

STATE OF THE UNION.

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,  
ON THE STATE OF THE UNION.

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JANUARY 16, 1833.

Read, and referred to the Committee on the Judiciary.

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*Gentlemen of the Senate  
and House of Representatives of the United States:*

In my annual message, at the commencement of your present session, I adverted to the opposition to the revenue laws in a particular quarter of the United States, which threatened not merely to thwart their execution, but to endanger the integrity of the Union. And, although I then expressed my reliance that it might be overcome by the prudence of the officers of the United States and the patriotism of the people, I stated that, should the emergency arise rendering the execution of the existing laws impracticable from any cause whatever, prompt notice should be given to Congress, with the suggestion of such views and measures as might be necessary to meet it.

Events which have occurred in the quarter then alluded to, or which have come to my knowledge subsequently, present this emergency.

Since the date of my last annual message, I have had officially transmitted to me by the Governor of South Carolina, which I now communicate to Congress, a copy of the ordinance passed by the Convention which assembled at Columbia, in the State of South Carolina, in November last, declaring certain acts of Congress therein mentioned, within the limits of that State to be absolutely null and void, and making it the duty of the Legislature to pass such laws as would be necessary to carry the same into effect from and after the first February next.

The consequences to which this extraordinary defiance of the just authority of the Government might too surely lead, were clearly foreseen, and it was impossible for me to hesitate as to my own duty in such an emergency

The ordinance had been passed, however, without any certain knowledge of the recommendation which, from a view of the interests of the nation at large, the Executive had determined to submit to Congress; and a hope was indulged that, by frankly explaining his sentiments, and the nature of those duties which the crisis would devolve upon him, the authorities of South Carolina might be induced to retrace their steps. In this hope, I determined to issue my proclamation of the 10th of December last, a copy of which I now lay before Congress.

I regret to inform you that these reasonable expectations have not been realized, and that the several acts of the Legislature of South Carolina, which I now lay before you, and which have, all and each of them, finally passed, after a knowledge of the desire of the administration to modify the laws complained of, are too well calculated, both in their positive enactments and in the spirit of opposition which they obviously encourage, wholly to obstruct the collection of the revenue within the limits of that State.

Up to this period, neither the recommendation of the Executive in regard to our financial policy and impost system, nor the disposition manifested by Congress promptly to act upon that subject, nor the unequivocal expression of the public will in all parts of the Union, appears to have produced any relaxation in the measures of opposition adopted by the State of South Carolina; nor is there any reason to hope that the ordinance and laws will be abandoned.

I have no knowledge that an attempt has been made, or that it is in contemplation, to re-assemble either the Convention or the Legislature; and it will be perceived that the interval before the first of February is too short to admit of the preliminary steps necessary for that purpose. It appears, moreover, that the State authorities are actively organizing their military resources, and providing the means, and giving the most solemn assurances of protection and support to all who shall enlist in opposition to the revenue laws.

A recent proclamation of the present Governor of South Carolina has openly defied the authority of the Executive of the Union, and general orders from the head quarters of the State announced his determination to accept the services of volunteers, and his belief, that, should their country need their services, they will be found at the post of honor and duty, ready to lay down their lives in her defence. Under these orders, the forces referred to are directed to "hold themselves in readiness to take the field at a moment's warning;" and in the city of Charleston, within a collection district and a port of entry, a rendezvous has been opened for the purpose of enlisting men for the magazine and municipal guard. Thus South Carolina presents herself in the attitude of hostile preparation, and ready even for military violence, if need be, to enforce her laws for preventing the collection of the duties within her limits.

Proceedings thus announced and matured must be distinguished from menaces of unlawful resistance by irregular bodies of people, who, acting under temporary delusion, may be restrained by reflection, and the influence of public opinion, from the commission of actual outrage. In the present instance, aggression may be regarded as committed when it is officially authorized, and the means of enforcing it fully provided.

Under these circumstances, there can be no doubt that it is the determination of the authorities of South Carolina fully to carry into effect their ordinance and laws after the first of February. It therefore becomes my duty to bring the subject to the serious consideration of Congress, in order that such



measures as they, in their wisdom, may deem fit, shall be seasonably provided; and that it may be thereby understood that, while the Government is disposed to remove all just cause of complaint, as far as may be practicable consistently with a proper regard to the interests of the community at large, it is, nevertheless, determined that the supremacy of the laws shall be maintained.

In making this communication, it appears to me to be proper not only that I should lay before you the acts and proceedings of South Carolina, but that I should also fully acquaint you with those steps which I have already caused to be taken for the due collection of the revenue, and with my views of the subject generally, that the suggestions which the Constitution requires me to make, in regard to your future legislation, may be better understood.

This subject having early attracted the anxious attention of the Executive, as soon as it was probable that the authorities of South Carolina seriously meditated resistance to the faithful execution of the revenue laws, it was deemed advisable that the Secretary of the Treasury should, particularly, instruct the officers of the United States in that part of the Union as to the nature of the duties prescribed by the existing laws.

Instructions were accordingly issued on the 6th of November to the collectors in that State, pointing out their respective duties, and enjoining upon each a firm and vigilant, but discreet, performance of them in the emergency then apprehended.

I herewith transmit copies of these instructions, and of the letter addressed to the district attorney requesting his co-operation. These instructions were dictated in the hope that, as the opposition to the laws by the anomalous proceeding of nullification, was represented to be of a pacific nature, to be pursued, substantially, according to the forms of the Constitution, and without resorting, in any event, to force or violence, the measures of its advocates would be taken in conformity with that profession; and, on such supposition, the means afforded by the existing laws would have been adequate to meet any emergency likely to arise.

It was, however, not possible altogether to suppress apprehension of the excesses to which the excitement prevailing in that quarter might lead: but it certainly was not foreseen that the meditated obstruction to the laws would so soon openly assume its present character.

Subsequently to the date of those instructions, however, the ordinance of the Convention was passed, which, if complied with by the people of that State, must effectually render inoperative the present revenue laws within her limits.

That ordinance declares and ordains, "that the several acts, and parts of acts, of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having operation and effect within the United States; and, more especially, "An act in alteration of the several acts imposing duties on imports," approved on the 19th of May, 1828; and also an act entitled "An act to alter and amend the several acts imposing duties on imports," approved on the 14th July, 1832, are unauthorized by the Constitution of the United States, and violate the true intent and meaning thereof, and are null and void, and no law, nor binding upon the State of South Carolina, its officers, and citizens; and all promises, contracts, and obligations made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void."

It also ordains "that it shall not be lawful for any of the constituted authorities, whether of the State of South Carolina or of the United States, to enforce the payment of duties imposed by the said acts within the limits of of the State, but that it shall be the duty of the Legislature to adopt such measures, and pass such acts, as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States, within the limits of the State, from and after the 1st of February next; and it shall be the duty of all other constituted authorities, and of all other persons residing or being within the limits of the State, and they are hereby required and enjoined, to obey and give effect to this ordinance, and such acts and measures of the Legislature as may be passed or adopted in obedience thereto."

It further ordains, "that in no case of law or equity, decided in the courts of the State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and the person or persons attempting to take such appeal may be dealt with as for a contempt of court."

It likewise ordains, "that all persons holding any office of honor, profit, or trust, civil or military, under the State, shall, within such time, and in such manner as the Legislature shall prescribe, take an oath well and truly to obey, execute, and enforce this ordinance, and such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead, or had resigned; and no person hereafter elected to any office of honor, profit, or trust, civil or military, shall, until the Legislature shall otherwise provide and direct, enter on the execution of his office, or be, in any respect, competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be empanelled in any of the courts of the State, in any cause in which shall be in question this ordinance, or any act of the Legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath that he will well and truly obey, execute, and enforce, this ordinance, and such act or acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof."

The ordinance concludes: "And we, the people of South Carolina, to the end that it may be fully understood by the Government of the United States, and the people of the co-States, that we are determined to maintain this ordinance and declaration at every hazard, do further declare that we will not submit to the application of force on the part of the Federal Government to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorizing the employment of a military or naval force against the State of South Carolina, her constituted authorities, or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports; or any other act on the part of the Federal Government to coerce the State, shut up her ports, destroy or harrass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through

the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connexion with the people of the other States, and will forthwith proceed to organize a separate government, and to do all other acts and things which sovereign and independent States may of right do."

This solemn denunciation of the laws and authority of the United States has been followed up by a series of acts, on the part of the authorities of that State, which manifest a determination to render inevitable a resort to those measures of self-defence which the paramount duty of the Federal Government requires; but, upon the adoption of which, that State will proceed to execute the purpose it has avowed in this ordinance, of withdrawing from the Union.

On the 27th of November, the Legislature assembled at Columbia; and, on their meeting, the Governor laid before them the ordinance of the Convention. In his message on that occasion, he acquaints them that "this ordinance has thus become a part of the fundamental law of South Carolina;" that "the die has been at last cast, and South Carolina has at length appealed to her ulterior sovereignty as a member of this confederacy, and has planted herself on her reserved rights. The rightful exercise of this power is not a question which we shall any longer argue. It is sufficient that she has willed it, and that the act is done; nor is its strict compatibility with our constitutional obligation to all laws passed by the General Government, within the authorized grants of power, to be drawn in question, when this interposition is exerted in a case in which the compact has been palpably, deliberately, and dangerously violated. That it brings up a conjuncture of deep and momentous interest, is neither to be concealed nor denied. This crisis presents a class of duties which is referable to yourselves. You have been commanded by the people, in their highest sovereignty, to take care that, within the limits of this State, their will shall be obeyed." "The measure of legislation," he says, "which you have to employ at this crisis, is the precise amount of such enactments as may be necessary to render it utterly impossible to collect, within our limits, the duties imposed by the protective tariffs thus nullified." He proceeds: "that you should arm every citizen with a civil process by which he may claim, if he pleases, a restitution of his goods, seized under the existing imposts, on his giving security to abide the issue of a suit at law, and, at the same time, define what shall constitute treason against the State, and, by a bill of pains and penalties, compel obedience, and punish disobedience to your own laws, are points too obvious to require any discussion. In one word, you must survey the whole ground. You must look to and provide for all possible contingencies. In your own limits, your own courts of judicature must not only be supreme, but you must look to the ultimate issue of any conflict of jurisdiction and power between them and the courts of the United States."

The Governor also asks for power to grant clearances, in violation of the laws of the Union; and, to prepare for the alternative which must happen unless the United States shall passively surrender their authority, and the Executive, disregarding his oath, refrain from executing the laws of the Union, he recommends a thorough revision of the militia system, and that the Governor "be authorized to accept, for the defence of Charleston and its dependencies, the services of two thousand volunteers, either by companies or files;" and that they be formed into a legionary brigade, consisting of in-

fantry, riflemen, cavalry, field and heavy artillery; and that they be "armed and equipped, from the public arsenals, completely for the field; and that appropriations be made for supplying all deficiencies in our munitions of war." In addition to these volunteer drafts, he recommends that the Governor be authorized "to accept the services of ten thousand volunteers from the other divisions of the State, to be organized and arranged in regiments and brigades; the officers to be selected by the commander-in-chief; and that this whole force be called *the State Guard*."

A request has been regularly made of the Secretary of State of South Carolina for authentic copies of the acts which have been passed for the purpose of enforcing the ordinance; but, up to the date of the latest advices, that request had not been complied with; and, on the present occasion, therefore, reference can only be made to those acts as published in the newspapers of the State.

The acts to which it is deemed proper to invite the particular attention of Congress, are,

1st. "An act to carry into effect, in part, an ordinance to nullify certain acts of the Congress of the United States, purporting to be laws laying duties on the importation of foreign commodities," passed in Convention of this State, at Columbia, on the 24th November, 1832.

