

governs the belligerent rights of States engaged in hostility. That this war is so waged, may be seen from 2 Bl. U. S., 636, already quoted.

In this view unless those engaged in revolution lay down their arms, the Government wages nothing less than a war for the subjugation of the individuals in arms, when resistance or revolution is suppressed, and when the national authority is re-established—the States are again entitled to be “resurrected” or “rehabilitated” with all their rights, and to resume all the functions of free and independent States, unless the whole theory of our Government is to be overthrown and destroyed.

In other words, *belligerent* rights and powers only exist “so long as the regular course of justice is interrupted by revolt, rebellion, or insurrection, so that the courts cannot be kept open.” As soon as the Federal Government reasserts its authority, it ceases, in reference to any State so reclaimed, to occupy a belligerent position. Belligerent rights cannot continue after the suppression of the belligerent opposition. The Constitution, *ex proprio vigore*, extends the shield of its protection over the State, and all institutions and rights which belong to a State. If secession is a *nullity*, then it must be recognized as such, *after* the Federal authority is reasserted, by extending to the States their constitutional rights, as well as at the outset, when the nullity of secession or fact that secession is a void act, is made the basis of the exercise of the military power of the Federal Government. Secession cannot be treated, in dealing with the States at *one* stage of the controversy as *void*, and at *another* stage as *valid*. Its nullity cannot be invoked to render the exercise of military power *proper* at first, and when the military power succeeds, then the act of secession cannot be treated as valid in order to palliate acts of oppression and subjugation. The State action is either wholly *null* and void, or entirely *valid*. And the Government must adopt one or the other theory, and predicate a consistent policy upon it.

But woe to the ruler, as well as the nation he governs, who at such a crisis, cannot discern, in applying the remedy, between a mere insurrection or resistance to lawful authority, which should be suppressed by *force*, and that great pulsating discontent of the popular heart which a trifle may arouse, and which should only be treated with forbearance, causing in States great revolutions, which devastate the land—waste away the true and manly spirits who embark in it, and produce national exhaustion and national indebtedness. If the Federal Government suppresses this revolution on the theory of subjugation, or the denial of the rights of the States, it will, in the end, erect a consolidated government or a despotism. When we look at

this broad land, its different classes of men, its different institutions, it will be evident that if we attempt to maintain the government by force, it can only result in a military despotism. Established by the consent of States, no consent can ever be had under which our present practical administration of the government could take the place of that which existed prior to the breaking out of the war. But I will not enlarge upon this topic. I insist that this right of revolution in States is just as *indestructible* as the right of revolution in the *individual*. It is as undying and immortal as the human soul, and will never be surrendered so long as the aspirations of men all tend to freedom and the maintenance of guaranteed rights.

To confirm this doctrine, I will refer to what Mr. Lincoln said, speaking of the Mexican boundary and the territory claimed by Mexico. He says—*Cong. Globe*, 1st Sess. 30th Congress, page 155—“If she gets it in any way, she gets it by *revolution*”—one of the most *sacred* of rights, the right which he believed was yet to emancipate the world. The right of a people, if they have a government they do not like, to rise and shake it off. In the exercise of that right, the Texans shook off the Mexican yoke. But how far? Did the nation—did the people revolutionize by lines? Certainly not. They revolutionized exactly to the extent they took part in. When they rose and shook off the old government, so much of the country was theirs. And where were the people that did not rise? They remained with the old government. It was this right of revolution, and it could not be a perfect right if it could not be exercised until every individual inhabitant was in favor of it. It would be no right. And that neither Madison nor Jackson contemplated the use of force in cases similar to the present civil war I refer to the *Federalist*, No. 43, page 203, where Madison says—“should it be asked what is to be the redress for an insurrection pervading all the States, and comprising a superiority of the entire force, though not a constitutional right? the answer must be that such a case as it would be without the compass of human remedies, so it is fortunately not within the compass of human probability; and that it is a sufficient recommendation of the Federal Constitution, that it diminishes the risk of calamity, for which no possible Constitution can provide;” and to General Jackson’s farewell address wherein he thus warns his countrymen—“but the Constitution cannot be maintained, nor the Union preserved in opposition to public feelings, by the mere exertion of the coercive powers confided to the General Government; the foundation must be laid in the affections of the people, in the security it gives to life, liberty, character and property in every quarter of the country; and in the fraternal attachment which the citizens of