REGINNING OF RECIPROCITY.

her commerce, and that, in consequence of her internal troubles, capital is retired, credits are curtailed, orders are withdrawn and operations are restricted.

The large increase of our exports to Cuba is very gratifying, especially so when we remember that, upon the occasion of the consideration of the McKinley Tariff bill, our Congress was in the act of throwing away the opportunity of gaining some slight equivalent for the remission of duty upon Cuban sugar. beet-root sugar of Germany and other states had already practically driven the West India sugar from European markets, leaving the Cuban planters entirely dependent upon the American consumers; hence, negotiations with Spain over trade reciprocity with Cuba and Puerto Rico were easily pressed to a favorable conclusion. The terms of the arrangement are such as will no doubt satisfy the demands of the most exacting patriot or visionary enthusiast, and we may reasonably venture to hope that the United States will soon be able to control the foreign commerce of those islands, leaving but little tributary to even Spain herself. illustration in point that warrants the hope is revealed in the fact that, since January 1, 1892, American breadstuffs have as completely driven Spanish flour from the Cuban market as if the latter product had been boycotted throughout the island.

It may be safely assumed that the success of reciprocity is already assured, and that the policy can suffer but little from the half-hearted attacks of its enemies. They may retard its development by refusing to lend it material encouragement, but they can never hope to loosen the firm hold that it has taken upon the intelligence of the American people who, unlike the stolid masses of effete monarchies, will take a practical and critical view of it, and

recognize and duly appreciate its merits. The success of the measure depends upon the efforts of its

founders and promoters, and its development should be left in their hands. They should hasten slowly and take no steps backward. Under their patronage it will achieve grand results, and we may well believe that, with such results, will come the golden

era of our maritime dominion and commercial supremacy.

WINFIELD SCOTT BIRD.

Republicanism and the South.

THE subject assigned me has two phases: First, the promotion of Republican principles at the South, and, second, the prospects of the Republican party at the South. It might seem at first glance that the two are identical—that if Republican principles prevail, the Republican party must be dominant in those States. This by no means follows. The principles of the Republican party, considered in contra-distinction with those of the Democratic party, cover a very important part of the area of human liberty. Whether it wields the power of government at any time is a much less important fact.

Self-government is an evolution. Sometimes the term has a collective and sometimes an individual application. A province which rebels against the sovereignty which has exercised juris diction over it, is said to desire self-government, though the rebellion may be only an attempt to set up one monarchy in place of another. In like manner, a revolution intended to establish a parliamentary or republican form of government, is said to be a struggle for self-government. By a curious concatenation of events our American Revolution represented, and our history has 'exemplified in varying degrees at different times, both of these impulses. At the outset, it no doubt represented the right of specific communities, to wit, the original colonies, to elect whether they would remain subject to the crown of England or establish a government for themselves. The form of government was a subject of secondary importance. There seems little doubt that a monarchy would have been supported with equal heartiness and probably more confidence, if the sovereign had been made elective by a legislative diet rather than hereditary. Indeed, there cannot be any question that had Washington so desired he could have made himself a king with practically no restrictions on his power greater than those imposed by the British

Constitution on the power of the English sovereign. In other words, the impulse toward self-government of that time might have been almost if not wholly satisfied with the establishment of an American monarchy modeled on that of Great Britain, instead of an American Republic sought to be made on the same model, but really shaped by the experience of colonies so remote from the mother-country as really to have been thrown upon their own resources for the means of defense, the obtaining of revenue and the enhancement of prosperity.

It cannot but be regarded as providential, however, that the brain which conceived the first political platform ever formulated in the United States-for the Declaration of Independence was hardly more than the platform of the half-organized war-party of that time-was most deeply imbued with the principles of the rights of man, which underlay the French philosophy which even then was preparing the way for that bloody apotheosis of liberty which was to mark the emergence of the French Republic from the darkness of French absolutism. Because of this fact, the Declaration of Independence, which was the official and authoritative justification of the War of the Revolution, came to be based on a declaration of individual rights so broad and complete as to need no modification to adapt it to the highest and most perfect conceivable form of self-government; and yet so unconsciously modified by a single phrase as to adapt itself to the requirements of the advocates of a mere independent government, without regard to its specific character. It was written almost wholly in the individual rather than the collective sense, asserting first the immortal principle never before made the basis of political action, that\"All men are created equal; that they are endowed by their Creator with certain inalienable rights; among these are life, liberty and the pursuit of happiness." These are the inherent, the immutable rights of man. Following this and derived therefrom, came the formulation of collective rights, or the rights of the individual considered with relation to the forms of organized society. It consists of three propositions, (1) That governments are instituted merely to secure to individuals the full enjoyment of their inherent rights: (2) That governments derive their just powers from the consent of the governed: (3) That it is the right of the people "to institute a new government of such form as shall seem to them most likely to effect their safety and happiness."