This act provides, that any goods seized or detained, under pretence of securing the duties, or for the non-payment of duties, or under any process, order, or decree, or other pretext, contrary to the intent and meaning of the ordinance, may be recovered by the owner or consignee by "an act of replevin." That, in case of refusing to deliver them, or removing them so that the replevin cannot be executed, the sheriff may seize the personal estate of the offender to double the amount of the goods: and, if any attempt shall be made to retake or seize them, it is the duty of the sheriff to recapture them. And that any person who shall disobey the process, or remove the goods, or any one who shall attempt to retake or seize the goods under pretence of securing the duties, or for non-payment of duties, or under any process or decree contrary to the intent of the ordinance, shall be fined and imprisoned, besides being liable for any other offence involved in the act.

It also provides that any person arrested or imprisoned on any judgment or decree obtained in any Federal Court for duties, shall be entitled to the benefit secured by the habeas corpus act of the State in cases of unlawful arrest, and may maintain an action for damages; and that, if any estate shall be sold under such judgment or decree, the sale shall be held illegal. It also provides, that any jailor who receives a person committed on any process or other judicial proceedings to enforce the payment of duties, and any one who hires his house as a jail to receive such persons, shall be fined and imprisoned. And, finally, it provides that persons paying duties may recover them back with interest.

The next is called "An act to provide for the security and protection of the people of the State of South Carolina."

This act provides, that, if the Government of the United States, or any officer thereof, shall, by the employment of naval or military force, attempt to coerce the State of South Carolina into submission to the acts of Congress declared by the ordinance null and void, or to resist the enforcement of the ordinance, or of the laws passed in pursuance thereof, or in case of any armed or forcible resistance thereto, the Governor is authorized to



resist the same, and to order into service the whole, or so much of the military force of the State as he may deem necessary; and that in case of any overt act of coercion, or intention to commit the same, manifested by an unusual assemblage of naval or military forces in or near the State, or the occurrence of any circumstances indicating that armed force is about to be employed against the State or in resistance to its laws, the Governor is authorized to accept the services of such volunteers, and call into service such portions of the militia, as may be required to meet the emergency.

The act also provides for accepting the service of the volunteers, and organizing the militia, embracing all free white males between the ages of sixteen and sixty, and for the purchase of arms, ordinance, and ammunition. It also declares that the power conferred on the Governor shall be applicable to all cases of insurrection or invasion, or imminent danger thereof, and to cases where the laws of the State shall be opposed, and the execution thereof forcibly resisted, by combinations too powerful to be suppressed by the power vested in the sheriffs and other civil officers; and declares it to be the duty of the Governor, in every such case, to call forth such portions of militia and volunteers as may be necessary promptly to suppress such combinations, and cause the laws of the State to be executed.

No. 9, is "An act concerning the oath required by the ordinance passed in Convention at Columbia, on the 24th of November, 1832." This act prescribes the form of the oath, which is, to obey and execute the ordinance and all acts passed by the Legislature in pursuance thereof; and directs the time and manner of taking it by the officers of the State, civil, judiciary, and military.

It is believed that other acts have been passed, embracing provisions for enforcing the ordinance, but I have not yet been able to procure them.

I transmit, however, a copy of Governor Hamilton's message to the Legislature of South Carolina, of Governor Hayne's inaugural address to the same body, as also of his proclamation, and a general order of the Governor and commander-in-chief, dated the 20th of December, giving public notice that the services of volunteers will be accepted under the act already referred to.

If these measures cannot be defeated and overcome by the power conferred by the Constitution on the Federal Government, the Constitution must be considered as incompetent to its own defence, the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the Government of the Union. They not only abrogate the acts of Congress, commonly called the tariff acts of 1828 and 1832, but they prostrate and sweep away, at once, and without exception, every act, and every part of every act, imposing any amount whatever of duty on any foreign merchandise; and, virtually, every existing act which has ever been passed authorizing the collection of the revenue, including the act of 1816, and, also, the collection law of 1799, the constitutionality of which has never been questioned. It is not only those duties which are charged to have been imposed for the protection of manufactures that are thereby repealed, but all others, though laid for the purpose of revenue merely, and upon articles in no degree suspected of being objects of protection. The whole revenue system of the United States in South Carolina is obstructed and overthrown; and the Government is absolutely prohibited from collecting any part of the public revenue within the limits of that State. Henceforth, not only the citizens of South Carolina and of the United States, but the subjects of foreign states, may import any description or quantity of



merchandise into the ports of South Carolina, without the payment of any duty whatsoever. That State is thus relieved from the payment of any part of the public burthens, and duties and imposts are not only rendered not uniform throughout the United States, but a direct and ruinous preference is given to the ports of that State over those of all the other States of the Union, in manifest violation of the positive provisions of the Constitution.

In point of duration, also, those aggressions upon the authority of Congress, which, by the ordinance, are made part of the fundamental law of South Carolina, are absolute, indefinite, and without limitation. They neither prescribe the period when they shall cease, nor indicate any conditions upon which those who have thus undertaken to arrest the operation of the laws are to retrace their steps, and rescind their measures. They offer to the United States no alternative but unconditional submission. If the scope of the ordinance is to be received as the scale of concession, their demands can be satisfied only by a repeal of the whole system of revenue laws, and by abstaining from the collection of any duties and imposts whatsoever.

It is true, that in the address to the people of the United States by the Convention of South Carolina, after announcing "the fixed and final determination of the State in relation to the protecting system," they say "that it remains for us to submit a plan of taxation, in which we would be willing to acquiesce, in a liberal spirit of concession, provided we are met in due time, and in a becoming spirit, by the States interested in manufactures." In the opinion of the Convention, an equitable plan would be, that "the whole list of protected articles should be imported free of all duty, and that the revenue derived from import duties should be raised exclusively from the unprotected articles, or that whenever a duty is imposed upon protected articles imported, an excise duty of the same rate shall be imposed upon all similar articles manufactured in the United States." The address proceeds to state, however, that "they are willing to make a large offering to preserve the Union, and with a distinct declaration that it is a concession on our part, we will consent that the same rate of duty may be imposed upon the protected articles that shall be imposed upon the unprotected, provided that no more revenue be raised than is necessary to meet the demands of the Government for constitutional purposes, and provided also that a duty substantially uniform be imposed upon all foreign imports."

It is also true, that, in his message to the Legislature, when urging the necessity of providing "means of securing their safety by ample resources for repelling force by force," the Governor of South Carolina observes, that he "cannot but think that, on a calm and dispassionate review by Congress, and the functionaries of the General Government, of the true merits of this controversy, the arbitration, by a call of a Convention of all the States, which we sincerely and anxiously seek and desire, will be accorded to us."

From the diversity of terms indicated in these two important documents, taken in connexion with the progress of recent events in that quarter, there is too much reason to apprehend, without in any manner doubting the intentions of those public functionaries, that neither the terms proposed in the address of the Convention, nor those alluded to in the message of the Governor, would appease the excitement which has led to the present excesses. It is obvious, however, that, should the latter be insisted on, they present an alternative which the General Government, of itself, can by no possibility grant, since, by an express provision of the Constitution, Congress can call a convention for the purpose of proposing amendments only "on the ap-

plication of the Legislatures of two-thirds of the States." And it is not perceived that the terms presented in the address are more practicable than those referred to in the message.

It will not escape attention, that the conditions on which it is said, in the address of the Convention, they "would be willing to acquiesce," form no part of the ordinance. While this ordinance bears all the solemnity of a fundamental law, is to be authoritative upon all within the limits of South Carolina, and is absolute and unconditional in its terms, the address conveys only the sentiments of the Convention in no binding or practical form: one is the act of the State, the other only the expression of the opinions of the members of the Convention. To limit the effect of that solemn act by any terms or conditions whatever, they should have been embodied in it, and made of import no less authoritative than the act itself. By the positive enactments of the ordinance, the execution of the laws of the Union is absolutely prohibited; and the address offers no other prospect of their being again restored, even in the modified form proposed, than what depends upon the improbable contingency, that, amid changing events and increasing excitement, the sentiments of the present members of the Convention, and of their successors, will remain the same.

It is to be regretted, however, that these conditions, even if they had been offered in the same binding form, are so undefined, depend upon so many contingencies, and are so directly opposed to the known opinions and interests of the great body of the American people, as to be almost hopeless of attainment. The majority of the States, and of the people, will certainly not consent that the protecting duties shall be wholly abrogated, never to be re-enacted at any future time, or in any possible contingency. As little practicable is it to provide that "the same rate of duty shall be imposed upon the protected articles that shall be imposed upon the unprotected;" which, moreover, would be severely oppressive to the poor, and, in time of war, would add greatly to its rigors. And though there can be no objection to the principle, properly understood, that no more revenue shall be raised than is necessary for the constitutional purposes of the Government; which principle has been already recommended by the Executive as the true basis of taxation; yet it is very certain that South Carolina alone cannot be permitted to decide what these constitutional purposes are.

The period which constitutes the due time in which the terms proposed in the address are to be accepted, would seem to present scarcely less difficulty than the terms themselves. Though the revenue laws are already declared to be void in South Carolina, as well as the bonds taken under them, and the judicial proceedings for carrying them into effect, yet, as the full action and operation of the ordinance are to be suspended until the first of February, the interval may be assumed as the time within which it is expected that the most complicated portion of the national legislation, a system of long standing, and affecting great interests in the community, is to be rescinded and abolished. If this be required, it is clear that a compliance is impossible.

In the uncertainty, then, that exists as to the duration of the ordinance, and of the enactments for enforcing it, it becomes imperiously the duty of the Executive of the United States, acting with a proper regard to all the great interests committed to his care, to treat those acts as absolute and unlimited. They are so, as far as his agency is concerned. He cannot either embrace or lead to the performance of the conditions. He has already discharged the

only part in his power, by the recommendation in his annual message. The rest is with Congress and the people; and until they have acted, his duty will require him to look to the existing state of things, and act under them according to his high obligations.

By these various proceedings, therefore, the State of South Carolina has forced the General Government, unavoidably, to decide the new and dangerous alternative of permitting a State to obstruct the execution of the laws within its limits, or seeing it attempt to execute a threat of withdrawing from the Union. That portion of the people at present exercising the authority of the State, solemnly assert their right to do either, and as solemnly announce their determination to do one or the other.

In my opinion, both purposes are to be regarded as revolutionary in their character and tendency, and subversive of the supremacy of the laws and of the integrity of the Union. The result of each is the same; since a State in which, by an usurpation of power, the constitutional authority of the Federal Government is openly defied and set aside, wants only the form to be independent of the Union.

The right of the people of a single State to absolve themselves at will, and without the consent of the other States, from their most solemn obligations, and hazard the liberties and happiness of the millions composing this Union, cannot be acknowledged. Such authority is believed to be utterly repugnant both to the principles upon which the General Government is constituted, and to the objects which it is expressly formed to attain.

Against all acts which may be alleged to transcend the constitutional power of the Government, or which may be inconvenient or oppressive in their operation, the Constitution itself has prescribed the modes of redress. It is the acknowledged attribute of free institutions that, under them, the empire of reason and law is substituted for the power of the sword. To no other source can appeals for supposed wrongs be made, consistently with the obligations of South Carolina; to no other can such appeals be made with safety at any time; and to their decisions, when constitutionally pronounced, it becomes the duty, no less of the public authorities than of the people, in every case to yield to a patriotic submission.

That a State, or any other great portion of the people, suffering under long and intolerable oppression, and having tried all constitutional remedies without the hope of redress, may have a natural right, when their happiness can be no otherwise secured, and when they can do so without greater injury to others, to absolve themselves from their obligations to the Government, and appeal to the last resort, needs not, on the present occasion, be denied.

