The South.

FRIDAY AFTERNOON, AUGUST 15, 1861.

A WELL-REGULATED MILITIA BEING NECESSARY TO THE SECURITY OF A FREE STATE, THE RIGHT OF THE PEOPLE TO KEEP AND BEAR ARMS SHALL NOT BE INFRINGED.—*Constitution U. S., Amendments, article 2.*

No Soldier shall in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.—*Const. U. S., Amendments, art. 3.*

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, *shall not be violated*, and no Warrant shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.—*Constitution U. S., Amendments, art. 4.*

"To secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed."—*Declaration of Independence, July 4, 1776.*

It is idle to say that the power of taxation (or, by parity of reasoning, any other power) rests on consent, provided there be a right claimed for the government to compel that consent by force.—*Say, Political Economy, Chapter on Taxation.*

"That *in all cases, and at all times*, the military ought to be under strict subordination to, and control of the civil power."—*Declaration of Rights of the People of Maryland.—Art. 27.*

Can anybody show a different principle in the Constitution of the United States?

"That no man ought to be *taken, or imprisoned*, or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of life, liberty, or property, but by the judgment of his peers, or by the law of the land."—*Declaration of Rights of the People of Maryland, Art. 21.*

Notice to Correspondents.

In consequence of the multitude of anonymous communications received every day, it is found necessary to remind correspondents, that in no case can any notice be taken of any communication, unless accompanied by the name and address of the writer, not necessarily for publication, but as an evidence of good faith.

THE SOUTH is published every afternoon, after the arrival of the mails, and consequently contains all the latest news by mail and telegraph, up to the hour of publication, and fully twelve hours in advance of the morning papers.

FOR SALE by all the principal newsmen in this city and throughout the South. Persons desiring Agencies for the sale or distribution of the Paper in any particular Town or neighborhood, will apply to the Publisher.

ORDERS for the Paper will be received at the Office of Publication, No. 74 Baltimore street. If sent by mail, must be accompanied by the cash.

THE usual discount in favor of Newsmen and Agents. Postmasters and others forming Clubs of Ten will be furnished with one Copy *gratis*, or *ten* copies will be sent to one address, upon receipt of the subscription price for *nine*, for the time ordered.

PROGRESS OF DESPOTISM—EXPERIENCE OF LESS THAN A WEEK.

On Monday morning, the Honorable Charles James Faulkner, late Minister to France, was arrested at his lodgings in Brown's Hotel, in Washington city, and conveyed to prison under an escort of soldiers, his papers and baggage were at the same time taken into the custody of the government, and a military guard set over his apartments which no person was allowed to enter. The arrest was not made by any civil officer or in pursuance of any warrant issued by any civil tribunal. It was made by the Provost Marshal of Washington city, but by whose order and upon what charge has not transpired. At first Mr. Faulkner was taken to the common jail, and confined in a filthy prison with rogues and criminals of the lowest class, but on Wednesday he was removed to more comfortable quarters. He is still kept in the closest confinement, and denied all conversation and correspondence with his family or friends. Mr. Faulkner had just returned from Europe, and was engaged in settling his accounts at the State Department, prior to returning to his home in Virginia. Various surmises are afloat as to the cause of his arrest, but all information on the subject has been carefully withheld by the Government, nor has any intimation been given of the probable disposition which will be made of his case. This is the despotism of the sword.

On the same day, Monday, the office of the Bangor *Democrat*, a journal opposed to the war, published in the town of Bangor, Maine, was entered by a mob who destroyed the type and presses, and roughly handled the proprietors, who were removed to the jail for safe keeping. A similar fate befell the Concord *Standard*, a few days before, another journal in favor of peace and opposed to the policy of the Administration, published in the town of Concord, New Hampshire. This is the despotism of the mob.

On Tuesday, Mr. J. W. Selby, a merchant of this city, formerly of the firm of Lanier, Brothers & Co., was arrested at Williamsport, Maryland, while on his way to Baltimore, by order of the commander of the Federal army of the Shenandoah, and brought to Fort McHenry, where he is at present confined. The cause of his arrest has not transpired. Another party of six prisoners also came down on the Western train, who were taken to Fort McHenry; their names are not known nor the nature of their offence.

On Wednesday, General Fremont, upon receipt of the news of the defeat of General Lyon by the Confederate forces under General McCulloch, in South-west Missouri, proclaimed martial law in the city of St. Louis. He imprisoned the President of the Board of Police Commissioners, and appointed a Provost Marshal to take charge of the internal police of the city. He suppressed two newspapers, the *Missourian* and the *Bulletin*, which were opposed to the war, and levied a contribution of $250,000 upon the banks, which he dignified by the name of a loan.

On Thursday, Mr. Robert Muir, a British subject, brother of Her Majesty's Consul at New Orleans, was arrested in his state-room on board the Cunard steamer *Africa*, and taken to New York city, where he still remains in the custody of the United States authorities. His baggage was seized at the same time. Mr. Muir has been in this country little longer than a year, and was about returning to England. The cause of his arrest was the suspicion that he was carrying despatches abroad for the Confederate States. All this savors of the despotism of the sword.

