SOUTH CAROLINA.

The Charleston Mercury gives a description of the late celebration of the 4th of July at Calhoun's Mills by the Abbeville Artillery Company; and the proceedings fully sustain our good opinion of the manner in which such matters are conducted in the Palmetto State. Passing by the ceremonies of the day, such as the presentation of a flag, the delivery of a set oration, and a sham fight between the Artillery and a company of infantry, we come to the toasts, the letters, and the speeches. Amongst the first, after the requisite avowals on the subjects of the day, the constitution, Southern institutions, and free trade, we find the following:

"Our Senators in Congress: As watchful to discover disguised assaults upon the rights of their constituents as they are prompt and able to expose and repel them."

Mr. BUTLER, one of the Senators from South Carolina, being present, responded to this toast, and his speech, though manifestly not fully reported, is well worthy of public attention:

"Mr. BUTLER (says the Mercury's condensed report) spoke in high compliment to Mr. Calhoun. He said he himself entered the Senate unprepared upon the great questions debated in that chamber; that he felt his embarrassment, and frankly told his colleague that upon some questions they might differ, but that, on those questions which he had not studied or fully comprehended, he would be guided by the light of his acknowledged wisdom and integrity. Mr. B. then spoke of his intention on entering Congress to support Mr. Polk's Administration; but that the course pursued by the President could not meet with his approbation, but rather of itself forced him into opposition. He alluded in no measured terms to the attempt to create a Lieutenant General with proconsular power. He spoke of it as a measure that would disgrace the honor of the professional soldier, and virtually disband the regular army. The power given to this civic-warlike Lieutenant was illustrated by Angelo in the play: 'We have with special soul elected him our absence to supply; lent him our terror; dressed him with our love, and given his deputation all the organs of our own power—What think you of it?'"

But we will pass to the main subject of Mr. Butler's speech, the Wilcox Provision. Upon this momentous subject, which terribly agitates us now, but which in a few months will set our blood on fire, Mr. B. gave only his sentiments, as a Southern and constitution-loving man. He said the imagination of a disrupted Union appalling him; it overwhelmed his mind, and left no reason to determine the course to pursue if this accursed reason to the constitution should be enacted. Upon the course to be pursued in the event this or some other similar proviso be enacted by Congress, he had none to offer. He confessed his inability to propose, and would leave it to those of more wisdom and of longer experience in political life to determine the course of the South. But in his mind there were two methods to avert the crisis. The first was, a holy union of all parties in the South, who would make this question the great volume of their political creed until the danger had passed away. This, though, he said, was impossible. And the second was, to distinctly state to the North our determination to maintain our political rights under the constitution at any and every hazard. Mr. B. was careful in not expressing opinions; he gave only his sentiments. To give his feelings on this subject, he quoted Mentor's remarks to Telemachus, when setting out on his travels: "You see I tremble before entering into danger; but when in, you see me no longer tremble."

We will close our synopsis of this speech with his remarks upon Mr. Polk. Senator Butler seems to condemn the President for his huge faith in the Democratic party. Nothing could be done unless in the name and by the invocation of the Democratic gods; the war must be a Democratic war, commanded by Democratic officers, and each battle fought in the faith of the Democratic creed. After censuring Mr. Polk for this unseemly faith, he praised Gen. Taylor the complement of having fought the greatest battle on this continent, and which can be compared to the bloody field of Wagram alone. Mr. B. described the indomitable McDonald, heading his column of sixteen thousand men to retrieve the error and misfortune of the day in glowing language, and said this alone was to be compared to the achievements of Taylor at Buena Vista."

Here Mr. BUTLER touches the true issue between the President and the people in respect to the Mexican war. Although, as he affirms, he entered the Senate determined to uphold the Administration, he now deliberately tells the country that the President has been conducting the war, not with a view to national interests, but a single regard for the aggrandizement of the Democratic party. The Whigs have frequently charged the same thing, but this is the first occasion when it has been solemnly attested by a friendly witness. And what must be the judgment of the country upon an Administration which is thus proved to have been faithless to its highest trust—the protection of the honor, the lives, and the treasure of the nation?—*Richmond Times*.

