

tion has declared, adopted, and engrafted in its constitution, to be the supreme law of the land—principles of a general nature, affecting all alike; that infringe no man's rights, no state right. Ethically, no state has the right to do an act of injustice: in this view also no right is invaded. The very nice concern you manifest for *state rights* might receive more consideration did it not oppose efforts in behalf of *personal rights*. The late Henry C. Wright used to say, "The hat was made for the man, not man for the hat." Governments are made for the people; they are important and of value as they protect the rights of the people; they are a burden without this virtue.

If the John C. Calhoun state right theory ever had any support in the Constitution, the prop was taken from it in adopting the late amendments. This state right theory, adopted by you, was in reality the issue of the war. The war decided—yes, sealed its doom in blood; decided that states may not outrage individuals within their bounds at will; that the federal arm may interpose to protect. Otherwise the blood and money poured out like water in the late civil strife flowed in vain.

I must express my surprise that THE INDEPENDENT should voluntarily, to have regard for a fancied right of a state, labor so hard against an effort designed to have regard for what it admits are the first rights of persons; that it should labor and return to the work so earnestly as to feel forced to make this point. I quote its words: "There is a long distance between the declaration in the Constitution that 'no state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States' and the declaration in the bill" (Mr. Sumner's) "that no inn-keeper or manager of a theater shall make any discrimination between citizens of the United States on account of race, color, or previous condition of servitude. How the former declaration is to be made the constitutional basis for the latter is more than we can see. On this point our friend, Mr. Downing, gives us no light." I am not a lawyer; but may I remind you of the admitted principle in law that what a party having the power to act permits to be done, in effect itself does? I affirm that, when a state, having the regulating by law of matters, allows such matters to be done so as to oppress and outrage, to abridge privileges, the state virtually does the oppressing, the outraging, the abridging. That, if an inn, having its right to exist by virtue of state authority, being a creature of the state, in fact regulated by it, "shall make any discrimination between citizens of the United States on account of race, color, or previous condition of servitude." It may be said the *state* does the discriminating; and Congress may, under the fourteenth amendment to the Constitution, if not by virtue of any other section, legislate against the same. The Civil Rights Law now in force presumes this. No one takes exception thereto. The supplementary bill proposed by Senator Sumner only more definitely particularizes and specifically applies the principle and power. If it be fashionable to play on words, the thing being suggested, I might do so and say the proposed law, as quoted, does not propose to invade the rights of a *state*; that if there is to be any invasion, it will be an invasion of the rights of an "inn-keeper or manager of a theater," and not of a state; but it would lower the dignity of the controversy to play on words.

It is no complimentary fact to humanity for the last Congress to have enacted a law against your state right theory, a law to protect the life and comfort of beasts in states; while a Republican congress now halts, hesitates, and a humane journal encourages it in not acting; alleging that it has not the right to go into these same states to protect the life, rights, and comfort of citizens—human beings.

Allow me to add one more paragraph. You present the point, to restrain action for the right, that, if this so-called invasion of state rights to effect a just end be assented to, it may cover a complete invasion. I deny the correctness of the inference; and simply add as an offset, that, if the people of a state be left, in deference to a *vaunted* sentiment, to outrage rights, may they not, on your principle, go to any extent to dis-

STATE'S RIGHTS VS. CIVIL RIGHTS.

BY GEORGE T. DOWNING.

MY excuse for again asking the privilege of a space in your columns is, that they are opened against us in the controversy about federal action to secure to us our civil rights, and because we need the moral support of your host of Christian readers. You admit we are subjects of injustice in states; that what we demand may and should be granted by the states. We thank you for the admission. But the states do not protect us in our rights. Besides, the grievances in some cases are under such circumstances as to present a doubt as to a particular state's interposition; and, I would add, the grievances refer to rights that are national in their character, and which the states, as I have said, fail to protect.

You labor under a misapprehension as to any intent to violate any state right. We who urge federal action do not design to invade states, have no intention to control their affairs. The most Mr. Sumner aims to effect through his bill is that the states, in controlling their affairs, do not war with national law; that they have regard to certain fundamental principles which the na-

regard of all republican principles, viola-
tive of all rights, in opposition to the
genius of American free institutions; and
the Federal Government still be refrained
from interfering ?

WASHINGTON, February 25th, 1874.

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