The same day, Thursday, Judge Garrison, of New York, who issued the writ of *Habeas Corpus* in the case of the Police Commissioners and other prisoners of State, confined in the dungeons of Fort Lafayette, which the commandant of that fortress contemptuously refused to obey, was applied to to employ the military power of the State to compel obedience to the writ. General Duryea, of the New York Militia, being called upon to report the amount of force at his disposal, for the purpose of storming the fort and rescuing the prisoners from their illegal confinement by force, replied that the means at his command were altogether inadequate for the purpose. He had but 1,400 men and no artillery with which to undertake the reduction of a fortress of the United States, surrounded by water, and defended by guns of the heaviest calibre. This is the sequel of the conflict between the civil and military power—between that of the judiciary and that of the sword. It is the confession of the utter weakness of the former and the absolute triumph of the latter.

The same day, in Washington city, the Deputy Marshal of the United States, charged with the service of a writ of *habeas corpus*, issued by a Judge of a Supreme Court, in the case of a soldier in a regiment stationed in that city, made his return that the officer to whom it was addressed refused to obey the writ, cursed and swore roundly, damning the courts and all the civil authorities. An attachment issuing thereupon, the Colonel of the regiment thought better of the matter, and agreed to produce the soldier. A similar writ issued in New York, in behalf of a company of Texan volunteers, who complain that they are illegally restrained of their liberty—their term of enlistment having expired, has not been heard from, the officer commanding the post declining to permit the service of the writ.

But why multiply instances, to prove what is plain enough to all the world—that constitutions, laws and popular rights, which are older than either, or as old as the Petition of Right or the Great Charter itself, have all gone down in the universal wreck and ruin of what once was the American Republic—swallowed up in the abyss of despotism into which we are sinking deeper and deeper every day? And what a despotism! One in comparison with which that of Austria and Russia may be considered mild and paternal—one which combines with the absolute power of a dictator, the vulgarity, brutality and irresponsibility of a mob.

Important from Washington.

Passengers by this morning's train from Washington report that the Confederate forces had made a demonstration upon Alexandria, and that the Federals had evacuated Fort Ellsworth, one of the principal fortifications defending that city. The Federal army was represented as discontented and insubordinate.

The Winner of the Goodwood Purse and the Goodwood Cup.

The American horse *Starke*, the winner, when three years old, of the Goodwood stake—the most valuable purse known to the English turf—and recently the victor in the struggle for the Goodwood Cup, was raised by General Wells, of Louisiana, and by him sold to Mr. Ten Broeck, his present owner. He was sired by the famous horse *Wagoner*, his dam *Reel*, by imported *Glencoe*. The horse *Wagoner* still remains the property of John Campbell, Esq., of Baltimore, and is at present in the stables of that gentleman, at Crab Orchard, Ky., surrounded by a numerous progeny, many of whom give promise of great speed. The old horse, now in his twenty-sixth year, is represented by old turfites who have seen him within the past few months, as looking remarkably well, although not quite so active as when he beat the famous Kentucky horse *Grey Eagle*, in 1839—a race which has become a matter of history, from the fact that the Kentuckians wagered so heavily on their favorite, *Grey Eagle*, and lost so largely, that in order to keep the precious metals from going out of the State, nearly all the banks were compelled to suspend specie payments.

The Inefficiency of the Blockade.

We are informed this morning that the Confederate war steamer *Yorktown* has successfully run the blockade of the Chesapeake, and is now at sea.

Federal Outrages in Charles County.

The Port Tobacco *Times* of yesterday says:

On Saturday night last, a gentleman by the name of Lindenberger, formerly an officer in the United States army, but who had resigned his commission and was on his way to his home in Louisiana, stopped in our village for the night, having arrived at a late hour by the stage. Before morning he was waited upon by a company of Federal soldiers and informed that his presence was required in Washington. Accordingly off they set without further delay.

We learn that the Potomac blockading squadron is now engaged in the pleasant pastime of breaking up all the boats on the shores of the Potomac, the property of private and unoffending citizens suffering equally with those whom it is alleged are guilty of obnoxious acts. To have been a Union man is no protection; it is enough to know that he is a Marylander, and particularly a Charles countian, to have all the engines of destruction the Government can command turned against him.

Terms of the New Government Loan not yet Arranged.

The New York *Journal of Commerce* of last evening says:

Owing to a very singular misunderstanding, all the city papers of this morning, with a single exception of the *Journal of Commerce*, misrepresented the action of the meeting of the Bank officers yesterday, and reported the passage of a resolution to take the Government loan, when no vote had been taken on that question up to the hour of adjournment. The question referred to should have been the first one before the meeting; but the whole time was taken up with a side issue in relation to restricting the circulation of demand notes, and the main topic was left over. This morning that main question came up at the meeting, convened at 11 o'clock, and it has been very ably discussed, but no decision has been reached as we go to press with this edition. As we stated this morning, the loan will probably be taken in some shape, and perhaps the whole $150,000,000 will be subscribed for at once. There seems to be a majority in favor of allowing the Secretary to issue small notes without restriction, but we cannot tell what turn that will take.

