

ished for treason against the State of Rhode Island. But he was not charged with treason against the United States; not charged with attempting to subvert the Government of the United States, although Rhode Island was one of the United States, and subject to the Government and laws of the United States. The purpose of Dorr was limited to the subversion of the State government, and therefore his treason was against the State of Rhode Island. And whenever the case shall occur that a revolutionary Convention in this State, without the consent of the State government, shall undertake upon the power of numbers to assume to itself the right to sweep away the existing State government, as was done in Rhode Island, and to organize a new State government upon a more popular basis, or upon any other pretext, and shall then by force of arms attempt to carry its purpose into effect, then all those who may be so engaged will be guilty of treason against the State of Maryland.

Now, sir, we have never been left in any doubt, from the foundation of the Government of Maryland to the present time, as to what has always been considered a treason punishable under the laws of the State of Maryland. I believe the law, down to 1860, had been uniform. It was:

"That every person convicted of the crime of treason against this State, shall suffer death, or be sentenced to the penitentiary for not less than six months or more than twenty years, at the discretion of the court."

There was not, however, in that act, any definition of the crime of treason. The courts were left to define what constituted treason, as they were left to define what constituted murder, *ars. n.*, and a great many other crimes that are enumerated in the act of 1805, by reference to the sources of that branch of criminal jurisprudence which they were left to exercise, the common law and the statutes of Great Britain applicable to us as colonies, and which were in force at the time of the Revolution. The statute of Edward the Third was then in force, and the State left to the courts to define the crime of treason under the statute of Edward the Third. That statute will be found in the first volume of the Code, page 252.

But an alteration in the act was made by the Legislature of the State in 1861, and a more definite definition, if I may so speak, was made of the crime of treason. That act does not use the word "treason," but describes an offence which is treason. It is in these words:

"If any person shall levy war against this State, or shall adhere to the enemies thereof, whether foreign or domestic, giving them aid or comfort, within this State or elsewhere, and shall be thereof convicted, on confession in open court or on the testimony of two witnesses, both of them to the said overt act, he

shall suffer death, or be sentenced to confinement in the penitentiary, for not less than six nor more than twenty years, at the discretion of the court."

There we have the definition of the crime of treason against the State of Maryland. It consists in levying war against the State of Maryland. What is that? It is to attempt to subvert the State government. It seems to me there can be no difference of opinion about that; that nothing less than an organization to attempt by force of arms to subvert the State government of Maryland, can possibly be held by any judicial tribunal in the State to be levying war against the State. And I do not see that any definition is proposed to be given to treason by any amendment offered here, which contemplates any alteration of the definition made by the Legislature of 1861, composed of some of the ablest lawyers in the State, who had this whole subject under consideration, and who fixed the definition of treason so as not to conflict with the Constitution of the United States; and it will be found that throughout this whole act, usually called "the treason act," the offences for which punishment is prescribed, are offences against the State; particularly excluding the idea that this State has any right to punish any offences that come under the criminal jurisdiction of the United States. The idea of making a man amenable to two separate and distinct jurisdictions, for the same criminal act, was certainly never entertained by any person in this enlightened country, where the principles of jurisprudence are sought to be exercised in the light of the Christian religion and of a refined humanity.

We thus see what it is we may do. And I therefore suggest that the amendment of the gentleman from Baltimore city (Mr. Stirling) ought to be amended by adding after the word "treason" the words "against this State," in order to exclude any idea that anything else was contemplated. I am sure that a moment's reflection will show that nothing else can be contemplated, for nothing else can be effected.

Then after that amendment shall have been made, and the proposition is submitted, whether we will, as the punishment of treason thus defined and understood, alter a Constitution which has existed for the last twelve or fourteen years—that Constitution says that no conviction—it is broad, "no conviction," not only of treason, but of any other criminal offence, "shall work corruption of blood or forfeiture of estate"—then the question will come up whether this Convention is prepared to say that that was too humane a provision to have been incorporated in the Constitution of 1850, and to be retained in the new Constitution, and that we must go back to the earlier ages, in which more severe punishments were inflicted, for the purpose