The existence of this right, however, must depend upon the causes which may justify its exercise. It is the *ultima ratio*, which presupposes that the proper appeals to all other means of redress have been made in good faith, and which can never be rightfully resorted to unless it be unavoidable. It is not the right of the State, but of the individual, and of all the individuals in the State. It is the right of mankind generally to secure, by all means in their power, the blessings of liberty and happiness; but when, for these purposes, any body of men have voluntarily associated themselves under a particular form of government, no portion of them can dissolve the association without acknowledging the correlative right in the remainder to decide whether that dissolution can be permitted consistently with the general

happiness. In this view, it is a right dependent upon the power to enforce it. Such a right, though it may be admitted to pre-exist, and cannot be wholly surrendered, is necessarily subjected to limitations in all free governments, and in compacts of all kinds, freely and voluntarily entered into, and in which the interest and welfare of the individual become identified with those of the community of which he is a member. In compacts between individuals, however deeply they may affect their relations, these principles are acknowledged to create a sacred obligation; and in compacts of civil government, involving the liberties and happiness of millions of mankind, the obligation cannot be less.

Without adverting to the particular theories to which the federal compact has given rise, both as to its formation and the parties to it, and without inquiring whether it be merely federal, or social, or national, it is sufficient that it must be admitted to be a compact, and to possess the obligations incident to a compact; to be "a compact by which power is created on the one hand, and obedience exacted on the other; a compact freely, voluntarily, and solemnly, entered into by the several States, and ratified by the people thereof, respectively; a compact by which the several States, and the people thereof, respectively, have bound themselves to each other, and to the Federal Government, and by which the Federal Government is bound to the several States, and to every citizen of the United States." To this compact, in whatever mode it may have been done, the people of South Carolina have freely and voluntarily given their assent; and to the whole and every part of it, they are, upon every principle of good faith, inviolably bound. Under this obligation they are bound, and should be required, to contribute their portion of the public expense, and to submit to all laws made by the common consent, in pursuance of the Constitution, for the common defence and general welfare, until they can be changed in the mode which the compact has provided for the attainment of those great ends of the Government and of the Union. Nothing less than causes which would justify revolutionary remedy, can absolve the people from this obligation; and for nothing less can the Government permit it to be done without violating its own obligations, by which, under the compact, it is bound to the other States, and to every citizen of the United States.

These deductions plainly flow from the nature of the federal compact, which is one of limitations, not only upon the powers originally possessed by the parties thereto, but also upon those conferred on the Government, and every department thereof. It will be freely conceded that, by the principles of our system, all power is vested in the people; but to be exercised in the mode, and subject to the checks, which the people themselves have prescribed. These checks are, undoubtedly, only different modifications of the same great popular principle which lies at the foundation of the whole, but are not, on that account, to be less regarded or less obligatory.

Upon the power of Congress, the veto of the Executive, and the authority of the judiciary, which is to extend to all cases in law and equity arising under the Constitution and laws of the United States made in pursuance thereof, are the obvious checks; and the sound action of public opinion, with the ultimate power of amendment, are the salutary and only limitation upon the powers of the whole.

However it may be alleged that a violation of the compact, by the measures of the Government, can affect the obligations of the parties, it cannot even be pretended that such violation can be predicated of those measures until



all the constitutional remedies shall have been fully tried. If the Federal Government exercise powers not warranted by the Constitution, and immediately affecting individuals, it will scarcely be denied that the proper remedy is a recourse to the judiciary. Such, undoubtedly, is the remedy for those who deem the acts of Congress laying duties and imposts and providing for their collection, to be unconstitutional. The whole operation of such laws is upon the individuals importing the merchandise. A State is absolutely prohibited from laying imposts or duties on imports or exports, without the consent of Congress, and cannot become a party, under these laws, without importing in her own name, or wrongfully interposing her authority against them. By thus interposing, however, she cannot rightfully obstruct the operation of the laws upon individuals. For their disobedience to, or violation of, the laws, the ordinary remedies through the judicial tribunals would remain. And in a case where an individual should be prosecuted for any offence against the laws, he could not set up, in justification of his act, a law of the State, which, being unconstitutional, would therefore be regarded as null and void. The law of a State cannot authorize the commission of a crime against the United States, or any other act which, according to the supreme law of the Union, would be otherwise unlawful. And it is equally clear, that, if there be any case in which a State, as such, is affected by the law beyond the scope of judicial power, the remedy consists in appeals to the people, either to effect a change in the representation, or to procure relief by an amendment of the Constitution. But the measures of the Government are to be recognized as valid, and, consequently, supreme, until these remedies shall have been effectually tried; and any attempt to subvert those measures, or to render the laws subordinate to State authority, and, afterwards, to resort to constitutional redress, is worse than evasive. It would not be a proper resistance to "*a government of unlimited powers,*" as has been sometimes pretended, but unlawful opposition to the very limitations on which the harmonious action of the Government, and all its parts, absolutely depends. South Carolina has appealed to none of these remedies, but, in effect, has defied them all. While threatening to separate from the Union if any attempt be made to enforce the revenue laws otherwise than through the civil tribunals of the country, she has not only not appealed in her own name to those tribunals which the Constitution has provided for all cases in law or equity arising under the Constitution and laws of the United States, but has endeavored to frustrate their proper action on her citizens, by drawing the cognizance of cases under the revenue laws to her own tribunals, specially prepared and fitted for the purpose of enforcing the acts passed by the State to obstruct those laws, and both the judges and jurors of which will be bound, by the import of oaths previously taken, to treat the Constitution and laws of the United States in this respect as a nullity. Nor has the State made the proper appeal to public opinion, and to the remedy of amendment. For, without waiting to learn whether the other States will consent to a Convention, or, if they do, will construe or amend the Constitution to suit her views, she has, of her own authority, altered the import of that instrument, and given immediate effect to the change. In fine, she has set her own will and authority above the laws, has made herself arbiter in her own cause, and has passed at once over all intermediate steps to measures of avowed resistance, which, unless they be submitted to, can be enforced only by the sword.



In deciding upon the course which a high sense of duty to all the people of the United States imposes upon the authorities of the Union in this emergency, it cannot be overlooked that there is no sufficient cause for the acts of South Carolina, or for her thus placing in jeopardy the happiness of so many millions of people. Misrule and oppression, to warrant the disruption of the free institutions of the Union of these States, should be great and lasting, defying all other remedy. For causes of minor character, the Government could not submit to such a catastrophe, without a violation of its most sacred obligations to the other States of the Union, who have submitted their destiny to its hands.

There is, in the present instance, no such cause, either in the degree of misrule or oppression complained of, or in the hopelessness of redress by constitutional means. The long sanction they have received from the proper authorities and from the people, not less than the unexampled growth and increasing prosperity of so many millions of freemen, attest that no such oppression as would justify or even palliate such a resort, can be justly imputed either to the present policy or past measures of the Federal Government. The same mode of collecting duties, and for the same general objects, which began with the foundation of the Government, and which has conducted the country, though its subsequent steps to its present enviable condition of happiness and renown, has not been changed. Taxation and representation, the great principle of the American revolution, have continually gone hand in hand; and at all times, and in every instance, no tax of any kind has been imposed without their participation; and, in some instances, which have been complained of, with the express assent of a part of the Representatives of South Carolina in the councils of the Government. Up to the present period, no revenue has been raised beyond the necessary wants of the country, and the authorized expenditures of the Government. And as soon as the burthen of the public debt is removed, those charged with the administration have promptly recommended a corresponding reduction of revenue.

That this system, thus pursued, has resulted in no such oppression upon South Carolina, needs no other proof than the solemn and official declaration of the late chief magistrate of that State in his address to the Legislature. In that he says, that "the occurrences of the past year, in connexion with our domestic concerns, are to be reviewed with a sentiment of fervent gratitude to the Great Disposer of human events; that tributes of grateful acknowledgment are due for the various and multiplied blessings he has been pleased to bestow on our people; that abundant harvests in every quarter of the State have crowned the exertions of agricultural labor; that health, almost beyond former precedent, has blessed our homes; and that there is not less reason for thankfulness in surveying our social condition." It would, indeed, be difficult to imagine oppression where, in the social condition of a people, there was equal cause of thankfulness, as for abundant harvests, and varied and multiplied blessings with which a kind Providence had favored them.

Independently of these considerations, it will not escape observation, that South Carolina still claims to be a component part of the Union, to participate in the national councils, and to share in the public benefits, without contributing to the public burthens—thus asserting the dangerous anomaly of continuing in an association without acknowledging any other obligation to its laws than what depends upon her own will.

In this posture of affairs, the duty of the Government seems to be plain. It inculcates a recognition of that State as a member of the Union, and subject to its authority; a vindication of the just power of the Constitution; the preservation of the integrity of the Union; and the execution of the laws by all constitutional means.

The Constitution, which his oath of office obliges him to support, declares that the Executive "*shall take care that the laws be faithfully executed;*" and, in providing that he shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient, imposes the additional obligation of recommending to Congress such more efficient provision for executing the laws, as may, from time to time, be found requisite.

The same instrument confers on Congress the power not merely to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare, but "to make all laws which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof;" and, also, to provide for calling forth the militia for executing the laws of the Union. In all cases similar to the present, the duties of the Government become the measure of its powers; and whenever it fails to exercise a power necessary and proper to the discharge of the duty prescribed by the Constitution, it violates the public trusts not less than it would in transcending its proper limits. To refrain, therefore, from the high and solemn duties thus enjoined, however painful the performance may be, and thereby tacitly permit the rightful authority of the Government to be contemned, and its laws obstructed by a single State, would neither comport with its own safety, nor the rights of the great body of the American people.

It being thus shown to be the duty of the Executive to execute the laws by all constitutional means, it remains to consider the extent of those already at his disposal, and what it may be proper further to provide.

In the instructions of the Secretary of the Treasury to the collectors in South Carolina, the provisions and regulations made by the act of 1799, and also the fines, penalties, and forfeitures, for their enforcement, are particularly detailed and explained. It may be well apprehended, however, that these provisions may prove inadequate to meet such an open, powerful, organized opposition, as is to be commenced after the first of February next.

Subsequently to the date of these instructions, and to the passage of the ordinance, information has been received, from sources entitled to be relied on, that, owing to the popular excitement in the State, and the effect of the ordinance declaring the execution of the revenue laws unlawful, a sufficient number of persons, in whom confidence might be placed, could not be induced to accept the office of inspector, to oppose, with any probability of success, the force which will, no doubt, be used when an attempt is made to remove vessels and their cargoes from the custody of the officers of the customs; and, indeed, that it would be impracticable for the collector, with the aid of any number of inspectors whom he may be authorized to employ, to preserve the custody against such an attempt.

The removal of the custom-house from Charleston to Castle Pinckney was deemed a measure of necessary precaution; and, though the authority to give that direction is not questioned, it is nevertheless apparent that a simi-

lar precaution cannot be observed in regard to the ports of Georgetown and Beaufort, each of which, under the present laws, remains a port of entry, and exposed to the obstructions meditated in that quarter.

In considering the best means of avoiding or of preventing the apprehended obstruction to the collection of the revenue, and the consequences which may ensue, it would appear to be proper and necessary to enable the officers of the customs to preserve the custody of vessels and their cargoes, which, by the existing laws, they are required to take, until the duties to which they are liable shall be paid or secured. The mode by which it is contemplated to deprive them of that custody, is the process of replevin, and that of *capias in withernam*, in the nature of a distress from the State tribunals organized by the ordinance.

Against the proceeding in the nature of a distress, it is not perceived that the collector can interpose any resistance whatever; and against the process of replevin authorized by the law of the State, he, having no common law power, can only oppose such inspectors as he is by statute authorized, and may find it practicable to employ; and these, from the information already adverted to, are shown to be wholly inadequate.

The respect which that process deserves, must therefore be considered.