These two ideas are the twin seeds of the plant of American self-government from which has sprung a plan of society so radically different from any other, that its excellence is diminished rather than enhanced by the endeavor to trace its elements into other systems. As a matter of fact, it was just as truly indigenous as the special forms which species in material nature assumed under the peculiar environment of the New World. From this has sprung two contrasted theories of government—the one based on the inalienable and inherent rights of the individual as a paramount and controlling force, and the other upon the resulting rights of specific communities. The Republican party has become, by a series of interesting and often unintended events, the representative of the former, and the Democratic party, by a like curious evolution, the champion of the latter view of the function and purpose of the Republic. In all its history, the Republican party has based every policy it has adopted on the hypothesis that the right of the individual citizen is greater than that of any particular organic body of the people. In its incipiency, though admitting that the general Government had no right to interfere with slavery in the various States, its strength lay in the assertion that slavery was a wrong to the slave and a menance to the freedman, who had a right to protect himself against its inroads and restrict its aggressions. Then came the assertion of the right to prevent by force the withdrawal of a State from the Union, based upon the general individual interest of all the people of the country, in opposition to the expressed will of a specific community or State. Then came the establishment of a national paper currency, which was merely an assertion that the general interest of the American people demanded that the will of the various States should be subordinated by taxing out of existence all the banks of issue which they had already established, or might seek to establish thereafter. After this came the emancipation of the slaves, which rested primarily upon the ground that the interests of the people of the United States demanded the preservation of the Union, but found its fullest justification in the well-nigh universal belief of the people then constituting the government of the United States, that "All men are created equal and are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness." This was the root of motive from which sprung the impulse of the Republican party

in confirming the proclamation of Emancipation by the adoption of the Thirteenth Amendment of the Constitution.

The same principle lies at the bottom of what is termed "Protection," that is, a policy which gives American labor and American capital an advantage in American markets over the labor and capital of other countries. It is the exercise of the right of the people to demand such a policy "as to them shall seem most likely to effect their safety and happiness" as individuals. All these features of Republican policy are but different forms of asserting the idea that the inherent rights of individuals, subject to the general jurisdiction, are paramount to the claims of organized communities constituting a part thereof.

In all this series of remarkable assertions that the paramount function is to secure the inherent and promote the individual rights and interests of the people of the United States, the Republican party has been consistently and logically opposed by the Democratic party, which has regarded the Declaration of Independence, not as an assertion of the inherent rights of "all men" as the fundamental and controlling principle of our government, but the collective rights of organized communities, to wit, States of the Union. This theory, like its correlate, has, from time to time, assumed various forms. It asserted the right of the State nullify" or render inoperative the laws of the United States within its limits; it declared that any State had the right to withwaw from the Union at pleasure; that the general Government hald no right to hold the territory of a State against the expressed will of its people, and that the citizen of any State might be releasted from allegiance to the national Government by the separate action of the State.

All these were based upon the hypothesis that the State alone had a right to consider the welfare of the citizen within the limits of the United States. Beyond its confines, the general Government was bound to protect the person and rights of the individual, because he was a citizen of one of the States; but at home it could assert no right inhering in a citizen of the United States, except those arising under and by virtue of the laws of the State in which he resided.

This theory naturally made the Democratic party in favor of "a tariff for levenue only," they holding that the welfare of the individual citizen was wholly beyond the purview of national

authority. This doctrine made it the parent of that curious notion, which may be designated as Federal futilism, which chained the hands of Buchanan while disunion reared its head and openly perfected its plans for the dismemberment of the Union. He wished to prevent the destruction of the government, but regarding the State as the sole conservator of inherent rights and individual interests, he felt that he had no power to intervene. It made that party, also, the opponent of a national paper currency, of emancipation, of the enfranchisement of the colored man, of national citizenship, of the restriction of State citizenship and of every assertion of individual right based thereon.

