

teration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislature of every State."

They spoke of the Confederacy as a Union, which it was not within the power of the States to dissolve—"The Union shall be perpetual." The title of the confederacy was, as the title of our present National Government is, "The United States." Each State was to have one vote in Congress. Nothing was effected in regard to certain powers that did not receive the assent of the States particularly as such, and I suppose nobody will maintain that the articles of confederation established any sovereign government, any paramount government. That was the confederation.

Now, sir, what effect was wrought by the adoption of the Constitution of the United States? The Constitution of the United States was adopted, not for the sake at all of forming a nation; not for the sake even of forming the present system. Because it is notorious that the delegates who were appointed, were appointed merely to alter the mode of exercising the powers of the confederation, so as to contribute to the practical and material advantage of the people of the States as they existed, and nobody, in Maryland or anywhere else, ever dreamed that those delegates, who went to Philadelphia for the purpose of suggesting those amendments to the articles of confederation, would propose any new scheme of government. They afterwards did agree upon a new form, and it was ratified by the people of the several States. I believe Maryland was one of the very earliest, if not the very first, to make the suggestion that such a Convention should be called. State action, therefore, was at the bottom of it. The "people of the United States," never called the Convention to frame the Constitution of the United States. The people of the separate States, by State action, without any rule, without any basis of representation, sent their delegates there; those delegates met, framed a Constitution, and provided that it should be the supreme law—among whom? Among all the States? Why, sir, all the States were not represented in that Convention, until a very late period. The Constitution was to go into effect, whenever it was ratified by nine States, as between the States so ratifying it. You say this is a consolidated Government and has been so from the first. I demand an answer to this question: What would have been the political position of the four States who might have refused to ratify that Constitution, even if the other nine had ratified it? I hold that they were free, sovereign, independent communities at that time. And I claim that if that is acknowledged, I get the advantage of the whole argument.

Now, sir, what would have become of the States not ratifying the Constitution? Where would they have been? What would have been their status? The Convention was to go into force, not over them; but whenever ratified by nine States it was to go into force as between the nine so ratifying it. Suppose Maryland had not ratified it and Pennsylvania had. Where would we have been to-day? Would we have been an appanage, a province, a lost jurisdiction? I apprehend we would have stood upon the same foundation that the sovereignty of Great Britain stands upon, except that we might not have been as powerful; I have some doubts even about that; but I am satisfied we should have been equally happy. That is the mode in which the Constitution was adopted.

I find that I shall have to hurry over a great deal of very important points that I desire to make. One argument in regard to this doctrine that we are one people—"the people of the United States,"—the great argument is, that in the preamble of the Constitution, it is said the Constitution was made by the "people of the United States."

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, 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."

It was my design to have read from this book of Judge Upshur's, the most remarkably clear and beautiful passage I have ever met with in the whole course of my reading. But I will state the substance of it. It is an argument upon States' rights, and is absolutely unanswerable. In the first place admitting that the preamble does state that the Constitution was framed by the people of the United States. A preamble cannot control the statute. The meaning and effect of a statute must be controlled by its own language. A preamble of itself has no weight in bringing us towards a proper construction. Suppose it had been stated in the preamble that "the people of France, Great Britain, Spain, Kamschatka, do form this Constitution for the people of the United States." That so far as it went, would be an arrangement, *pro tanto*, to show that the people of those countries formed the Constitution. But it would have been contradicted by the facts contained in the body of the Constitution itself. That is sufficient as far as it goes.

But there is a historical fact connected with this phrase, "we, the people of the United States," and I am so particular about it because that is at the bottom of all this idea that the people of these United States are a sovereign community—that they have been the receivers of this sovereignty with