PLURALITY LAW IN MAINE.—The Senate of Maine rejected the resolves contemplating an amendment of the constitution, providing that a plurality of votes cast at any election should secure a choice. The vote stood fourteen in favor of the proposition to twelve against; but two-thirds were necessary to its passage.

Gov. DODGE, of Wisconsin, intends—so say the Wisconsin papers—to call together the Legislature early in October, for the purpose of preparing another constitution, and the admission of the Territory into the Union. Before the adjournment of the next Congress, Representatives and Senators from Wisconsin may take their appropriate seats in the grand Council of the Nation.

CONGRESSIONAL ELECTIONS are yet to be held in the following States, viz. Kentucky, Indiana, Alabama, and Iowa, on the first Monday in August; in North Carolina and Tennessee on the Thursday following; in Maryland, October 6th; and in Mississippi and Louisiana, Monday, November 1st. The elections in these States will complete the members to the next Congress.

Mr. GEORGE W. CARR (Locofoco) has withdrawn from the Congressional canvass in the sixth district of Indiana, leaving DAVID M. DONSON the only Democratic candidate now in the field. This is the district which was formerly represented by the late gentlemanly Speaker of the House of Representatives.

MICHIGAN SERIP.—The Treasurer of Michigan has given notice that all Treasury notes (State scrip) bearing interest, issued under the "act to provide for the anticipation of certain instalments of the five million loan, and for other purposes," approved April 19th, 1841, and now outstanding, will be redeemed on presentation at his office in Detroit. Interest is to cease on the notes from the 8th instant.

THE WORKING OF THE CONSTITUTION.

Visionary as have shown themselves the results of much of that system-building which has prevailed in Government during the last seventy-five years, perhaps no one of these results has proved more illusory than the great and confident idea of the securities for freedom, and especially the fixedness, afforded by Written Constitutions; the supposed virtue of which has, thus far, been almost as little realized in the experiment as ever were the chemic hopes of those who, in the infancy of experimental science, were constantly flattering themselves that they had detected Nature's great secret of turning all the base metals into gold, or had achieved the preparation of some divine elixir that bestowed upon its possessor perpetual youth and health. Few things in the history of human error have been more remarkable, and one might say instructive, but that nations seem seldom to be very apt scholars, and often become, quite early, too old to learn. At any event, there is a certain point in their progress when their hearts become hardened, as were those of Pharaoh's people of old, and when they refuse to be taught either by the example of other countries or by their own experience.

If Written Constitutions, unsupported by the habits and fixed principles of a People, gave those certainties to freedom which they have been supposed to carry, how came it that France, from the assembling of her States-General down to the assumption of Empire by Napoleon, saw, within a dozen years, as many Fundamental Codes, all wondrously wise and free, and all witnesses in turn of nearly every evil which a Government can inflict, from the despotism of one cut-throat up to the furies of thousands? The most perfect and refined ideas that all the wisdom of the world, past or actual, old or new, could supply, were then embodied for France; and with what effect? Only such as will, while history shall last, make one of its strangest and most dismal pages.

Unwarmed, however, by the example, Spain, still less prepared than France for the innovation, caught the contagion of Constitutions; and how have they prospered with her, or with her neighbor and cousin, Portugal? So marvelously as to have converted the entire Peninsula, ever since, into a field of faction and of blood, where every man fights like a gladiator, while Europe gazes on the combat, utterly unable to divine for an instant what they are fighting for or what against.

Upon this continent, from the Sabine of Texas almost to Patagonia, the efficacy of Written Constitutions has been, for some twenty-five years, submitted to still wider tests. Let any man count, if he can, the fruitless crops of them which have been grown in Mexico, Peru, Colombia, Buenos Ayres, and all over Spanish America. "Plans," "pronunciamientos," "bases," "projectos"—every thing, from the germ of a Constitution to its gayest blossoms, has sprouted there, as fast as mushrooms in a sweltering September night, and perished in a succession almost as rapid as that in which they sprung into existence.