It is in this last respect that the Republican theory that the security, rights and welfare of the citizens of the United States aconstitute not only the primal purpose, but are, in fact, almost the sole function of the general Government (its other functions being either subordinate or incidental thereto), comes to-day, in direct conflict with established Democratic doctrine, along the very lines which have marked the divergent tendencies of these fundamental ideas from the very first. To-day, the Republican party asserts the right and duty of the general Government to protect the citizens of the United States in the free exercise of one specific right in every State of the Union; to wit, the right of every qualified voter to cast one vote and have it counted as cast, in every election where an officer of the United States is to be chosen. This position the Democratic party controverts upon the old theory that the State alone has the power to define the rights which every citizen within its limits shall enjoy; and that the State has also the exclusive right to protect the citizen in the enjoyment of his rights and to redress any infraction or violation of the same. Under "the Constitution as it was," as construed by the highest court of the land, the position of the Democratic party is unquestionably correct, and that of the Republican party wrong. Under the Constitution as it is, and upon the hypothesis that governments are instituted to secure their citizens the inalienable rights of life, liberty and the pursuit of happiness, and that the special function of the government of the United States is to secure the rights of citizens of the United States, the Republican party is correct and that of the Democratic party wrong.

What is it that makes what was then so clearly wrong now evidently right? The Fourteenth Amendment of the Constitu-

tion of the United States had the effect, not only to make the colored man a citizen, but expressly to reverse the relations theretofore existing between State and national citizenship. It not only creates and defines the latter, but prescribes and limits and subordinates the former.

The relation of the United States to citizenship and the several State governments, before the adoption of this amendment, is most fully and clearly defined by the much-abused "Dred Scott" decision—an adjudication which, however repugnant to the views of a vast majority of the Northern people, yet constitutes a repository of legal and historical lore scarcely excelled, if indeed equaled, in the annals of judicature. By this decision three things were determined:

1. That no colored man could become a citizen of any State, within the meaning of that term in the Constitution of the United States.

2. That no colored man could be a citizen of the United States because he could not be a citizen of any State.

3. That consequently, the courts of the United States could not take jurisdiction of an action brought by a colored man against a citizen of another State holding him as a slave.

In other words, the decision was in effect, that the colored man, whether slave or free, was not, and could not, become a citizen of the United States. This was the law at the time of the adoption of the Thirteenth Amendment, by which slavery was prohibited. Almost immediately after its adoption, the legislatures of the States "recently in rebellion" proceeded to enact what was known as the "Black Codes" of 1865-6. This was caste-legislation of the most offensive character. If it had been allowed to stand, the colored man of the South, instead of being a citizen, would now have been a legally subordinated inferior-not, indeed, the slave of one master, but a serf subordinated by law to a particular class and enjoying only restricted privileges. The response to this on the part of Congress was what is known as the "first Civil Rights Law," which was properly held to be unconstitutional because the freedman was not a citizen of any State of the Union, nor of the United States, but was a mere "inhabitant" of any State in which he happened at any time to be; and could not become a citizen of the United States or entitled to protection as such in his inherent rights of "life, liberty and the pursuit of happiness," except by

an amendment of the Constitution of the United States. It was this fact that made necessary the Fourteenth Amendment. What is the character of its provisions?

We need only consider the first section. This, for the first time in our history, created and defined national citizenship as a thing separate and apart from State citizenship, and not in any manner dependent upon it, by these words: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States." Wherever such a person may be he is immediately and directly a "citizen of the United States," and the first duty which any government owes to its citizens is security and protection in their rights. This duty is reciprocal, the citizen's duty being allegiance and support, and that of the Government, as defined by the Declaration of Independence. is to secure the citizen in his inalienable rights. It was a final and absolute reversal of the theory of the "paramount" character of State citizenship, in that it established by constitutional provision the express and direct relation of sovereign and citizen between the nation and every person born or naturalized in the United States. Of course no State could logically interpose any claim of supreme or exclusive control of the person or rights of a citizen of the superior jurisdiction.