If the authorities of South Carolina had not obstructed the legitimate action of the courts of the United States, or if they had permitted the State tribunals to administer the law according to their oath under the Constitution and the regulations of the laws of the Union, the General Government might have been content to look to them for maintaining the custody, and to encounter the other inconveniences arising out of the recent proceedings. Even in that case, however, the process of replevin from the courts of the State would be irregular and unauthorized. It has been decided by the Supreme Court of the United States that the courts of the United States have exclusive jurisdiction of all seizures made on land or water for a breach of the laws of the United States, and any intervention of a State authority, which, by taking the thing seized out of the hands of the United States' officer, might obstruct the exercise of this jurisdiction, is unlawful: that, in such case, the court of the United States having cognizance of the seizure, may enforce a re-delivery of the thing by attachment or other summary process; that the question under such a seizure, whether a forfeiture has been actually incurred, belongs exclusively to the courts of the United States, and it depends on the final decree, whether the seizure is to be deemed rightful or tortuous; and that not until the seizure be finally judged wrongful and without probable cause by the courts of the United States, can the party proceed at common law for damages in the State courts.

But, by making it "unlawful for any of the constituted authorities, whether of the United States or of the State, to enforce the laws for the payment of duties, and declaring that all judicial proceedings which shall be hereafter had in affirmance of the contracts made with purpose to secure the duties imposed by the said acts, are, and shall be held utterly null and void," she has, in effect, abrogated the judicial tribunals within her limits in this respect; has virtually denied the United States access to the courts established by their own laws; and declared it unlawful for the judges to discharge those duties which they are sworn to perform. In lieu of these, she has substituted those State tribunals already adverted to, the judges whereof are not merely forbidden to allow an appeal or permit a copy of their record, but are previously sworn and to disregard the laws of the Union, en-

force those only of South Carolina; and, thus deprived of the function essential to the judicial character, of inquiring into the validity of the law and the right of the matter, become merely ministerial instruments in aid of the concerted obstruction of the laws of the Union.

Neither the process nor authority of these tribunals, thus constituted, can be respected, consistently with the supremacy of the laws or the rights and security of the citizen. If they be submitted to, the protection due from the Government to its officers and citizens is withheld, and there is, at once, an end, not only to the laws, but to the Union itself.

Against such a force as the sheriff may, and which, by the replevin law of South Carolina, it is his duty to exercise, it cannot be expected that a collector can retain his custody with the aid of the inspectors. In such case, it is true, it would be competent to institute suits in the United States' courts against those engaged in the unlawful proceeding; or the property might be seized for a violation of the revenue laws, and, being libelled in the proper courts, an order might be made for its re-delivery, which would be committed to the marshal for execution. But, in that case, the 4th section of the act, in broad and unqualified terms, makes it the duty of the sheriff "to prevent such recapture or seizure, or to re-deliver the goods, as the case may be," "even under any process, order, or decrees, or other pretext, contrary to the true intent and meaning of the ordinance aforesaid." It is thus made the duty of the sheriff to oppose the process of the courts of the United States, and, for that purpose, if need be, to employ the whole power of the county. And the act expressly reserves to him all power, which, independently of its provisions, he could have used. In this reservation, it obviously contemplates a resort to other means than those particularly mentioned.

It is not to be disguised that the power which it is thus enjoined upon the sheriff to employ, is nothing less than the *posse comitatis*, in all the rigor of the ancient common law. This power, though it may be used against unlawful resistance to judicial process, is, in its character, forcible, and analogous to that conferred upon the marshals by the act of 1795. It is, in fact, the embodying of the whole mass of the population, under the command of a single individual, to accomplish, by their forcible aid, what could not be effected peaceably and by the ordinary means. It may properly be said to be a relict of those ages in which the laws could be defended rather by physical than moral force, and, in its origin, was conferred upon the sheriffs of England to enable them to defend their county against any of the king's enemies when they came into the land, as well as for the purpose of executing process. In early, and less civilized, times it was intended to include "the aid and attendance of all knights and others who were bound to have harness." It includes the right of going with arms and military equipment, and embraces larger classes and greater masses of population than can be compelled by the laws of most of the States to perform militia duty. If the principles of the common law are recognized in South Carolina, (and from this act it would seem they are,) the power of summoning the *posse comitatis* will compel, under the penalty of fine and imprisonment, every man over the age of fifteen, and able to travel, to turn out, at the call of the sheriff, and with such weapons as may be necessary; and it may justify beating, and even killing, such as may resist. The use of the *posse comitatis* is, therefore, a direct application of force, and cannot be otherwise regarded than as the employment of the whole militia force of the county, and in an equally efficient form, under a different name. No



proceeding which resorts to this power, to the extent contemplated by the act, can be properly denominated peaceable.

The act of South Carolina, however, does not rely altogether upon this forcible remedy. For even attempting to resist or disobey—though by the aid only of the ordinary officers of the customs—the process of replevin, the collector and all concerned are subjected to a further proceeding, in the nature of a distress of their personal effects; and are, moreover, made guilty of a misdemeanor, and liable to be punished by a fine of not less than one thousand, nor more than five thousand dollars, and to imprisonment, not exceeding two years, and not less than six months; and for even attempting to execute the order of the court for retaking the property, the marshal, and all assisting, would be guilty of a misdemeanor, and liable to a fine of not less than three thousand dollars, nor more than ten thousand, and to imprisonment, not exceeding two years, nor less than one; and, in case the goods should be retaken under such process, it is made the absolute duty of the sheriff to retake them.

It is not to be supposed that, in the face of these penalties, aided by the powerful force of the county, which would doubtless be brought to sustain the State officers, either that the collector would retain the custody in the first instance, or that the marshal could summon sufficient aid to retake the property, pursuant to the order or other process of the court.

It is, moreover, obvious that in this conflict between the powers of the officers of the United States and of the State, (unless the latter be passively submitted to,) the destruction to which the property of the officers of the customs would be exposed, the commission of actual violence, and the loss of lives, would be scarcely avoidable.

Under these circumstances, and the provisions of the acts of South Carolina, the execution of the laws is rendered impracticable even through the ordinary judicial tribunals of the United States. There would certainly be fewer difficulties, and less opportunity of actual collision between the officers of the United States and of the State, and the collection of the revenue would be more effectually secured—if indeed it can be done in any other way—by placing the custom-house beyond the immediate power of the county.

For this purpose, it might be proper to provide that whenever, by any unlawful combination or obstruction in any State, or in any port, it should become impracticable faithfully to collect the duties, the President of the United States should be authorized to alter and abolish such of the districts and ports of entry as should be necessary, and to establish the custom-house at some secure place within some port or harbor of such State; and, in such cases, it should be the duty of the collector to reside at such place, and to detain all vessels and cargoes until the duties imposed by law should be properly secured or paid in cash, deducting interest; that, in such cases, it should be unlawful to take the vessel and cargo from the custody of the proper officer of the customs, unless by process from the ordinary judicial tribunals of the United States; and that, in case of an attempt otherwise to take the property by a force too great to be overcome by the officers of the customs, it should be lawful to protect the possession of the officers by the employment of the land and naval forces, and militia, under provisions similar to those authorized by the 11th section of the act of the 9th of January, 1809.

This provision, however, would not shield the officers and citizens of the United States, acting under the laws, from suits and prosecutions, in the tribunals of the State, which might thereafter be brought against them; nor



would it protect their property from the proceeding by distress; and it may well be apprehended that it would be insufficient to insure a proper respect to the process of the constitutional tribunals in prosecutions for offences against the United States, and to protect the authorities of the United States, whether judicial or ministerial, in the performance of their duties. It would, moreover, be inadequate to extend the protection due from the Government to that portion of the people of South Carolina, against outrage and oppression of any kind, who may manifest their attachment, and yield obedience to the laws of the Union.

It may therefore be desirable to revive, with some modifications better adapted to the occasion, the 6th section of the act of the 3d of March, 1815, which expired on the 4th of March, 1817, by the limitation of that of 27th April, 1816; and to provide that, in any case where suit shall be brought against any individual in the courts of the State, for any act done under the laws of the United States, he should be authorized to remove the said cause, by petition, into the circuit court of the United States, without any copy of the record, and that the courts should proceed to hear and determine the same as if it had been originally instituted therein. And that in all cases of injuries to the persons or property of individuals for disobedience to the ordinance and laws of South Carolina, in pursuance thereof, redress may be sought in the courts of the United States. It may be expedient, also, by modifying the resolution of the 3d March, 1791, to authorize the marshals to make the necessary provision for the safe keeping of prisoners committed under the authority of the United States.

Provisions less than these, consisting, as they do, for the most part, rather of a revival of the policy of former acts called for by the existing emergency, than of the introduction of any unusual or rigorous enactments, would not cause the laws of the Union to be properly respected or enforced. It is believed these would prove adequate, unless the military forces of the State of South Carolina, authorized by the late act of the Legislature, should be actually embodied and called out in aid of their proceedings, and of the provisions of the ordinance generally. Even in that case, however, it is believed that no more will be necessary than a few modifications of its terms, to adapt the act of 1795 to to the present emergency, as, by that act, the provisions of the law of 1792 were accommodated to the crisis then existing; and by conferring authority upon the President to give it operation during the session of Congress, and without the ceremony of a proclamation, whenever it shall be officially made known to him by the authority of any State, or by the Courts of the United States, that, within the limits of such State, the laws of the United States will be openly opposed, and their execution obstructed by the actual employment of military force, or by any unlawful means whatsoever, too great to be otherwise overcome.

In closing this communication, I should do injustice to my own feelings not to express my confident reliance upon the disposition of each department of the Government to perform its duty, and to co-operate in all measures necessary in the present emergency.

The crisis undoubtedly invokes the fidelity of the patriot and the sagacity of the statesman, not more in removing such portion of the public burthen as may be necessary, than in preserving the good order of society, and in the maintenance of well regulated liberty.

While a forbearing spirit may, and I trust will, be exercised towards the errors of our brethren in a particular quarter, duty to the rest of the Union

demands that open and organized resistance to the laws should not be executed with impunity.

The rich inheritance bequeathed by our fathers has devolved upon us the sacred obligation of preserving it by the same virtues which conducted them through the eventful scenes of the revolution, and ultimately crowned their struggle with the noblest model of civil institutions. They bequeathed to us a government of laws, and a federal union, founded upon the great principle of popular representation. After a successful experiment of forty-four years, at a moment when the Government and the Union are the objects of the hopes of the friends of civil liberty throughout the world, and in the midst of public and individual prosperity unexampled in history, we are called to decide whether these laws possess any force, and that Union the means of self-preservation. The decision of this question by an enlightened and patriotic people cannot be doubtful. For myself, fellow citizens, devoutly relying upon that kind Providence which has hitherto watched over our destinies, and actuated by a profound reverence for those institutions I have so much cause to love, and for the American people, whose partiality honored me with their highest trust, I have determined to spare no effort to discharge the duty which, in this conjuncture, is devolved upon me. That a similar spirit will actuate the Representatives of the American people is not to be questioned; and I fervently pray that the Great Ruler of nations may so guide your deliberations, and our joint measures, as that they may prove salutary examples, not only to the present, but to future times; and solemnly proclaim that the Constitution and the laws are supreme, and the *Union indissoluble*.

ANDREW JACKSON.

WASHINGTON, *January 16, 1833.*

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## DOCUMENTS

COMMUNICATED TO BOTH HOUSES OF CONGRESS, BY THE PRESIDENT, RELATING TO THE PROCEEDINGS OF SOUTH CAROLINA.

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No. 1.

REPORT OF THE CONVENTION.

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*Report of the Committee of Twenty-one, to the Convention of the People of South Carolina, on the subject of the several acts of Congress imposing duties for the Protection of Domestic Manufactures, with the Ordinance to Nullify the same.*

The committee to whom was referred "the act to provide for the calling of a Convention of the people of this State," with instructions "to consider and report thereon, and especially as to the measures proper to be adopted by the Convention in reference to the violations of the Constitution of the United States, in the enactment by Congress, on divers occasions, of laws laying duties and imposts for the purpose of encouraging and protecting domestic manufactures, and for other unwarrantable purposes," beg leave, respectfully, to submit the following report:

The committee, deeply impressed with the importance of the questions submitted to them, and the weight of responsibility involved in their decision, have given to the subject their most deliberate and anxious consideration. In stating the conclusions to which they have arrived, they feel that it is due to themselves, to this Convention, and to the public at large, briefly to review the history of the protecting system in this country, to show its origin, to trace its progress, to examine its character, point out its evils, and suggest the appropriate remedy. They propose to execute this task with all possible brevity and simplicity, sensible that the subject is too well understood in all its bearings, to require, at this time, a very elaborate investigation.