The virtue, then, of the Paper Constitution has no proof of its potency, that we are acquainted with, unless we take it from the success of that invention among ourselves. How far it has succeeded in this country, and, so far as it has not succeeded, why it has failed, are questions which are becoming daily more and more vitally important.

Viewing it fairly, the Constitution of the United States has both succeeded and failed. Down to 1828 it must be considered as successful to a very remarkable extent. Since that time, it is difficult for any candid man to deny that the paper bulwarks of our rights have been broken through, or battered down, almost wherever it has pleased power and party to bring a gun to bear upon them. The irresistible popularity of Gen. JACKSON enabled him to add to the Written Constitution, or to take away from it, whatever provisions it liked him; and the ready submission to his usurpations has taught the two last of his successors to usurp as boldly as he.

In a word, the Written Constitution has, in other countries, shown itself able to create no freedom, no political securities, where such did not previously exist in the constitution, temper, habits of the people: these must ever make the real Constitution: for Charters do not carry in them, independently of grantor and grantee, any particular energy which makes their execution inevitable. Such is manifestly the fact in other countries, where Constitutions have proved of no avail. In our own, where at one time they have been operative and at another at least partially nugatory, it would seem a strong conclusion that the amazing safety which they have been supposed to afford was such chiefly when there was no attack. Gibraltar, strong as it is, not only requires a brave, an incorruptible, and a skilful garrison, with plenty of munitions, to keep it, but a garrison numerous enough to man all its works: turn it, however, into a rock on paper and walls of ink, with tape and sealing-wax for the artillery, and you will find that not a mere garrison, but a great army is necessary to guard it; and that even such an army will fail, if the soldiers have no will to fight and the commander wishes the place taken. What is, in order that this should be otherwise, the instrument which we call a Constitution? It is a hope, not a reality; it is but a prophecy, not the event: the hope may be irrational just in proportion as it is bright; and the prophecy may be any thing but a genuine inspiration.

A Constitution is but a preface, not a book—a prologue, not the drama—the portico, not the church. If a wise one, it is a good finger-post, to show you where your road lies; but merely looking at the finger-post will not, unless you follow its direction, bring you to your journey's end.

For our part, we know very well how this matter stands, according to all history. We have already referred to the most notable facts, the recent ones; but these are far from being all. Written Constitutions are no modern invention: Antiquity knew them, and does not appear ever to have known them so little as to imagine them capable of affording, at a single and short effort of a people's or some legislator's wisdom and virtue and labor, something that was to make all further patriotism, sagacity, and public trouble useless. That enlightened idea was reserved for us last of the moderns. When Lycurgus remodelled the Spartan and Solon the Athenian Governments, we know that they gave their respective countries Written Constitutions. These things are, therefore, almost as old as history itself. Even in America, John Locke gave, as far back as about 1670, a philosophical Written Constitution to the Colony of Carolina.

It proved as great a failure as many other things of the sort. The world, then, at the very time when it was pleased to greet Written Constitutions as forming a new era and supplying a new principle in the Art of Government, was already in possession (if it had known it) of abundant evidence that this wonder-working resort had been repeatedly tried, without conferring any very particular transcendence of wisdom or efficacy or durability upon the institutions thus reduced to writing. Solon, and Mr. LOCKE (out of the last three instances we have mentioned, the nearest to modern times, and therefore the wisest) produced their Written Constitutions when not very young men; but lived long enough to have walked as pall-bearers to their own clogs, if any body besides had cared enough for dying laws to bury them with the honors of a procession. If we are right in the date which we have fixed as the fatal inroad upon our Federal Constitution, President MADISON and Chief Justice MARSHALL might have borne part in the same sort of obsequies.