As if in fear that such a claim might be set up, the Fourteenth Amendment proceeds to define and limit the powers of the State with regard to citizens of the United States, evidently subordinating *State* allegiance and control of the citizens to the supremenational authority by the following provisions:

1. All citizens of the United States are declared to be also "citizens of the State in which they reside."

Why is this? Evidently in order that being citizens of different States, the United States courts might have jurisdiction of actions arising between them, whatever their previous condition, race or color. It was the response of the American people to the barbarism and injustice which underlay the Dred Scott decision. It was the declaration of the sovereign power. "These are my citizens and also your citizens, because I will them to be so. Heretofore, you have had power to refuse State citizenship at your pleasure, and have assumed the right to annul national citizenship by virtue of a claim of "State-sovereignty" or "paramount allegiance." I will settle that question for the future

both by asserting my paramount authority and by limiting and restricting yours."

2. It also provides that "No State shall make or enforce any law which shall abridge the privileges or immunities of any citizen of the United States."

What are such "privileges and immunities of a citizen of the United States?" Is life one of them? Is liberty one of them? Is the pursuit of happiness one of them? Is the right to exercise an equal power with every other voter in the choice of President and Members of Congress a "privilege" of the citizen of the United States who is a qualified voter? If so, then the United States has the power to protect its citizens in the exercise of these rights, whether the State approves its action or not.

3. But the restriction of State authority does not stop with these provisions. The Amendment proceeds to declare: (1) "Nor shall any State deprive any person of life, liberty or property without due process of law." All these things the States had previously claimed the right to do, and under the decision of the highest court might do, under the old regime: (2) "No State shall deny to any person within its jurisdiction the equal protection of the law."

But it is said that these restrictions only apply to the legislative branch of the State authority. It is gravely asserted that although a State may not abridge the privileges and immunities of a citizen of the United States by statutory enactment, it may with impunity fail to protect his rights or furnish adequate redress for his wrongs. In other words, that what it cannot do by law, it may permit its citizens to do in violation of law.

Upon this theory, the Democratic party bases its oppposition to what, with a curious pertinacity in self-deception, it terms the "Force Bill." It does not deny that white and colored Republicans of the South are deprived by violence, intimidation and fraud, not merely of the right to vote and have their votes counted as cast, when qualified electors, but also that they are deprived of those inherent rights of free speech, public assemblage, and party organization, by which alone a free ballot may be made effective as the expression of the will of a majority. The day has happily gone by when even the most rancorous of Southern defenders of violence and fraud as political instrumentalities dare make denial of these things. It is only the Northern apologist for their

crimes who shuts his eyes and swears his way through the mountain of facts which confront him, thinking to gain approval from a people who give only contempt for his ignorance or duplicity. The Southern Democrat, and as a consequence, the party whose sentiment he controls, stands boldly on the ground that, while the State is prohibited from doing these very things by statutory enactment, it has an indefeasible right to permit its citizens to do them, in defiance of law, but without fear of punishment; and that the Government and people of the United States must submit in silence and without remedy.

It should be sufficient to say, in answer to this, that legislation is the very highest exercise of statal power and that what a State is prohibited to do by statute, it cannot accomplish indirectly by neglect or refusal to enforce the law. So too, it is claimed, that it is no denial of "the equal protection of the law," if the law upon the statute book makes no distinction of right, though the citizen may be deprived by force or terror of all appeal to legal tribunals. In short, the claim is, in one word, that if the State make no statutory discrimination in the definition of the rights and privileges of the citizens of the United States resident in its borders, it may refuse them any protection of life, liberty or inherent right, and the National Government cannot intervene to protect its citizens.

This is the last and absurdest claim based on the doctrine of "State Sovereignty." With the Constitution as it was, construed by Taney and his associates, it was entirely correct; but with State citizenship made subordinate to, and dependent on national citizenship it has only the musty flavor of the outgrown theory to save it from being ridiculous. To fully appreciate the character of this hypothesis, we have only to suppose that some State Legislature, inspired by animosity toward some class of citizens of the United States, should repeal all statutory penalties for murder and declare that the common law remedies for the same were abolished. What would be the result? Citizens of the United States resident in such State would be without protection in their lives and persons. Any man might kill his neighbor with impunity. Suppose that one class of citizens should take advantage of this state of affairs to anihilate citizens of another class. Would this constitute an abridgment of the privileges of national citizenship, or a denial of equal protection of the law? Is no protection the legal equivalent of equal protection? Would the United States be compelled to stand idly by until one class or the other was annihilated? Is the Constitution to be construed in favor of liberty or oppression—of civilization or barbarism?