The Battle Near Springfield—Further Particulars.

ST. LOUIS, August 15.—Under date of Springfield, August 12, the correspondent of the St. Louis *Democrat* furnishes a detailed account of the battle of Wilson's Creek. The main facts are the same as those already telegraphed. The enemy's camp extended along the creek for three miles, enclosed by high ground on each side, upon which a greater part of the engagement was fought. It does not appear that the rebels were driven back any considerable distance, but their charges were all repulsed, and they burned a large amount of their camp equipage and baggage to prevent its capture. The enemy had twenty-one pieces of artillery and a large body of cavalry.

Gen. Siegel attacked the Rebels from the southeast as soon as he heard from Gen. Lyon's command, and drove them back half a mile, taking possession of their camp, which extended westward to the Fayetteville road. Here a terrible fire was poured into his ranks by a regiment he had permitted to advance within a few paces, supposing it was the Iowa First Regiment. His men thus taken by surprise were scattered considerably, and Col. Saloman's men could not be rallied immediately, consequently Gen. Siegel lost five of his guns—the other being brought away by Capt. Flagg, who compelled his prisoners to drag it off the field. Our troops captured about four hundred horses.

Our loss is about 200 killed and from six to seven hundred wounded. That of the enemy cannot be less than double ours, their force having moved in large bodies and our artillery playing on them with terrible effect; Lieutenant Col. Brand, who commanded the Rebel force at Boonesville, and since acted as Aid to General Price, was taken prisoner.

The body of General Lyon has been embalmed for conveyance to his friends in Connecticut.

The following additional names of officers killed have been ascertained: Captain Maron, of the First Iowa Regiment; Captain Brown, same Regiment; Major Shaffer, reported, but not confirmed.

Wounded: Captain Gottschalk, First Iowa; Captain Swift, and Captain Hatten, First Kansas; Captain Gilbert, First Infantry; Captain Cole, First Missouri; Lieutenant Brown, do.

Report of the Joint Committee of the Legislature of Maryland on Federal Relations in Regard to the Suppression of the Board of Police and the Imprisonment of its Members. Adopted in the Senate by a Vote of 12 to 6, and in the House by a Vote of 42 to 7.

The report of the committee opens with a brief detail of the causes which produced the modification of our police and election laws at the session of 1860, and of the inauguration and successful administration of the new system of the Police Board. It then relates, at length, the course of the proceedings by which the Marshal and the Board were successively arrested, and their official functions superseded by the military authorities of the General Government. After quoting at length the proclamation of General Banks, announcing the appointment of Mr. Dodge as Police Marshal, it then proceeds, as follows:

The names of the "influential and honorable citizens," who committed the grave offence of aiding in the subversion of the civil government of the State, within the limits of Baltimore, by force of arms, have not been given officially to the public, nor has any official disclosure been made of the names of those under whose "advice and direction" the functions of Mr. Dodge are exercised. These will of course be subjects for judicial inquiry hereafter. The appointment of Mr. Dodge was accompanied by the withdrawal of the troops from the heart of the city, and, from that time to the present, the laws of the State have been silent in Baltimore, so far as concerns its Police Department, and the lives and property of the people have been at the mercy of the organization thus set on foot by the military power of the Federal Government. On the 21st of July a bill was introduced in Congress, appropriating one hundred thousand dollars for the payment of "the Police organization of Baltimore employed by the United States." It was passed by the House of Representatives under the pressure of the previous question, one of the representatives from Baltimore (Mr. May) having in vain attempted to obtain the floor to discuss it, and having been sharply reprimanded for a breach of the rules of the House, in protesting against it as "a bill to provide for the wages of oppression." In the Senate it was adopted with equal precipitancy, against the solemn remonstrance of both of the Senators from Maryland. The Congress of the United States thus ratified the action of General Banks in the premises—so far as such action was susceptible of ratification—and the existing Police government of Baltimore, and the suppression of the State authority therein, may therefore be regarded as the combined and deliberate act of the Executive and Legislative Departments of the United States government.

It remains only to add, that one of the Police Commissioners (Mr. Hinks) having been released from custody, on account of failing health, the Memorial, of which a copy has been communicated to the Legislature, was presented to Congress on behalf of Messrs. Howard, Gatchell and Davis; protesting against the wrongs inflicted on them, officially and personally; challenging an investigation of any charges against them; and demanding, as matter of right, that their case should be examined by Congress, or remitted, for hearing and determination, to the tribunals of justice. The Memorial of the Mayor and City Council of Baltimore, likewise communicated to us and referred to the Committee, and demanding redress from Congress for the grievances which have already been discussed, was also presented to that body, with the full exposition of facts contained in the Message of the Mayor thereunto appended. It is sufficient to say, that the appropriation of money for the support of the Federal Police in Baltimore, was made after the presentation of both the Memorials in question, and is the only answer which has been given to the prayer of either. In the meantime, the Grand Jury of the District Court of the United States for the Maryland District, then and till lately in session, finally adjourned, without being able to discover any ground of accusation against the members of the Police Board, and the President of the United States, having been called upon to communicate to the House of Representatives the ground for their arrest and imprisonment, tacitly confessed that there are none by declining to furnish the information on the score that it would be "incompatible with the public interests."