In the natural course of human affairs, the period would have been very remote when the people of the United States would have engaged in manufactures, but for the restrictions upon our commerce which grew out of the war between Great Britain and France, and which led to the non-intercourse act, the embargo, and, finally, our own war of 1812. Cut off by these events from a free commercial intercourse with the rest of the world, the people of the United States turned their attention to manufactures, and, on the restoration of peace in 1815, an amount of capital had been already invested in these establishments which made a strong appeal to the liberality, we might almost say, to the justice of the country for protection, at least against that sudden influx of foreign goods which, it was feared, would entirely overwhelm

these domestic establishments. When, therefore, in 1816, it became necessary that the revenue should be brought down to the peace establishment by a reduction of the duties upon imports, it was almost, by common consent, conceded to the claims of the manufacturers that this reduction should be *gradual*, and three years were accordingly allowed for bringing down the duties to the permanent revenue standard, which, embracing all the ordinary expenses of the Government, with liberal appropriations for the navy and the army, an extensive system of fortifications, and the gradual extinction of the public debt, (then amounting to \$130,000,000) was fixed at 20 per cent. If the manufactures had, at that time, even hinted that permanent protection was deemed indispensable to their success; if the slightest suspicion had been entertained that, instead of the gradual reduction expressly provided for by the act of 1816, there would be claimed a *gradual increase* of the protecting duties; and that, instead of being brought down in three years to 20 per cent., the duties were to be carried up to 50 or 100 per cent., and, in many cases, to prohibition, the painful contest in which the country has been engaged for the last ten years on this subject would have commenced immediately; and it is confidently believed that, in the temper of the public mind at that time, ample security would have been found against the introduction of such a system. But, in defiance of the clear understanding of the whole country, and in violation of the principles of justice and of good faith, that part of the act above mentioned which required that the duties should be reduced in three years to 20 per cent. was repealed, and a broad foundation thus laid for the permanent establishment of the protecting system. This system has been still further extended and fortified by the several successive acts of 1820, 1824, and 1828, until, by the passing of the act of 1832, (to take effect after the discharge of the public debt,) it has become incorporated into our political system as the "SETTLED POLICY OF THE COUNTRY." We have not deemed it necessary, in tracing the origin and progress of this system, to go further back than the commercial restrictions which preceded the late war; for, whatever theoretical opinions may have been expressed by Alexander Hamilton and others in relation to it at an earlier period, it cannot be denied that no duties were actually imposed beyond those deemed indispensable for the public exigencies, and that, prior to the year 1816, no protection whatever was actually extended to manufactures, beyond what was strictly incidental to a system for revenue. The *discrimination* between the *protected* and *unprotected* articles, now contended for as the very corner-stone of the protecting system, was so far from being established by that act, that the highest duties were actually imposed on the very articles now admitted duty free, while the foreign manufactures which came into competition with our domestic fabrics were subjected to a lower rate of duty. The truth then unquestionably is, that the protecting policy, according to the principles now contended for, was never introduced into this country until the period we have mentioned, when it crept insidiously into the legislation of Congress in the manner above described. This will be made abundantly manifest to every one who will take the pains to trace the progress of the duties from  $7\frac{1}{2}$  per cent. in 1790, up to 25 per cent. in 1816—40 per cent. in 1824, and 50, 60, and even 100 per cent. in 1828 and 1832, and who will merely examine the manner in which these duties were adjusted in the various acts here referred to. As early as 1820—so soon, indeed, as the capitalists who had relied upon the powers of the Federal Government to enhance the pro-



fits of their investments by legislation, began to look forward to its eventual establishment as the settled policy of the country—they clearly perceived that an extension of the appropriations to objects not embraced in the specific grants of the Federal Constitution, was the necessary appendage of their system. They well knew that the people would not long submit to the levying of a large surplus revenue merely for the protection of manufactures, carried on almost exclusively in one quarter of the Union; and they therefore sought, in the extension of the appropriations to new objects, for a plausible and popular excuse for the continuance of a system of high duties. With that instinctive sagacity which belongs to men who convert the Legislature of a country into an instrument for the promotion of their own private ends, they clearly saw that the distribution of an enormous surplus treasure would afford the surest means of bringing over the enemies of the American system to its support, and of enlisting in their cause not only large masses of the people, but entire States who had no direct interest in maintaining the protecting system, or who were even, in some respects, its victims. No scheme that the wit of man could possibly have devised, was better calculated for the accomplishment of this object. It proposed simply to reconcile men to an unjust system of national policy, by admitting them to a large share of the spoils—in a word, to levy contributions by the aid of those who were to divide the plunder. If the United States had constituted one great nation, with a consolidated Government, occupying a territory of limited extent, inhabited by a people engaged in similar pursuits, and having homogeneous interests, such a system would only have operated as a tax upon all the other great interests of the State, for the benefit of that which was favored by the laws; and when time had been allowed for the adjustment of society to this new condition of its affairs, the final result must have been, an aggregate diminution of the profits of the whole community, by diverting a portion of the people from their accustomed employments to less profitable pursuits. In such a case, the hope might perhaps have been indulged that experience would demonstrate the egregious folly of enacting laws, the only effect of which would be, to supply the wants of the community at an increased expense of labor and capital. But it is the distinguishing feature of the American system, and one which stamps upon it the character of peculiar and aggravated oppression, that it is made applicable to a *confederacy* of twenty-four sovereign and independent States; occupying a territory upwards of 2000 miles in extent; embracing every variety of soil, climate, and productions; inhabited by a people whose institutions and interests are, in many respects, diametrically opposed to each other; with habits and pursuits infinitely diversified; and, in the great southern section of the Union, rendered, by local circumstances, altogether incapable of change. Under such circumstances, a system which, under a consolidated government, would be merely impolitic, and so far, an act of injustice to the whole community, becomes, in this country, a scheme of the most intolerable oppression; because it may be, and has in fact been, *so adjusted* as to operate exclusively to the benefit of a particular interest, and of particular sections of country, rendering, in effect, the industry of one portion of the confederacy tributary to the rest. The laws have accordingly been so framed as to give a direct pecuniary interest to a sectional majority, in maintaining a grand system by which taxes are in effect imposed upon the few for the benefit of the many; and imposed, too, by a system of indirect taxation, so artfully contrived as to escape the vigilance of the common eye, and masked under such ingenious



devices as to make it extremely difficult to expose their true character. Thus, under the pretext of imposing duties for the payment of the public debt, and providing for the common defence and general welfare, (powers expressly conferred on the Federal Government by the Constitution,) acts are passed containing provisions designed exclusively and avowedly for the purpose of securing to the American manufacturers a monopoly in our own markets, to the great and manifest prejudice of those who furnish the agricultural productions which are exchanged in foreign markets for the very articles which it is the avowed object of these laws to exclude. It so happens, that six of the southern States, whose industry is almost exclusively agricultural, though embracing a population equal to only one third part of the whole Union, actually produce for exportation near 40,000,000 annually, being about two-thirds of the whole domestic exports of the United States. As it is their interest, so it is, unquestionably, their right, to carry these fruits of their own honest industry to the best market, without any molestation, hindrance, or restraint whatsoever, and subject to no taxes or other charges but such as may be necessary for the payment of the reasonable expenses of the Government. But how does this system operate upon our industry? While imposts to the amount of 10 or 12 per cent. (if arranged on just and equal principles) must be admitted to be fully adequate to all the legitimate purposes of Government, duties are actually imposed (with a few inconsiderable exceptions,) upon all the woollens, cottons, iron and manufactures of iron, sugar, and salt, and almost every other article received in exchange for the cotton, rice, and tobacco, of the south, bearing an average of about 50 per cent., whereby, (in addition to the injurious effects of this system in prohibiting some articles, and discouraging the introduction of others,) a tax equal to one half of the first cost is imposed upon the cottons, woollens, and iron, which are the fruits of southern industry, in order to secure an advantage, in the home market, to their rivals the American manufacturers of similar articles, equivalent to one half of their value—thereby stimulating the industry of the north, and discouraging that of the south, by granting bounties to the one, and imposing taxes upon the other.

The committee deem it unnecessary to go into an elaborate examination of the true character and sectional operation of the protecting system. The subject has, of late, been so frequently and thoroughly examined, and the bearing of the system been so completely exposed, that the argument is exhausted. To the people of the southern States there cannot be presented a more touching or irresistible appeal, either to their understandings or their hearts, than is found in the melancholy memorials of ruin and decay which are every where visible around us—memorials proclaiming the fatal character of that system which has brought upon one of the finest portions of the globe, in the full vigor of its early manhood, the poverty and desolation which belong only to the most sterile regions, or to the old age and decrepitude of nations. The moral blight and pestilence of unwise and partial legislation has swept over our fields with “the besom of destruction.” The proofs are every where around us.

It is in vain for any one to contend that this is a just and equal system, or that the northern States pay a full proportion of the tax. If this were so, how is it to be accounted for that high duties are regarded in that quarter of the Union, not as a burden, but as a blessing?

How comes it that a people certainly not unmindful of their interests, are seen courting the imposition of taxes, and crying out against any mate-

rial reduction of the public burdens? Does not this extraordinary fact afford conclusive evidence that high duties operate as a bounty to northern industry; and that whatever taxes the manufacturers may pay, as consumers, they are more than remunerated by the advantages they enjoy as producers? Or, in other words, that they actually receive more than they pay, and, therefore, cannot be justly said to be taxed at all. When, in addition to all this, we take into consideration that the amount of duties annually levied for the protection of manufacturers, beyond the necessary wants of the Government, (which cannot be estimated at less than 10 or 12,000,000) is expended almost exclusively in the northern portion of the Union, can it excite any surprise that, under the operation of the protecting system, the manufacturing States should be constantly increasing in riches and growing in strength, with an inhospitable climate and barren soil, while the southern States, the natural garden of America, should be rapidly falling into decay? It is contrary to the general order of Providence that any country should long bear up against a system by which enormous contributions, raised in one quarter, are systematically expended in another. If the sixteen millions of dollars now annually levied in duties on the foreign goods received in exchange for southern productions were allowed to remain in the pockets of the people, or, by some just and equal system of appropriation, could be restored to them, the condition of the plantation States would, unquestionably, be one of unexampled prosperity and happiness. Such was our condition under a system of free trade, and such would soon again be our enviable lot. Of the results which would thereby be produced, some faint conception may be formed by imagining what would be the effect upon the industry of the people of our own State, if the \$8,000,000 of foreign goods now annually received in exchange for our productions, and paying duties to the amount of upwards of \$3,000,000, could be obtained by us duty free, or the duties thus levied were expended within our own limits. Is it not obvious that several millions per annum would thereby be added to the available industry of South Carolina? the effect of which would assuredly be to change the entire face of affairs in this State, by enhancing the profits of the agriculturist, accumulating capital, giving a fresh impulse to commerce, and producing a vivifying influence upon every department of industry, the happy consequences of which would be experienced by every inhabitant of the State. We present this strong view of the subject to show the manifest justice of the claim which South Carolina now sets up to have this system of raising revenue, by duties upon imports, *restricted within the narrowest limits*, and to show how utterly impossible it is for us to consent to have it extended beyond the indispensable wants of the Government, either for the purpose of affording protection to the industry of others, or of distributing the proceeds among individuals or States.