"But what," we are asked "can be done? The President," we are assured by the unerring logic of the futilist who would bind the nation's hands to prevent its defending the lives and liberties of its citizens and turn infuriate thousands, debauched by the barbarous philosophy of slavery, loose to degrade and destroy—"the President can do nothing. He is prevented from interfering to keep the public peace in a State except by solicitation of its executive or legislative authorities; and if he can not intervene to protect the citizen, if he cannot send the army and navy to secure them in the peaceful enjoyment of their rights, what can be done?"

The chief Executive is not the ruler of the nation. He is merely a servant to watch over the liberties and lives of the people. The power of the nation resides in the Congress and the Judiciary is the chief instrument by which the sovereign will is enforced and the rights of the citizen asserted. The function of the President is not only to call the attention of Congress to questions of finance and revenue, but, more especially, to any unremedied and unrestrained invasion of the rights and privileges of any class of citizens of the United States; and it is the duty of Congress to provide a remedy. How shall it be done? There is a little clause of this Amendment which makes it the most complete and perfect charter of the citizen's liberty ever formulated in the political history of the world: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

What can the Congress do? It can provide that, if any State fail to defend the rights, secure the privileges, make safe the lives and persons of its citizens, their rights may be asserted and their wrongs redressed in the courts of the United States. It can provide a statutory penalty for lynching, by which the legal representatives of the victim may recover from the county through the neglect of whose officials he was unlawfully slain, a specific sum, say \$5,000, as in the case of death by the neglect of a rail-road company. What would be the effect? Within a twelve-month lynching would become an extinct luxury in every State of the Union. The public conscience is most surely reached through the pocket-nerve.

154

Is there need for such legislation? Is there free speech at the South? Is the right of public assemblage and party organization secure? Could the Republican party conduct a presidential campaign there? Can a Federal soldier's son stand by his father's grave and proclaim the principles for which his father fought to people free to hear and act upon his injunction? Is any man free while right is measured by the color of the skin or the hue of the citizen's politics? Has the United States any more claim to be termed a free country than Russia, as long as only members of one party have a right to speak their political sentiments openly, or to organize to make them effective, in one-third the States of the Union? Are citizens of the United States secure in the enjoyment of their inherent rights when in twenty-seven years less than half a dozen white men have been executed in all the States of the South for the murder of colored citizens, though there have been more colored citizens killed by white men in that time than there have been days in all the years? Is the equal protection of the law accorded, when not a white man in all those States has ever been punished for criminal assault upon a colored woman? Are the lives of citizens of the United States taken without due process of law? During the year 1891 more than one hundred public lynchings of colored men in the States of the South were recorded in the public press; seven men were openly burned alive; one was flayed alive and one dismembered and disjointed/ being tortured for two hours in the presence of hundreds. Within seventy consecutive days of the present year sixty colored citizens were publicly hanged without trial. Upon the thirty-first day of May, a day which the colored citizens of the Republic had volumtarily set apart as a day of fasting and prayer that God would deliver them from the oppression and persecutions of their white fellow-citizens, there were three lynched.

Is there taxation without representation? It is admitted that fraud, violence and intimidation bar the way of the legally qualified voter to the effective expression of his will through the ballot-box. Is there a Republican form of government, when assassination takes the place of argument in influencing the political action of the citizen?

But may these things be remedied in so simple a manner? Can the United States courts really be given jurisdiction where the State courts fail to protect the rights of the citizen or do equal justice between them? Most assuredly. The road to justice in the Constitution is a broad and royal highway. The charter of the national judiciary is no product of self-bound "Futilism." "The judicial power," says Section 3 of the Third Article of the Constitution, "shall extend to all cases in law and equity arising under this Constitution, the laws of the United States and treaties made or which shall be made under their authority." The Congress has power to make the necessary laws; the courts have power to hear the cases when given jurisdiction by law. The Government of the United States can no longer shield itself from blame for failure to protect its citizens behind any claim of "State rights." The State has no right to kill citizens of the United States by law, to permit them to be killed in defiance of law, or to shield their murderers by refusing to put the machinery of justice in operation against them. There is no lack of right or failure of authority.