On the day before the meeting of the General Assembly (the 29th of July),—their Memorial still pending before Congress,—the gentlemen in question, with sundry other citizens of Maryland, against whom no tangible accusation had been lodged or disclosed, were nevertheless removed, under guard, from Fort McHenry to Fort Lafayette, at the entrance to the harbor of New York, where they are now closely confined, by military order, under many privations and restrictions, at a distance from their families and friends. The order itself which directed their removal described them as "State prisoners"—an apellation hitherto happily unknown to the nomenclature of offenders under the laws and Constitution of this Republic. What may be the further destination or ultimate fate of the victims, can be determined only by those who are able to anticipate and fathom the caprices of irresponsible and arbitrary power.

Upon the facts disclosed by this simple and unexaggerated statement, which has been given without coloring or argument, your Committee propose to comment as briefly as they may. The statement itself would be its own best comment, in any ordinary condition of the public mind. But the tide of partisanship and passion, which is now rolling over the land, seems to have swept away the landmarks of our older and better days, and there is scarce a principle of private right or public freedom, so fundamental or so sacred, as to be sure of recognition, or superior to challenge or denial. A little while ago, and all the sympathies and instincts and convictions of the American people, like all the traditions of their own history and of the mighty and free people from which they sprang, were impulsively upon the side of freedom as against power; of law as against prerogative; of self-government as against government imposed.

With a strange and fearful revulsion, they appear, of late, to have rushed back a century, to theories which the Declaration of their Independence and the swords of their fathers were supposed to have buried forever. No man therefore knows the acceptance which may greet to-day, what yesterday was a consecrated axiom of common right and constitutional liberty. It becomes the representatives of the people of Maryland, then, upon an occasion so important as the present, and in contemplation of grievances so monstrous and so galling as those disclosed by the Memorials before them, to re-assert, distinctly and manfully, the principles which their fathers asserted; to claim, as becomes them, the inheritance which their fathers bequeathed, and to protest and remonstrate, and appeal to their countrymen, against the usurpations, of which their soil has been made the theatre, their State the subject, and their citizens the victims.

It is not a question of Union or Disunion, of North or South, of treason or loyalty. It is the naked and desperate alternative of constitutional government and free institutions on the one hand and State annihilation and individual enslavement on the other.

The wrongs disclosed by the Memorials under consideration are of two classes: the one affecting individual citizens—the other assailing the dignity and rights of the State of Maryland herself, as a member of the Federal Union. The principles of constitutional law, which apply to the latter class, have never been formally questioned, although in recent executive documents of the Federal Government a disposition has been manifested to ignore or invade them, and practically, as in the instances before us, they have more than once been set at naught. No statesman or jurist, who respects his reputation, can be found definitively to deny that in the sphere of the powers not delegated by the Constitution to the Government of the United States, the States of the Union have exclusive legislation and supreme jurisdiction within their territorial limits. The Federal Government has no more right to interfere with the State Governments, in their sphere, than the latter to invade the limits assigned to Federal authority.

Among the powers not communicated by the Constitution to the General Government are those of internal government and police in the States. Upon so plain a point, judicial interpretations are superfluous. Repeated adjudications of the Supreme Court of the United States have nevertheless recognized the powers in question as belonging to the States exclusively and fundamentally, and have determined that any invasion of them by the Federal Government is fatally repugnant to the Constitution. If it were otherwise, State Government would not exist. They would be without power and without object. Their control over their own internal policy is, in fact, their very essence as governments, and the only qualification attached to it is, that they shall legislate in conformity with the few limitations of the Federal Constitution applicable to the matter. That done, their sovereignty in the premises is indisputable—a sovereignty not above the Constitution nor against it, but guaranteed by it, and within it, and part of it.

As has already been stated, the police law of Maryland, after passing the ordeal of the courts, was found to be in strict accordance with the Federal and the State Constitutions, and the officers appointed under it were therefore constitutionally appointed, and held their offices as constitutionally as the President held his. Mr. Lincoln consequently had no more right to remove the Police Board or Marshal, or to cause General Banks to remove them, than they had to remove Mr. Lincoln or General Banks. Congress has no more constitutional right to appoint or pay police officers in their stead, than the General Assembly of Maryland would possess to appoint and pay officers for the United States Army or Navy. This is a point about which it is impossible for intelligent men honestly to dispute.