Now, from all this what do we mean to infer? Certainly not the paradox, as idle as the opposite one, that Written Constitutions are worthless; nor even that they may not, in spite of some inherent objections to them which wise men comprehend, become, under happy circumstances, the bases of very perfect polities, which shall better than others withstand the lapse of time, though they may not defy the force of all human decay. We intend not to argue that there is no virtue in them; but merely that, even when best, there can be no such virtue, no such might in them, as shall, in the decline of the public spirit and the loss of the public sense which created them, preserve the governments, of which they should be the rule, from corruption, degeneracy, imbecility, usurpation; from the fury of factions; from that common bane of a government, too high or too low, the demagogue and the courtier, equally ready to flatter kings and the mob; and from all those other diseases of which States die, some old, some young, according as they were or were not healthy, temperate, prudent, and fortunate. Nothing, indeed, is more common, in public affairs, than to see the body of State survive its faculties, just as men live on in decrepitude and impotence, with scarcely the consciousness that they have lost all that made life worth having. The name of the "Democracy" was still as dear to Athens when she bent to the Thirty Tyrants whom SOCRATES alone (him whom she afterwards voted to death as a public corrupter and enemy) dared to resist, as when Miltiades and Cynon led her on to victory and greatness, or Pericles showed her how she might be the mistress of Europe; and Rome, when no longer even the Pratorian bands, but distant legions of Barbarians gave away the imperial diadem for largesses, still rejoiced in the title of "Republic," and held herself the sovereign people of the entire globe. These things perpetually repeat themselves, no matter what the original form of a nation's institutions, or what their degradation: in the very depths of public debasement, when but a shadow remains of what was once a legitimate pride—nay, at times, when nothing remains but a dim tradition of former greatness or freedom—a people is seen still to cling to the mere idea of a former superiority. No tincture so fast as the dye of a people's vanity. The Turk, forgetting present humiliation in the memory of times when as Europe trembled at the name of his master, still hails him as "the Light of the Universe;" the rat-fed Chinese looks scornfully upon Europe and America as lands of "Outer Barbarians;" the Mexicans have constantly grown more boastful as their freedom became less and their arms feeble: the Italian is still as vain as when Italy gave law to the world: Rome is prouder than all the rest of Italy, though now breeding heroes no longer; and it is not a hundred years since the Khan of a little Tartar horde in the deserts above the Caspian, mindful of the time when his ancestors ravaged continents, never rose, in his tent of skins, from his banquet of raw horse-flesh, without a trumpet and a herald's proclaiming "That all the monarchs of the world might now sit down to dinner!"

When nations change an old mode of government for a new (though better) one, the great difficulty is, not in devising a very wise and happy body of institutions, but in finding out their attendant difficulties, and in learning (for there's the rub) how that which they have designed may be brought about; how what was but a scheme shall become an effect; how what was but a foreshadowing shall be made the substance. All this must be the work of time, no matter how wisely and earnestly a country may set about it; and, meantime, before it can be accomplished, how fortunate if some domestic agitation of factions, or some foreign question seized and converted to their purposes, does not intervene, to postpone or even to mar that working-out of the Constitution to its proper practice, to its harmonious and complete body of precedents, and to its proper establishment of correlative administrative usages, all which are necessary to convert the Written Constitution into the real, the Constitution into the Government! The conjuncture of some foreign event, not really involving the principles or the safety of the Government, but rousing public passions or sympathies, may cast every thing at sea again, as happened when, in the very outset of President WASHINGTON's labors to set our new institutions fairly and soberly to work, the French Revolution and the contagion of all its wild Jacobinism came, to found for us disorder just when every opposite influence was needed, and plunge us, who had made our Revolution into a new one, which would have been utterly without object, unless a change of persons, not of principles; for principles, besides that those of General WASHINGTON have since proved themselves to be right, had scarcely begun to be tried, and were then judged, not by their agreement with what it was his duty to carry into effect—our own scheme of constitutional organization and action—but by their conformity to new doctrines, and the wants, at best, of another quarter of the globe. There, the tyranny of kings and nobles and a hierarchy had been justly shaken off: there the people had, for the first time, risen into a political existence: but what had we to do with the downfall of princes or priests or aristocracy, when our land had scarcely ever known them, and now knew them no more? Or what signified popular emancipation to us, who were all people, and can be nothing else? Yet, motiveless as was the emulation of French principles which then suddenly arose amongst us; strong as were our public inducements to perfect our own