Grievous, however, as the oppression unquestionably is, and calculated, in the strong language of our own Legislature, "to reduce the plantation States to POVERTY and UTTER DESOLATION," it is not in this aspect that the question is presented in its most dangerous and alarming form. It is not merely that Congress have resorted, for unwarranted purposes, to an oppressive exercise of powers *granted* to them by the Constitution, but that they have *usurped a power not granted*, and have justified that usurpation on principles which, if sanctioned or submitted to, must entirely change the character of the Government, reduce the Constitution to a dead letter, and, on the

ruins of our confederated republic, erect a consolidated despotism, "without limitation of powers." If this be so, there is no man who is worthy of the precious heritage of liberty derived from our ancestors, or who values the free institutions of his country, who must not tremble for the cause of freedom, not only in this country, but throughout the world, unless the most prompt and efficient measures are at once adopted to arrest the downward course of our political affairs, to stay the hand of oppression, to restore the constitution to its original principles, and thereby to perpetuate the Union.

It cannot be denied that the Government of the United States possesses no inherent powers. It was called into being by the States. The States not only created it, but conferred upon it all its powers, and prescribed its limits by a written charter, called the Constitution of the United States. Before the Federal Government had thus been called into being, the several States unquestionably possessed as full sovereignty, and were as independent of each other, as the most powerful nations of the world; and, in the free and undisputed exercise of that sovereignty, they entered into a solemn compact with each other, by which it was provided, that for certain specified objects, a General Government should be established with strictly limited powers—the several States retaining their sovereignty unimpaired, and continuing to exercise all powers not expressly granted to the Federal Government.

In the clear and emphatic language of Mr. Jefferson, "the several States composing the United States of America are not united on the principle of unlimited submission to the General Government; but, by a compact under the style and title of the Constitution of the United States, they constituted a General Government for special purposes; delegated to that Government certain definite powers; reserving, each State to itself, the residuary mass of right to their own self-government; and whensoever the General Government assumes undelegated powers, its acts are unauthorized, void, and of no force."\* That such is the true nature of the federal compact, cannot admit of a reasonable doubt; and it follows, of necessity, that the Federal Government is merely a joint agency, created by the States; that it can exert no power not expressly granted by them; and that, when it claims any power, it must be able to refer to the clause in the charter which confers it. This view of the Constitution of the United States brings the question of the constitutionality of the tariff within the narrowest limits.

The regulation of *domestic industry*, so far as Government may rightfully interfere therewith, belonged to the several States before the Constitution was adopted, or the Union sprang into existence; and it still remains exclusively with them, unless it has been expressly granted to the Federal Government. If such a grant has been made, it is incumbent on those claiming under it to point out the provision in the Constitution which embraces it. It must be admitted, that there is not a clause or article in that instrument which has the slightest allusion, either to manufactures or to agriculture: while, therefore, the "regulation of commerce" is expressly conferred on the General Government, the regulation of every branch of domestic industry is reserved to the several States, exclusively, who may afford them encouragement by pecuniary bounties, and by all other means, not inconsistent with the Constitution of the United States. To say that the power to regulate commerce embraces the regulation of agriculture and

\* See Kentucky resolutions of 1778.

manufactures, and all the other pursuits of industry, (for they all stand upon the same footing,) is to confound the plainest distinctions, and to lose sight of the true meaning and intent of the grant in question. Commerce is, in general, regulated by treaties with foreign nations; and, therefore, it was deemed necessary that this power should be confided to the General Government; but agriculture, manufactures, and the mechanic arts, can only be wisely ordered by municipal regulation. Commerce is one object of legislation, manufactures another, agriculture a third; and if the regulation of commerce implies an unlimited control over every thing which constitutes the object of commerce, it would follow, as a matter of course, that the Federal Government may exert a supreme dominion over the whole labor and capital of the country. This would transform our confederated Government, with strictly limited powers, into an absolute despotism, and of the worst sort, where, under the forms of a free government, we should have the spirit of a despotic one. This view of the subject we should deem perfectly conclusive, even if it could not be shown that the power in question, so far from being granted, was purposely withheld from the Federal Government by the framers of the Constitution, and that there are provisions of the Constitution from which it may be fairly inferred that it was intended to be reserved to the States respectively. It appears, from the history of the proceedings of the Convention which framed the Constitution, that the subject of the protection of *manufactures* was several times brought distinctly to the view of that body, and that they did not see fit to grant to the Federal Government the power in question. In the original proposition to confer on Congress the power to impose "duties, imposts, and excises," was embraced "*prohibitions and restraints*," which may well be supposed to be intended to embrace the protection of manufactures; but, it is remarkable, that these words were omitted in the report of the committee on that clause. On the 18th of August, a motion was made "to establish rewards and immunities for the promotion of agriculture, commerce, trades, and *manufactures*;" but this proposition also failed. On a subsequent day it was moved that there should be "a Secretary of Domestic Affairs, &c., whose duty it should be to attend to matters of general police, the state of *agriculture* and *manufactures*, the opening of roads and navigation, and facilitating of intercourse through the United States; and that he shall, from time to time, recommend such measures and establishments as may tend to promote these objects." This proposition likewise failed, the Constitution containing no provision in conformity therewith.

Now, as it is utterly impossible that these several propositions, embracing imposts, duties, prohibitions, and restraints, and the encouragement of manufactures, could have been disposed of without bringing the whole question of domestic manufactures fully into view, it must follow that, as no power was given to Congress over *manufactures*, while the power to regulate commerce is expressly conferred, it was not the intention of the framers of the Constitution to entrust this power to Congress. Although repeatedly urged to confer such a power, they constantly refused it; and the Constitution, as finally ratified, contains no provision whatever upon the subject. In the report of Luther Martin, a delegate from Maryland, made to the Legislature of his State, an explanation is given of the proceedings of the Convention in relation to this matter, which removes every shadow of doubt with regard to the true meaning and intent of the framers of the Constitution in relation to the protection of manufactures. It appears from this



statement that, as the encouragement of manufactures had been refused to be conferred upon the Federal Government, it was the desire of Mr. Martin and others, to reserve to the States all the means which they supposed to be necessary for affording effectual encouragement to manufactures within their own limits. Among those, it was presumed "that there might be cases in which it would be proper, for the purpose of encouraging manufactures, to lay duties to prohibit the exportation of raw materials; and even in addition to the duties laid by Congress on imports *for the sake of revenue*, to lay a duty to *discourage the importation of particular articles* into a State, or to enable the manufacturer here to supply us on as good terms as could be obtained from a foreign market."\* Here it will be seen that it is positively stated by Mr. Martin, that the power given to Congress to *impose duties upon imports*, was given expressly "*for the sake of revenue*," and was not considered as extending to any duty "to discourage the importation of particular articles, for the purpose of encouraging manufactures;" and that it was considered that, unless the several States should possess this power, as well as that of prohibiting the exportation of certain raw materials, they would not be enabled to extend that complete protection to their own manufactures which might be deemed indispensable to their success. "The most, however," says Mr. Martin, "which we could obtain was, that this power might be exercised by the States, by and with the consent of Congress, and subject to its control." Thus, then, it manifestly appears that, in relation to manufactures, the framers of the Constitution positively refused to confer upon the Federal Government any power whatever. That the power to lay duties, &c. was conferred for the sake of revenue alone, and was not intended to embrace the power to lay duties "to discourage the importation of particular articles to enable the manufacturers here to supply us on as good terms as could be obtained from a foreign market;" and, finally, that the whole subject was left in the hands of the several States, with the restriction "that no State shall, without the consent of Congress, lay any impost or duties on imports or exports, except what may be absolutely necessary for executing their inspection laws." This power, it appears, was expressly inserted for the purpose of enabling the States to protect their own manufactures, and this, it seems, was the only provision which friends of domestic industry could obtain. It is vain to allege that the powers retained by the States on this subject are inadequate to the effectual accomplishment of the object. If this were so, it would only show the necessity of some further provision on this subject; but surely it will not be pretended that it would justify the usurpation, by Congress, of a power not only not granted by the Constitution, but purposely withheld.

We think, however, that this exposition of the Constitution places the protection of manufactures on the true foundation on which it should stand in such a Government as ours. Nothing can be more monstrous than that the industry of one or more States in this confederacy should be made profitable at the expense of others; and this must be the inevitable result of any scheme of legislation by the General Government, calculated to promote manufactures by restrictions upon commerce or agriculture. But leave manufactures where agriculture and other domestic pursuits have been wisely left by the Constitution—with the several States, and ample security is furnished that no preference will be given to one pursuit over another; and if it should be deemed advisable, in any particular State, to extend encouragement to manu-

\* Yates' Secret Debates in the Convention, p. 71.



factures, either by direct appropriations of money, or in the way pointed out in the article of the Constitution above quoted, that this will be done, not at the expense of the rest of the Union, but of the particular State whose citizens are to derive the advantages of those pursuits. Should Massachusetts, for instance, find it to her advantage to engage in the manufacture of woollens or cottons, or Pennsylvania be desirous of encouraging the working of her iron mines, let those States grant bounties out of their own treasuries to the persons engaged in these pursuits; and should it be deemed advisable to encourage their manufactures by duties, "discouraging the importation of similar articles" in these respective States, let them make an application to Congress, whose consent would doubtless be readily given to any acts of those States having these objects in view. The manufacturers of Massachusetts and Pennsylvania would thus be encouraged at the expense of the people of these States respectively. But when they claim to do more than this—to encourage their industry at the expense of the industry of the people of the other States—to promote the *manufactures of the north* at the expense of the *agriculture of the south*, by *restrictions upon commerce*—in a word, to secure a monopoly for their manufactures not only in their own market, but throughout the United States, then, we say, that the claim is unjust, and cannot be granted consistently with the principles of the Constitution, or the great ends of a *confederated government*. We shall not stop to inquire whether, as has been urged with great force, that provision of the Constitution which confers the power upon Congress "to promote the progress of science and the useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries," does not, by a necessary implication, deny to Congress the power of promoting the useful arts, (which include both agriculture and manufactures,) by any other means than those here specified. It is sufficient for our purpose to show that the power of promoting manufactures as a distinct substantive object of legislation, has no where been granted to Congress. As to the incidental protection that may be derived from the rightful exercise of the power either of regulating commerce or of imposing taxes, duties, and imposts, for the legitimate purposes of Government, this certainly may be as freely enjoyed by manufactures as it must be by every other branch of domestic industry. But as the power to regulate commerce, conferred expressly for its security, cannot be fairly exerted for its destruction, so neither can it be perverted to the purpose of building up manufacturing establishments, an object entirely beyond the jurisdiction of the Federal Government: so also the power to levy taxes, duties, imposts, and excises, expressly given for the purpose of raising *revenue*, cannot be used for the discouragement of importations, for the purpose of promoting manufactures, without a gross and palpable violation of the plain meaning and intent of the federal compact. Acts may be passed on these subjects falsely purporting, on their face, to have been enacted for the purposes of raising revenue and regulating commerce, but if, in truth, they are designed (as the acts of 1824, 1828, and 1832, *confessedly* and avowedly have been) for an entirely different purpose, viz. for the encouragement and promotion of manufactures, the violation of the Constitution is not less gross, deliberate, and palpable, because it assumes the most dangerous of all forms, a *violation by perversion*—the use of a power granted for one purpose, for another and a different purpose, in relation to which Congress has no power to act at all. On the whole, even from the very brief and imperfect view which we have here taken of this subject, we think we have

demonstrated that the protecting system is as *gross and palpable a violation* of the *Constitution*, according to its true spirit, intent, and meaning, as it is unquestionably *unequal, oppressive, and unjust* in its bearing upon the great interests of the country, and the several sections of the Union.