If the Commissioners or the Marshal of Police had been guilty or were suspected, upon lawful evidence, of crime, their arrest and trial, by the competent authority, would have vindicated public justice. If their arrest or conviction had left their offices vacant, permanently or for the time, it was for the laws and authorities of Maryland to supply their places. If they were criminal at all, they were criminal and punishable, as individuals and not as officers; for their official character could not qualify or affect their crime or its punishment, for better or for worse. The same principle applies to the Police force under them. If any members of that force were guilty of treason or misprison of treason, it was as citizens and not as policemen, and they were punishable as men and not as officers.

The Federal authority had only to deal with them as with all individual wrong-doers, and if that created a necessity for their being displaced as officers, it was for the competent State authority of Maryland so to displace them, and to appoint their successors. If an officer of the army of the United States, or a member of the cabinet, were to commit murder or other crime in Maryland, in violation of the State laws, and were arrested or convicted thereunder, surely the fact of his arrest or conviction would hardly be regarded, at Washington, as authorizing the Governor of Maryland to fill his place in the army or the cabinet, and the Legislature of Maryland to keep his successor in its pay. And yet the constitutional authority, in the one instance, would be identically the same as in the other, and the very statement of the proposition, in either case, reduces it to an absurdity.

The action of Gen. Banks, therefore—whether regarded as his own action or as that of the Commander-in-Chief of the Army, or of the President, or any other officer of the Federal Government—was, in the language of the resolution adopted by the Police Board, "not warranted by any provision of the Constitution or laws of the United States, or of the State of Maryland, but in derogation of all of them." The Board did no more than their duty, as constituted authorities of the State of Maryland, when they protested accordingly against it, and they but obeyed the obligation of the law which created their office, and of the oath which they had sworn under its provisions, when they refused to transfer their officers and men to an unlawful and unauthorized command, and declined to recognize, as a police force, in any sense legitimate, the individuals designated as policemen by the Provost Marshal, in open violation of the express laws of the State, and in subversion of its government and constitutional supremacy.

The subsequent proceedings of Congress have only added aggravation to the outrage, for as Congress has no better claim than the Executive to invade the constitutional rights of the States, and its attempted confirmation of an unconstitutional act cannot render such act in any sense more constitutional, its endorsement of the usurpation of the President commits the whole Federal Government to that usurpation, and places it in the attitude of deliberately revolutionizing the fundamental institutions of the country.

The committee are of course aware of the appeals which have been made to "military necessity" to justify recent encroachments, by the Government, upon public and private right. Self-preservation, it is insisted, is the right and duty of every government, and the Government of the United States is therefore authorized to do all things which may become necessary to preserve it.

If these ideas were recognized by the Constitution, under any circumstances, (which the committee deny,) they would not apply to the branch of the present case which is now under consideration. The State of Maryland has not assumed to withdraw herself from the Union, and is in no position of hostility against the Government. She is neither a foreign State nor a conquered country. She is represented in the Federal Congress, although her representatives are practically silenced, and the processes and judgments of the Federal Courts have been uninterruptedly and cheerfully obeyed and respected by her people. All the customary functions of the Government are freely exercised, by its officers, within her limits. She contributes to its support, through her custom-houses, and is to be heavily taxed for the expenses of the fratricidal war which it is waging against her remonstrance.

No Proclamation of the President has ever declared her to be arrayed against the laws, and no troops have been called out for their enforcement among us. Not only has martial law been proclaimed in Maryland, but Gen. Banks, in the Proclamation of June 27, in the very act of suppressing the State authority and laws, took singular pains to declare (as has been stated) that it was not his purpose, nor was it in consonance with his instructions, "to interfere, in any manner, with the legitimate government of the people of Baltimore or Maryland." Confessedly therefore—clearly at all events—if any necessity had demanded and could justify the exercise of extraordinary and extra-constitutional powers, it was a necessity which would have been fully met, by the action of the Government against individuals, but which in no way demanded, and in no way could have justified, a gross violation of the Federal compact, by overthrowing the constitutional laws of Maryland and destroying her federal equality and constitutional independence.

To say that "military necessity" can justify such acts, is to say, as explicitly as could be said in words, that it justifies the Federal authorities in breaking up the Government themselves, under the guise of preventing it from being broken up by others. The forms of government may outlast such a catastrophe, but the Federal government known to and created by the Constitution must end with it. What remains is revolution, in the garb of government, and depending for its legitimacy upon bayonets. The State over whose institutions these are lifted, is no longer a State of the Union, in effect, whatever she may be in name. She has no Constitution, no government, no laws, that she can call her own. She is ruled by external and arbitrary power. Her people are no longer free.