The question has already been twice directly decided by the Supreme court and several times inferentially declared. A law transferring to the United States courts cases against officers of the United States, when indicted in the State courts, when their official character was shown to be prejudicial to a fair trial, has been repeatedly upheld. Again, the law providing for national supervision of elections at which national officers are to be chosen has been held constitutional in districts containing cities having more than a specific number of inhabitants. If in such districts why not everywhere? These cases fully decide the principle. The fact that the Federal courts are powerless depends solely upon the other fact that Congress does not provide the necessary laws.

The question whether the colored citizen, or one who believes in the equal right of the colored citizen, shall have equal privilege, equal opportunity, and equal security with other citizens in every State of the Union depends entirely on whether the President regards his official oath as binding him to take notice of the slaughter of citizens of the United States; whether the Congress feels any responsibility for the rights of the national citizen: whether the people of the United States desire justice to be done or security afforded to the colored citizens of the Republic.

But, it may be said that this is not the position of the Republican party; it demands only, in its platform, that the citizen's right to vote be protected, and denounces but does not propose to

prevent "outrages perpetrated for political reasons" only. This is unfortunately true, and this fact leaves the party open to plausible assault on the ground that what it desires to secure is the citizen's vote and not the citizen's right. Of course, the right to vote is only one of the rights attaching to certain citizens of the United States. The right of free speech, personal security, trial by jury are even more important ones and pertain to every citizen.

The denial for these rights, "for political reasons," is no worse than their denial for any other reason.

The present Republican platform is a piece of grotesque structional weakness as regards this subject. As written, it is wholly indefensible. Even the most reckless "spell-binder" would not dare stand upon it, without inserting an unexpressed limitation. It is not the first time the party has suffered by sending the "literary feller" to the rear and setting the professional politician to hew out a puncheon platform with a broadaxe, in order to catch votes during the campaign and let the candidate slip through afterward.

It is for this reason that I have chosen to trace the genesis of Republican principles and their application to the present conditions of national citizenship at the South. It is of little consequence whether the Republican party would gain strength in Congress or be any surer of choosing a President if they had a free ballot and a fair count at the South or not. The colored main would never have voted solidly the Republican ticket if the Southern Democracy had not first solidly opposed his right to vote at all. He would not now if he thought his rights were as secure in the hands of the Democracy. It is small wonder that he does not feel like supporting a party which says that nothing shall be done to secure him in the enjoyment of the equal rights of American citizenship expressly promised him in the Constitution. It is almost a miracle that he has any faith left in a party whose leaders declare that nothing can be done to secure him the free enjoyment of those rights. Between defiant "nullification" and ossified "futilism" there seems at first sight, to be little choice. Hope lies only in the logic of Republican principle, the sense of justice of the American people and the instinct of liberty in the Republican party, which now, as ever, outruns the cunning of party leaders. The rank and file of the Republican party know that it is of the utmost importance that the life, liberty,

equal right and equal privilege of every class of citizens of the United States shall be made secure in every State of the Union, and that a native's right to demand allegiance, obedience and support from the citizen depends on its willingness to protect him in his just rights, legal privileges. They understand that "Protection of American industry" is worse than a farce, unless it is based on protection of the life, liberty and rights of the American laborer. They see just how absurd it is to talk of "protecting" the hat and coat, trousers and shoes of the citizen, leaving the man inside of them unprotected. Better a thousand-fold our markets were left open to the products of foreign labor than the citizen's rights left unprotected from the assaults of the American mob, or made dependent upon the color of his skin, or the line of his politics. They mean that the colored citizen of the South shall be just as free and just as secure in the enjoyment of his inherent rights and Constitutional privileges, as a white Democrat. They mean that if the States will not afford such security the nation shall. Twenty-four years ago they provided the means by which such end might be secured. Twenty-four years hey have waited for the States to freely grant the rights they then empowered the nation to enforce. Now the determination that it shall be done is hourly increasing in volume and intensity. Republican principles must prevail at the South, because they represent the inevitable logic of American liberty and American civilization.

ALBION W. TOURGER.