But great as are the evils of the American system, fatal as it assuredly must be to the prosperity of a large portion of the Union, and gross as is the violation of the letter and spirit of the Constitution which it perpetrates, the consequences which must inevitably result from the establishment of the pernicious principles on which it is founded are evils of still greater magnitude. An entire change in the character of the Government is the natural and necessary consequence of the application, to the Constitution, of those latitudinous rules of construction, from which this system derives its existence, and which must "consolidate the States by degrees into one sovereignty; the obvious tendency and inevitable result of which would be to transform the present representative system of the United States into a monarchy."\*

We fearlessly appeal to all considerate men, whether it be, in the nature of things, possible to hold together such a confederacy as ours, by any means short of a military despotism, after it has degenerated into a *consolidated government*; that is to say, after it shall come to be its established policy to exercise a *general legislative control* over the interests and pursuits of the whole American people?

Can any man be so infatuated as to believe that Congress could regulate, wisely, the whole labor and capital of this vast confederacy? Would it not be a burden too grievous to be borne, that a great central government, necessarily ignorant of the condition of the remote parts of the country, and regardless, perhaps, of their prosperity, should undertake to interfere with their domestic pursuits, to control their labor, to regulate their property, and to treat them, in all respects, as *DEPENDENT COLONIES*, governed, not with reference to their own interests, but the interests of others? If such a state of things must be admitted to be altogether intolerable, we confidently appeal to the sober judgment, and patriotic feelings, of every man who values our free institutions, and desires to preserve them—whether the progress of the Government towards this result has not, of late years, been rapid and alarming? and whether, if the downward course of our affairs cannot be at once arrested, the consummation of this system is not at hand? No sooner had Congress assumed the power of building up manufactures by successive tariffs—calculated and intended to drive men from agriculture and commerce into more favored pursuits—than internal improvements sprung at once into vigorous existence. *Pensions* have been enlarged to an extent not only before unknown in any civilized country, but they have been established on such principles, as manifest the settled purpose of bestowing the public treasure in gratuities to particular classes of persons and particular sections of country. *Roads* and *canals* have been commenced, and surveys made, in certain quarters of the Union, on a scale of magnificence which evinces a like determination to distribute the public wealth into new and favored channels; and it is in entire accordance both with the theory and practice of this new system, that the General Government should absorb all the authority of the States, and eventually become the grand depository of the powers, and the general guardian and distributor of the wealth of the whole Union. It is known to all who have marked the course of our national affairs, that Congress has undertaken to create a *Bank*, and have already assumed

jurisdiction over *science* and the *arts*, over *education* and *charities*, over *roads* and *canals*, and almost every other subject formerly considered as appertaining exclusively to the States; and that they claim and exercise an *unlimited control* over the appropriation of the *public lands* as well as of the *public money*. On looking, indeed, to the legislation of the last ten years, it is impossible to resist the conviction that a fatal change has taken place in the whole policy and entire operation of the Federal Government—that in every one of its departments it is, both in theory and practice, rapidly verging towards consolidation—asserting judicial supremacy over the sovereign States, extending *Executive patronage* and influence to the remotest ramifications of society, and assuming legislative control over every object of local concernment, thereby reducing the States to petty corporations, shorn of their sovereignty, mere parts of one great whole, standing in the same relation to the Union as a county or parish to the State of which it is a subordinate part.

Such is the true character, and such the inevitable tendencies of the *American system*. And when the case, thus plainly stated, is brought home to the bosoms of patriotic men, surely it is not possible to avoid the conclusion, that a political system, founded on such principles, must bear within it the seeds of premature dissolution; and that, though it may for a season be extended, enlarged, and strengthened, through the corrupting influence of patronage and power, until it shall have embraced in its serpent folds all the great interests of the State, still the time must come when the people, deprived of all other means of escape, will rise up in their might, and release themselves from this thralldom by one of these violent convulsions whereby society is uprooted from its foundations, and the edict of *reform* is written in *blood*.

Against this system South Carolina has remonstrated in the most earnest terms. As early as 1820, there was hardly a district or parish in the whole State from which memorials were not forwarded to Congress, the general language of which was, that the protecting system was “utterly subversive of their rights and interests.” Again, in 1823 and 1827, the people of this State rose up almost as one man, and declared to Congress and the world, “that the protecting system was unconstitutional, oppressive, and unjust.” But these repeated remonstrances were answered only by repeated injuries and insults—by the enacting of the tariffs of 1824 and 1828. To give greater dignity, and, if possible, more effect to these appeals, the Legislature, in December, 1825, solemnly declared, “that it was an unconstitutional exercise of power on the part of Congress to lay duties to protect domestic manufactures;” and in 1828, they caused to be presented to the Senate of the United States, and claimed to have recorded on its Journals the solemn *protest* of the State of South Carolina, denouncing this system as “*utterly unconstitutional, grossly unequal and oppressive, and such an abuse of power as was incompatible with the principles of a free government, and the great ends of civil society*,” and that they were “*then* only restrained from the assertion of the sovereign rights of the State, by the hope that the magnanimity and justice of the good people of the Union would effect an abandonment of a system partial in its nature, unjust in its operation, and not within the powers delegated to Congress.” And, finally, in December, 1830, it was resolved, “That the several acts of Congress imposing duties on imports, for the protection of domestic manufactures, are highly dangerous, and oppressive violations of the constitutional compact; and that when-

ever the States which are suffering under the oppression, shall lose all reasonable hope of redress from the wisdom and justice of the Federal Government, it will be their right and duty to interpose, in their sovereign capacity, for the purpose of arresting the progress of the evil occasioned by the said unconstitutional acts."

Nor has South Carolina stood alone in the expression of these sentiments: Georgia and Virginia, Alabama and Mississippi, and North Carolina, have raised their voices in earnest remonstrances, and repeated warnings. Virginia, in 1828, in responding to South Carolina, declared "that the Constitution of the United States, being a federative compact between sovereign States, in construing which no common arbiter is known, each State has a right to construe the compact for itself; and that Virginia, as one of the high contracting parties, feels itself bound to declare, and does hereby most solemnly declare, its deliberate conviction that the acts of Congress usually denominated the tariff laws, passed avowedly for the protection of domestic manufactures, are not authorized by the plain construction, true intent and meaning of the Constitution."

Georgia, through her Legislature, pronounced this system to be one "which was grinding down the resources of one class of the States to build up and advance the prosperity of another of the same confederacy, and which they solemnly believed to be contrary to the letter and spirit of the Federal Constitution," and declared it to be the right of the several States, in case of any infraction of the general compact, "to complain, remonstrate, and even *refuse obedience* to any measure of the General Government manifestly against and in violation of the Constitution; that, otherwise, the law might be violated with impunity, and without redress, as often as the majority might think proper to transcend their powers, and the party injured would be bound to yield an implicit obedience to the measure, however unconstitutional, which must tend to annihilate all sovereignty and independence of the States, and consolidate all power in the General Government, which never was designed nor intended by the framers of the Constitution."

Alabama also protested against "the attempt to exclude the foreign in favor of the domestic fabrics, as the exercise of a power not granted by the Constitution," and concluded by stating, "that she wished it to be distinctly understood, that, in common with the other southern and southwestern States, she regards the power asserted by the General Government to control her *internal concerns* by protecting duties, as a *palpable usurpation* of powers, not given by the Constitution, and a species of oppression little short of legalized pillage."

North Carolina, in the same spirit, declared, that, while "it was conceded that Congress have the express power to lay imposts, she maintains that that power was given for the purpose of *revenue*, and revenue alone, and that every other use of the power is an usurpation on the part of Congress." And, finally, the Legislature of Mississippi "Resolved, that the State of Mississippi concurs with the States of Georgia, South Carolina, and Virginia, in their different resolutions upon the subject of *the tariff*, Colonization Society, and internal improvement."

It has been in the face of all these remonstrances and protests, and in defiance of these repeated warnings and solemn declarations, that the recent modification of the tariff, by the act of 1832, was effected. The period of the final extinction of the public debt had always been looked to as the crisis of our fate, when the policy of the country, in reference to the protective system,



was to be finally settled. It was the period assigned, by common consent, as the utmost limit of the forbearance of South Carolina, whose citizens felt, that, in the adoption of that system, their constitutional rights had been trampled on, and their dearest interests cruelly sacrificed.

No one could fail to perceive, that, when every pretext for the continuance of the high duties under which the southern States had suffered for so many years, was taken away by the payment of the national debt, and the consequent relief of the Treasury from an annual demand of twelve millions of dollars; that no reason could be given why these duties should not be brought down to the revenue standard, except that it was deliberately designed to secure to the manufacturers, for ever, the monopoly they had so long enjoyed at the expense of the other great interests of the country.

We find, accordingly, that the new tariff, which is intended to take effect only after the final extinguishment of the public debt, has been arranged and adjusted with a single eye to the perpetuation of this system, and with an entire disregard of the just claims of the plantation States. Whatever may be the amount of the aggregate reduction effected by this bill, (and it is not pretended, in the *latest* Treasury estimate, to exceed \$5,000,000, of which near 4,000,000 of dollars are on the unprotected articles,) it is not denied that it will leave a surplus of many millions in the Treasury beyond the usual expenses or necessary wants of the Government; and it is notorious—nay, it appears on the face of the bill itself—that, while duties to the amount of 40, 50, and even 100 per cent. are still to be levied upon the protected articles, (that is to say, upon all the cottons, woollens, and iron, the sugar and salt, and other articles embraced in the protecting system,) the duties on the unprotected articles have been reduced greatly below the revenue standard, and upwards of \$3,000,000 entirely repealed; so that, according to this system, as now established, a large surplus revenue, to be applied to internal improvements and other unwarrantable purposes, is to be levied by the imposition of enormous taxes on the necessities of life, the very articles received chiefly in exchange for southern productions; and this has been done in order to protect the industry of the north with which ours comes into competition, while the articles of luxury, universally acknowledged to be the fittest subjects for taxation, are to be admitted duty free.\*

Now, let it be remembered, that the very point in controversy has, all along, been—not the *revenue*, but the *protecting* duties, and yet we see that, in answer to all our petitions and remonstrances, Congress has been graciously pleased to make an adjustment of the tariff, which simply consists in taking off the duties imposed for revenue, while the protecting duties are allowed to remain substantially untouched. It was not so much the amount of the imposition, as the inequality and injustice of the protecting system, that has roused the people of South Carolina to determined resistance; and yet we find that this inequality has been aggravated, and that injustice perpetuated by the deliberate adoption of a measure which was calculated and intended to rivet this system upon us beyond all hope of relief.