With respect to the individual cases of our fellow-citizens, whose Memorial is before us, the principles of constitutional right are equally positive and clear. If the charges of General Banks against the Marshal of Police amount to anything and are well founded, they constitute a case of treason or misprison of treason, cognizable under the laws, and furnishing cause for arrest and trial by the competent tribunals. Against the Commissioners there is nothing alleged, in either proclamation, upon which a warrant could be lawfully issued, or an indictment found, and they but state, in their Memorial to Congress, what every well-informed citizen must recognize as obvious—that no legal tribunal would hesitate to discharge them, if brought before it, upon sworn allegations so simply frivolous and futile. But if the Government thought otherwise—if its high officers were really persuaded, that in the nineteenth century; and under the free institutions of the freest nation upon earth, it was lawful to arrest and imprison men of high character and irreproachable integrity—or any other men—upon the mere suspicion of their entertaining "purposes" which were admitted to be "not known to the Government," while they were alleged, in the same breath, to be "inconsistent with its peace or security"—surely, the courts of justice, which were open, unobstructed and active, were the rightful tribunals to pass upon the matter. The Commissioners, as well as the Marshal, were either charged with crime, or they were not. If they were not, it was a heinous crime to arrest and imprison them. If they were their rights and the demands of public justice required imperatively that they should be dealt with according to law.

To refer to the constitutional provisions in which principles so vital are embodied, appears like seeking after proof that we see by God's sunlight, or have our breath from His air. "The right of the people," says the 4th Amendment to the Constitution, "to be secure in their persons, houses, papers and effects against unreasonable searches and seizures *shall not be violated*, and no warrants shall issue but one probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized." "No person," says the 5th Amendment, "shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or Indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger." "In all criminal prosecutions," says Article VI. of the same, "the accused shall enjoy the right to a speedy and public trial, by an impartial Jury of the State and District wherein the crime shall have been committed, which District shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation—to be confronted with the witnesses against him—to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

These provisions are the fundamental law of the land—a law to the Government as well as to the people—a covenant of right and liberty, and a limitation upon power. They are an essential and indefeasible portion of the compact which created the Union, and of the conditions upon which alone the people of Maryland and of all the States consented to abide by it. Without them everything else in the Government is worthless, for they represent and guard the great principles of human freedom, which the Union was framed to perpetuate, and compared with which all governmental forms—all names and symbols, all institutions, and traditions, and men—shrink away into dust and nothingness.

Of these provisions there is not a single one which has not been trampled upon in the cases before us. Themselves arrested and their papers seized, without warrant or oath of probable cause—held to answer, not only without presentment or indictment, but after a Grand Jury had failed to indict or present—denied a speedy and public trial—indeed, refused the privilege of trial altogether—carried away, by force, from the State and District where any offence alleged against them must have been committed, if at all—no information of the nature and cause of the accusation vouchsafed unto them—the President of the United States, upon the contrary, refusing to communicate such information even to Congress, on the ground that to do so would be incompatible with the public interests"—confronted with no witnesses against them—allowed to call no witnesses in their defence—separated from their counsel as from their homes and friends—the Maryland Commissioners of Police now imprisoned at Fort Lafayette, are a living testimonial of the overthrow, within their State, of every barrier erected by the Constitution between the freedom of the citizen and the onslaught of arbitrary power. Let it be to their honor and the honor of Maryland, that they have not sullied her name or theirs, by unmanly submission or mean compliance. It will be the eternal shame of the whole nation, if its people, as one man, do not demand and compel their deliverance.

Upon the ground of "military necessity," already discussed in another point of view, there is no doubt that defence will be made for the Government against the grave responsibilities which these overt acts of individual oppression must entail.

But the Committee, now, as before, rely upon the Constitution of the United States as a bar to all such attempted justification or excuse. There is no foundation whatever for it in our history or our institutions, nor is it any part of our Anglo-Saxon inheritance. No mode of reasoning is more false than that which appeals to what are called "general principles of Government," to determine the powers of the particular Government under which we live. It is a Government *sui generis;* to be construed according to its own peculiar principles and none other. It is a Government of enumerated and delegated powers, framed expressly upon the theory that it shall exercise no powers except those which are so delegated and enumerated. Where it finds no prerogatives in the Constitution, it was not meant to be clothed with them. There are no "inherent attributes" about it.

This principle, recognized by all Courts of the land, is insisted upon more strenuously and more repeatedly nowhere, than in the Courts of the Northern and Eastern States. The written Constitution of the Union, as all readers of history know, was expressly devised to get rid of inferences and implications, of all sorts, from general principles and abstract reasoning. No other Government is like ours in this, and the analogies of no other Government apply to it. To insist, therefore that it has the right to preserve itself by any and all means, whether constitutional or unconstitutional—because other governments, which have no written constitutions and no limitations of power, have adopted the rule to keep power, as long as power can be kept, and through any means by which they can retain it—is to reason from an analogy which does not exist, upon principles which are manifestly false, to a conclusion which is subversive of our institutions.

This Government was not intended to be kept together, by any means, through the exercise of any powers, or by the application of any principles, except those of its own constitutional providing. To attempt to preserve it, in name, at the expense of the Constitution, is to destroy it, in theory and fact. Once let "necessity," of any sort, be recognized as above the Constitution, and our system is any thing and every thing which it may be found necessary to make it. As "necessity" has no law, so it has no limit. The same logic by which it justifies the suspension of one constitutional provision, will justify, in like case, the overthrow of all. The same pretext which it invokes to suppress the functions of the Judiciary, may call for the suppression of Congress as well. It may demand a limited monarchy to-day, and by the same process of reasoning may legitimize an absolute monarchy, or a dictatorship, to-morrow. It already finds the liberty of citizens in its way—what is to prevent it from finding their lives equally so, a month hence? If it justifies imprisoning them, in violation of law and Constitution, it will equally justify their assassination. Concede that it has rightfully suppressed the authority of Maryland in Baltimore, and it may, at any time, as rightfully abolish the whole State Government. It is "the tyrant's plea," and constitutional freedom dies with its predominance.

