

who consider each other as enemies, and acknowledge no common judge. These two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them? Who shall pronounce on which side the right or the wrong lies? On earth they have no common superior. They stand, therefore, in precisely the same predicament as two nations, who engage in a contest, and being unable to come to an agreement, have recourse to arms." (Vattel, Book 3, ch. 18, sec. 293.) To attempt to apply, under such circumstances, to a belligerent people, an Act of Congress, which was meant as a domestic remedy, in aid of civil process and to secure obedience to the laws under judicial proceeding—in States still recognizing the authority of the Union and the jurisdiction of its tribunals—was to trifle with the understandings of educated men. To issue a proclamation to three millions of free Americans, composing seven powerful States, and asserting the sacred and indefeasible right of self-government, with arms in their hands, and "command" them as "insurgents" to "retire peaceably to their respective abodes," like a mob at a street corner, was an absurdity too gross to be here respectfully discussed. No government would venture to palm such an imposition upon a people, except in the well-assured confidence of absolute power. Nay, in the passionate excitement of the moment, the President forgot even the suggestions of politic decorum, and did not hesitate to transgress all possible constitutional limits, and confess a purpose of animosity and revenge, by distinctly calling on the people, whom he summoned to the field, "to redress wrongs already long enough endured." The Proclamation, therefore, meant war, and nothing but war. It could signify nothing else, and to attempt to cloak its meaning and purpose under the flimsy pretext of "executing the laws" and "suppressing unlawful combinations," was but to cover up a flagrant usurpation with words.

Neither the Constitution nor the laws of the United States can be tortured into conferring the war-making power upon the President in any contingency. Where foreign nations are concerned, the plain language of the fundamental law entrusts it to Congress only. As against the States of the Union, the possibility of such a