THE NATIONAL GUARANTY OF CIVIL RIGHTS.

THE first section of the Fourteenth Amendment, having defined the persons who are "citizens of the United States," proceeds to say that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." This section was intended to be, as in fact it is, the national guaranty for the civil rights of the citizens of the United States, as against all encroachments or violations under state authority. Its phraseology is technical. By "privileges or immunities" American courts understand such "privileges or immunities" as are fundamental, as belong of right to the citizens of all free governments, and are recognized as the common rights of citizenship in the several states of this Union. Among these rights may be mentioned protection by the Government; the enjoyment of life and liberty, with the right to pursue and obtain the means of happiness and safety; the right of a citizen of one state to pass through or to reside in any other state, for the purposes of trade, agriculture, professional pursuits, or otherwise; the right to claim the benefit of the writ of *habeas corpus;* the right to give evidence and institute and maintain actions of any kind in the courts of the state; the right of trial by jury; the right to take, hold, and dispose of property, either real or personal; and, in general, all the civil rights which in this country are the acknowledged attributes of citizenship.

Courts of justice are familiar with the phrase "privileges or immunities." They know what it means by the usage of American constitutions and laws. The amendment gives definiteness and point to this phrase when it restrictively declares that no state shall "deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." Taken as a whole, this amendment is directly a prohibition against all state power to nullify or violate any of the "privileges or immunities of citizenship as vested in the citizens of the United States, and indirectly the nation's guaranty that these "privileges or immunities" shall be duly maintained in every state of the Union. The special object was to afford suitable protection to the Freedmen against unfriendly legislation in the Southern States. Having emancipated them by a constitutional enactment, the nation determined that they should be "citizens of the United States and of the state wherein they reside," and that they should be treated as such, in common with all other citizens. It meant to put them on the broad and common level of American citizenship in respect to what are known as civil rights. The occasion was peculiar, yet the principles of the amendment cover all occasions and apply to all classes of citizens. In this respect it is a great improvement in the cardinal features of our political system.

Where is the legal power to enforce and make practical the principles thus guaranteed? The amendment itself answers this question by declaring in its last section that "Congress shall have power to enforce by appropriate legislation the provisions of this article." The people determined to vest the enforcing power in the Congress of the United States. They did so expressly that there might be no question as to its existence. The duty is not assigned to state or Federal courts, but in specific terms committed to Congress. To enforce "the provisions of this article" is to make them practically operative, and thus secure the enjoyment of the rights which the article guarantees to all the citizens of the United States. This is to be done "by appropriate legislation" —namely, by such legislation as will be effectively suited to the end. Congress, therefore, has the power legislatively to provide for the enforcement of the Fourteenth Amendment. The method of exercising this power is not by making states, as political organisms, offenders for acts inconsistent with the amendment; but, rather, by legislatively applying its principles to *individuals*, and holding them responsible under the laws of the United States for any acts done by them in violation of the rights which it guarantees. The General Government does not legislate for states, or over them; but it has the power, within the limits of the Constitution, to legislate for the people composing these states, and to enforce this Constitution upon the people, anything in the constitutions and laws of the states to the contrary notwithstanding.

This is precisely the manner in which Congress has proceeded in its legislative enforcement of the Fourteenth Amendment. Having passed what is known as the Civil Rights Bill, on the 9th of April, 1866, before the amendment was adopted, Congress, by an act entitled "An act to enforce the right of citizens of the United States to vote in the several states of this Union, and for other purposes," which was passed May 27th, 1870, re-enacted the Civil Rights Bill in the eighteenth section of this act, and thus gave it force as the law of the land under the sanction of this amendment. What is known as the Ku-Klux law, passed in April, 1871, contains still further legislation to enforce its principles. The act entitles itself "An act to enforce the provisions of the Fourteenth Amendment to the Constitution of the United States and for other purposes." The state of things existing in several of the Southern States, as brought to the knowledge of Congress, upon sworn evidence, demanded further legislation for the proper protection of the guaranteed rights of the citizens of the United States; and Congress, as it had a right to do—yea, was bound to do—met the crisis by such legislation.

Democrats denounce the re-enactment of the Civil Rights Bill, and they equally denounce the Ku-Klux law; yet Republicans, who mean that the Fourteenth Amendment shall be a living power, justify both. The former designate both as usurpations and acts of centralization, while the latter call them acts of national protection. The difference between them is heaven-wide. And nothing is more remarkable than the fact that Horace Greeley, the former advocate and defender of this legislation, should have changed sides on this vital subject, and virtually gone over to the Democratic position. It is the darkest feature in his political life. The spectacle which he presents to-day is one that may well astonish the nation. He is not and he cannot be ignorant of the fact that the Democratic party is not the friend of the Fourteenth Amendment, or of the legislation which seeks to secure its ends. It has persistently, until within a very recent period, opposed the one, and to-day it denounces the other. And yet Horace Greeley, with a full knowledge of these facts, is hopefully looking to this party to elect him to the Presidency.

It is seldom that a public man has either the courage or the opportunity to place so dark a blot on his own record. Were the act done ignorantly, it might be excused as a blunder; but when it is done knowingly it must be condemned as a grave moral offense. Mr. Greeley is fully aware of the fact that the Democratic clamor of to-day about centralization refers to the re-enacted Civil Rights Bill and the Ku-Klux law, both of which are designed to give legislative effect to the guaranties of the Fourteenth Amendment; and yet he allies himself with Democracy, and hopes to be elevated to power by its votes. This we regard as an astounding defection from principle.