If "military necessity" had been contemplated by those who framed the Constitution, as a justification for suspending or invading its guarantees, would they not have said so in terms? They provided, by special clause, for the suspension of the *habeas corpus*—would they have paused at the enumeration of a single case, in which the laws and the Constitution might be temporarily silenced, if they had intended that the Executive or Congress might stifle all the voices of constitutional liberty, at the sound of the trumpet? Why specify the limits of "military necessity," in the one isolated case, if they meant it to cover all cases? Men who honestly reason to the conclusions of the Administration, upon the point in question, seem to labor under the delusion, that the framers of the Constitution were technical men of law and peace who had never known war or its terrible exigencies, and did not cover its contingencies with their forecast, when they were laying the foundations of a mighty nation. They seem to forget that the men who sat in the Convention, were the men who had planned the Revolution and had just returned from its triumphs: heroes and sages, who had grappled with war and its necessities, in field and camp and council: free men, who knew, from experience, what oppression was: bold men, who had smitten arbitrary power and abhorred it, and meant to build a bulwark against it, in war as well as peace, for evermore.

When such men, in the charter of their Government, fenced round the freedom of the citizen with the guarantees which have been cited, and gave to military power no privilege to override them, it was because they meant the citizen to be free, and were resolved that military force should be kept in perpetual subordination to the law. They knew that in peace there is small danger to civil liberty, and they meant to rescue their priceless heritage from the chances and ambitions of war. They had entered upon the Revolution, with the Declaration of Independence before them, charging these, among the oppressions of the British King:—

"He has kept among us, in times of peace, standing armies, without the consent of our Legislature."

"*He has affected to render the military independent of and superior to the civil power.*"

They believed these to be grievances, and took up arms to redress and not to re-establish them. They had passed through the trials and needs of the struggles themselves, therefore, without once overturning the laws of the land they were liberating. When the Father of his Country, their champion and leader, had delivered up to Congress his sheathed and honored sword, they had listened, with pride, and his venerable form had bent in acknowledgment, as the President addressed him these remarkable words:

"Called upon by your country to defend its invaded rights, you accepted the sacred charge, before it had formed alliances, and whilst it was without funds or a government to support you. YOU HAVE CONDUCTED THE GREAT MILITARY CONTEST WITH WISDOM AND FORTITUDE, INVARIABLY REGARDING THE RIGHTS OF THE CIVIL POWER, THROUGH ALL DISASTERS AND CHANGES."

They had felt this to be the highest praise and theirs, and when, in the first years of his administration, and with his sanction and approval, they amended the work of the Convention, by adding to the Constitution the comprehensive safeguards of civil liberty which have been referred to, it is mid-summer madness to dream that it was in his mind or theirs to leave, still, to military discretion or caprice, the inestimable privileges thus fortified anew. When they declared that "the right of the people to be secure in their persons, &c., *shall not be violated*," they had no mental or military reservation in favor of such violation. They meant what they said, and thus and there stands the Constitution, as they made it—and as others have broken it!

Our own immediate ancestors, when they framed the Constitution of Maryland in 1776, embodied in their Declaration of Rights two principles, from which they never departed nor allowed departure, and which they transmitted to us, for equal reverence and observance. They are the 2d and 27th Articles of the Declaration which is prefixed to our existing Constitution, and they were part of the fundamental law of the State when she adopted the Constitution of the Union. Their language is as follows:

"*That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof;*" and—"*That in all cases and at all times, the military ought to be under strict subordination to, and control of the civil power.*"

With this authoritative announcement before us, of rights which the citizens of Maryland have at no time surrendered, we can never consent to recognize, in the pretext of "military necessity," any thing but an aggravation of the wrong it is meant to justify. Neither can we fail, without disgrace, to denounce as usurpation and outrage, the overthrow of our domestic authorities and institutions, the assumption of our internal government, and the oppression of our citizens—by the Executive, the Congress and the Army of the United States.

The experience of this General Assembly and of the memorialists before us, must admonish us, the committee believe, that any application for redress to the Federal Government, in any of its departments, is idle and hopeless now. There is but one resource left to us, and that is to appeal to the public opinion and sense of right of the whole country; to call upon free and true men, everywhere, in our own State and in our sister States, to lift their voices for the rescue of the Constitution, before it shall have gone down into the vortex, whose narrowing and rapid circles have already swept its great bulwarks from around the rights of the people of Maryland.

It is not, we repeat, a question of Union or Disunion. It is a question of Constitution or no Constitution; a question of freedom or no freedom. There can be no trust and no safety for any people in arbitrary power. It is progressive, untiring, unresting. It never halts or looks backward. Call it by what holy name you will; sanctify it by what pretexts or purposes of patriotism you may—under any flag, in any cause, anywhere and everywhere, it is the foe of human right, and by the law of its being is incapacitated from leading to good. As surely as man's nature is corrupt, and the lust of power the most corrupting and insatiable of his appetites, so surely will any government or system sink into anarchy or despotism if committed to his arbitrary will.

There is no life for liberty but in the supreme and absolute dominion of law. The lesson is written, in letters of blood and fire, all over the history of nations. It is the moral of the annals of republics since their records began. It is legible upon the crumbling marbles of the elder world—it echoes in the strifes and revolutions of the new. Wherever men have thought great thoughts and died brave deaths for human progress, its everlasting truth has been sealed and proclaimed. It will be true—it is true—for us and for ours, as it has been for those who have preceded us, and the consequences of its violation will be upon us, as upon them, unless the Providence whom we are mocking shall break the inevitable chain which drags effect after cause.—And let the people of no other section shut their eyes to the danger, because it seems to be impending over us only, and not over them. Let them not sympathize with usurpation, because its blows for the present appear aimed only at sections and individuals, whose opinions differ from their own. They know not what a day may bring forth, and they cannot measure the harvest which may spring from a seed-time of impunity in usurpation and wrong. Already the *habeas corpus* is suspended in New York, and the District Judge asks the pleasure of the Commanding General, and yields—as if the great writ were a favor and not a right, and as if it were a luxury of the Court, and not the privilege of the prisoner. Before long, the suspension of the laws and the Constitution may cease to be for the exclusive chastisement of "rebels," and new tests of "loyalty" may be prescribed in the very States now held most "loyal."

If public opinion re-acts against the policy of the Administration, it may be the next "military necessity" to strike down public opinion; and men may then begin to learn, when it is too late, that there is no more security for friends than for enemies, under a system where the power which creates the "necessity" is the exclusive and irresistable judge of its extent and application. Good motives, ascribed to such a power, are no better security than bad ones. Mr. Lincoln himself has said, in his message, when speaking of another thing—what he, at all events, may not gainsay—"The little disguise that the supposed right is to be exercised only for just cause—themselves to be sole judges of its justice—is too thin to merit any notice." There are those who may hearken to Mr. Lincoln who will not hearken to Washington; but Washington, in the farewell legacy of his affection, has left us these warning words also:

"LET THERE BE NO CHANGE, BY USURPATION; FOR THOUGH THIS, IN ONE INSTANCE, MAY BE THE INSTRUMENT OF GOOD, IT IS THE CUSTOMARY WEAPON BY WHICH FREE GOVERNMENTS ARE DESTROYED. THE PRECEDENT MUST ALWAYS GREATLY OVERBALANCE, IN PERMANENT EVIL, EVERY PARTIAL OR TRANSIENT BENEFIT WHICH THE USE CAN AT ANY TIME YIELD."

We shall more surely and reverently honor the memory of Washington, by following his precepts and example, than even by respecting, under "general orders," the groves and walks around his tomb.

It is no part of the purpose of the Committee to discuss the personal and official conduct of the citizens of whose wrongs they have spoken, for their merits or demerits have but little to do with the great principles which have been violated in their persons. It is but just, however, to say, that the message of the Mayor of Baltimore—himself fully cognizant of their official proceedings, and a witness beyond question or suspicion—confirms, in the amplest manner, the asseverations of their Memorial, which their own high character for truthfulness and honor would suffice of itself to establish. The Memorial of the City Councils corroborates the statements of the Mayor, and all the testimony which surrounds the case demonstrates to the satisfaction of the Committee, not only the unfounded nature of the suspicions under which the Government has acted, or assumed to act, but the entire good faith in which the Board had met, and was prepared to fulfil its obligations, under the laws of the State and the Union.

It is made conspicuously evident, that in the unfortunate affair of the 19th of April, the Mayor, the Commissioners, the Marshal of Police and his men, at the imminent risk of their lives, endeavored to suppress the riot and protect the troops assailed. Magnanimous acknowledgment of the fact was made through the public prints by Capt. Dyke, a wounded officer, as soon as he arrived in Boston. The Governor of this State (no willing witness), on page 4 of his message of April 25th, bore testimony to it in the following strong language: "The Mayor and Police Board gave to the Massachusetts soldiers all the protection they could afford, acting with the utmost promptness and bravery. But they were powerless to restrain the mob."

The President of the United States himself in his interview of April 21st, with the Mayor of Baltimore in Washington, did not hesitate fully to recognize, in the presence of his Cabinet and of the General commanding the army, the fidelity and loyalty with which the city authorities had borne themselves, under the trying circumstances referred to. The statement of Mayor Brown, published in the newspapers of April 22d, bears witness to this fact, which is likewise personally known to one of the members of this Committee, and to another member of the House, themselves present at the interview. Mr. Lin-