The grave and solemn question now occurs, what is to be done to redeem ourselves from the state of colonial vassalage into which we have unhappily fallen? Shall we still continue to wait for a returning sense of justice on the part of our oppressors? We are thoroughly persuaded that the hope can no longer be indulged that the tariff majority in Congress will, of their own ac-

\*See Treasury Estimate published in August last, showing an aggregate reduction of \$5,187,078, of which \$3,108,631 were made *entirely free*.



cord, relieve us from this cruel bondage—experience teaches us that this expectation, so long and fondly indulged, is utterly delusive. The only effect of further delay must be to strengthen the hand of the oppressor, to crush the public spirit, deaden the sensibility of the people to the inestimable value of their rights, and teach them the degrading lesson of wearing their chains in patience. It is almost inconceivable that any reflecting man can believe that the crisis in our affairs, arising from the final extinction of the public debt, should be suffered to pass away without reducing the tariff to the revenue standard, and yet that such reduction may be expected to take place at some future period. What period so auspicious as that which has been allowed to pass away unimproved? Is any one so ignorant of human nature as not to know that the annual surplus which then will be brought into the Treasury, under the act of 1832, will be speedily absorbed by new and enlarged appropriations, serving as additional props to a system, which some vainly imagine to be tottering on its base, ready to fall under its own weight? Even at the last session of Congress, the annual appropriations were enlarged by several millions of dollars, in anticipation of this expected surplus; and the foundation is already laid for its absorption, and, when this shall be accomplished, where will be the hopes of those who now say that the evil is to correct itself, and who tell us that the act of 1832, which was in fact designed to rivet the system upon the country for ever, and was hailed by its friends as “a clear, distinct, and indisputable admission of the principle of protection,” is to be viewed as a blessed reform, presenting the brightest auspices for the future? The truth unquestionably is, that the American system is, from its very nature, progressive. When its foundations were laid, it was foreseen and predicted that the great interests which it would build up would exert a controlling influence over the legislation of the country. The history of the world indeed affords no example of a voluntary relinquishment, by a favored class, of any pecuniary or political advantage secured to them by the laws and general policy of the country. Force has often torn from the hands of the oppressor his unrighteous gains, but reason and argument are as vain in convincing the understanding, as appeals to justice and magnanimity have ever proved to be impotent in softening the hearts of those who are enriched under the operation of laws passed professedly for the public good. Who is there that can for one moment believe that any thing short of a direct appeal to their interests, will induce the dependants upon the Federal Government, the wealthy sugar planters and iron masters, or the joint stock companies, who have millions invested in cotton and woollen factories, yielding, under the operation of the protecting system, an annual income of 10 or 20 per cent., voluntarily to relinquish the advantage secured to them by the laws, and consent to come down to a level with the other classes of the community! It is impossible. From every view, then, which your committee have been able to take of this subject, they are constrained to announce to this Convention the solemn truth, that, after more than ten years patient endurance of a system, which is believed by the people of this State to be *fatal to their prosperity*, and a *gross, deliberate, and palpable violation of their constitutional rights*—after the most earnest and unavailing appeals to that sense of justice, and those common sympathies, which ought to bind together the different members of a confederated republic, the crisis has at length arrived when the question must be solemnly and finally determined, whether there remain any means within the power of the State by which these evils may be redressed?

It is useless to disguise the fact, or to attempt to delude ourselves on this subject: *the time has come* when the State must either adopt a *decisive course of action*, or we must at once *abandon the contest*. We cannot again petition—it would be idle to remonstrate, and degrading to protest. In our estimation, it is now a question of *liberty* or *slavery*. It is now to be decided, whether we shall maintain the rights purchased by the precious blood of our fathers, and transmit them unimpaired to our posterity, or tamely surrender them without a struggle. We are constrained to express our solemn conviction, that, under the protecting system, we have been reduced to a state of “colonial dependance, suffering, and disgrace;” and that, unless we now fly with the spirit which becomes freemen to the rescue of our liberties, they are lost for ever. Brought up in an ardent devotion to the Union of the States, the people of South Carolina have long struggled against the conviction that the powers of the Federal Government have been shamefully perverted to the purposes of injustice and oppression. Bound to their brethren by the proud recollections of the past, and fond hopes of the future, by common struggles for liberty and common glories acquired in its defence, they have been brought slowly, and with the utmost reluctance, to the conclusion, that they are shut out from their sympathies, and made the unpitied victims of an inexorable system of tyranny, which is without example in any country claiming to be free. Experience has at length taught us the lamentable truth, that, administered as the Government now is, and has been for several years past, in open disregard of all the limitations prescribed by the Constitution, the Union itself, instead of being a blessing, must soon become a curse. Liberty, we are thoroughly persuaded, cannot be preserved under our system, without a sacred and inviolable regard not merely to the letter, but to the true spirit of the Constitution; and without liberty, the Union would not be worth preserving. If, then, there were no alternatives but to submit to these evils, or to seek a remedy even in revolution itself, we could not, without proving ourselves recreant to the principles hallowed by the example of our ancestors, hesitate a moment as to our choice. We should say, in the spirit of our fathers, “we have counted the cost, and find nothing so intolerable as voluntary slavery.” But we cannot bring ourselves, for one moment, to believe that the alternatives presented to us are revolution or slavery. We confidently believe that there is a redeeming spirit in our institutions, which may, on great occasions, be brought to our aid for the purpose of preserving the public liberty—restoring the Constitution—and effecting a regeneration of the Government—and thereby producing a redress of intolerable grievances, without war, revolution, or a dissolution of the Union. These great objects, we feel assured, may even now be effected, unless those who are in possession of the powers of the Government, and charged with the administration of our national affairs, shall resolve to persevere in a course of injustice, and prove by their conduct that they love the usurpation (to which the people of this State are unalterably determined not to submit) better than the Union. We believe that the redeeming spirit of our system is STATE SOVEREIGNTY, and that it results from the very form and structure of the Federal Government, that, when the rights reserved to the several States are deliberately invaded, it is their right and their duty to “interpose for the purpose of arresting the progress of the evil of usurpation, and to maintain, within their respective limits, the authorities and privileges belonging to them as independent sove-

reignities.”\* If the several States do not possess this right, it is in vain that they claim to be sovereign. They are at once reduced to the degrading condition of humble dependants on the will of the Federal Government. South Carolina claims to be a sovereign State. She recognizes no tribunal upon earth as above her authority. It is true, she has entered into a solemn compact of Union with other sovereign States, but she claims, and will exercise the right to determine the extent of her obligations under that compact, nor will she consent that any other power shall exercise the right of judgment for her. And when that compact is violated by her co-States, or by the Government which they have created, she asserts her unquestionable right, “*to judge of the infractions*, as well as of the *MODE and MEASURE of REDRESS*.”† South Carolina claims no right to judge for others. The States who are parties to the compact must judge each for itself, whether that compact has been pursued or violated; and should they differ irreconcilably in opinion, there is no earthly tribunal that can authoritatively decide between them. It was in the contemplation of a similar case, that Mr. Jefferson declared that, if the difference could neither be compromised nor avoided, it was the peculiar felicity of our system to have provided a remedy in a Convention of all the States, by whom the Constitution might be so altered or amended as to remove the difficulty. To this tribunal, South Carolina is willing that an appeal should now be made, and that the constitutional compact should be so modified as to accomplish all the great ends for which the Union was formed, and the Federal Government constituted, and, at the same time, restore the rights of the States, and preserve them from violation hereafter. Your committee purposely avoid entering here into an examination of the nature and character of this claim, which South Carolina asserts, to interpose her sovereignty for the protection of her citizens from the operation of unconstitutional laws, and the preservation of her own reserved rights. In an address, which will be submitted to the Convention, this subject will be fully examined; and they trust that it will be made to appear, to the entire satisfaction of every dispassionate mind, that in adopting the ORDINANCE which the committee herewith report, declaring the tariff laws passed for the protection of domestic manufactures null and void, and not law, and directing the Legislature to provide that the same shall not be enforced within the limits of this State, South Carolina will be asserting her unquestionable rights, and in no way violating her obligations under the Federal compact.

The committee cannot dismiss this point, however, even for the present, without remarking that, in asserting the principles, and adopting the course which they are about to recommend, South Carolina will only be carrying out the doctrines which were asserted by Virginia and Kentucky in 1798, and which have been sanctified by the high authority of Thomas Jefferson. It is from the pen of this great apostle of liberty that we have been instructed that, to the constitutional compact, “each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party;” that “they alone being parties to the compact, are solely authorized to judge, in the last resort, of the powers exercised under it—Congress being not a party, but merely the creature of the compact;” that it becomes a sovereign State, “to submit to undelegated, and consequently unlimited power, in no

\*Virginia Resolutions of 1798.

†Kentucky Resolutions of 1798.

man or body of men on earth; that, in cases of abuse of the *delegated powers*, the members of the General Government being chosen by the people, a change by the people would be the constitutional remedy; but, where powers are assumed which have not been delegated, [the very case now before us] A NULLIFICATION OF THE ACT IS THE RIGHTFUL REMEDY; that every State has a natural right, in cases not within the compact [*casus non fæderis*] to NULLIFY, of their own authority, all assumption of power by others within their limits; and that, without this right, they would be under the dominion, absolute and unlimited, of whomsoever might exercise the right of judgment for them;" and that, in case of acts being passed by Congress, "so palpably against the Constitution as to amount to an undisguised declaration that the compact is not meant to be the measure of the powers of the General Government, but that it will proceed to exercise over the States all powers whatsoever, by seizing the rights of the States, and consolidating them in the hands of the General Government, with a power assumed of binding the States, not merely in cases made federal, but in all cases whatsoever, by laws made, not with their consent, but by others against their consent, it would be the duty of the States to declare the acts void and of no force; and that *each should take measures of its own*, for providing that neither such acts, nor any other of the General Government not plainly and intentionally authorized by the Constitution, shall be exercised within their respective territories."

In acting on these great and essential truths, South Carolina surely cannot err. She is convinced, and has so declared to Congress and the world, that the protecting system is, in all its branches, a "gross, deliberate, and palpable violation of the Constitution." She believes that, after having exhausted every other means of redress in vain, it is her right, and that it has now become her solemn duty, to interpose for arresting the evil within her own limits, by declaring said acts "to be null and void and no law, and taking measures of her own that they shall not be enforced within her territory." That duty she means to perform, and to leave the consequences in the hands of *Him* with whom are the issues of life, and the destinies of nations.

South Carolina will continue to cherish a sincere attachment to the UNION of the States, and will, to the utmost of her power, endeavor to preserve it; "and believes that, for this end, it is her duty to watch over and oppose any infraction of those principles which constitute the only basis of that union, because a faithful observance of them can alone secure its existence." She venerates the CONSTITUTION, and will protect and defend it "against every aggression, either foreign or domestic;" but, above all, she estimates, as beyond all price, her LIBERTY, which she is unalterably determined never to surrender while she has the power to maintain it. Influenced by these views, your committee report herewith, for the adoption of the Convention, a solemn DECLARATION and ORDINANCE.

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## No. 2.

### ORDINANCE.

[*An Ordinance to Nullify certain acts of the Congress of the United States, purporting to be laws laying duties and imposts on the importation of foreign commodities.*

Whereas the Congress of the United States, by various acts, purporting to be acts laying duties and imposts on foreign imports, but in reality



intended for the protection of domestic manufactures, and the giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, and by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext for imposing higher and excessive duties on articles similar to those intended to be protected, hath exceeded its just powers under the Constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the Constitution, which provides for equality in imposing the burthens of taxation upon the several States and portions of the confederacy: And whereas the said Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the Constitution of the United States authorizes it to effect and accomplish, hath raised and collected unnecessary revenue for objects unauthorized by the Constitution:

We, therefore, the people of the State of South Carolina in Convention assembled, to declare and ordain, and it is hereby declared and ordained, that the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and, more especially, an act entitled "An act in alteration of the several acts imposing duties on imports," approved on the nineteenth day of May, one thousand eight hundred and twenty-eight, and also an act entitled "An act to alter and amend the several acts imposing duties on imports," approved on the fourteenth day of July, one thousand eight hundred and thirty-two, are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts, and obligations, made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void.

And it is further ordained, that it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said acts within the limits of this State; but it shall be the duty of the Legislature to adopt such measures and pass such acts as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States within the limits of this State, from and after the 1st day of February next, and the duty of all other constituted authorities, and of all persons residing or being within the limits of this State, and they are hereby required and enjoined, to obey and give effect to this ordinance, and such acts and measures of the Legislature as may be passed or adopted in obedience thereto.

And it is further ordained, that in no case of law or equity, decided in the courts of this State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid acts of Congress, imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and if any such appeal shall be attempted to be taken, the courts of this State shall proceed to execute

and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal, and the person or persons attempting to take such appeal may be dealt with as for a contempt of the court.

And it is further ordained, that all persons now holding any office of honor, profit, or trust, civil or military, under this State, (members of the Legislature excepted,) shall, within such time, and in such manner as the Legislature shall prescribe, take an oath well and truly to obey, execute, and enforce, this ordinance, and such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead or had resigned; and no person hereafter elected to any office of honor, profit, or trust, civil or military, (members of the Legislature excepted,) shall, until the Legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be empanelled in any of the courts of this State, in any cause in which shall be in question this ordinance, or any act of the Legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath that he will well and truly obey, execute, and enforce this ordinance, and such act or acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof.

And we, the people of South Carolina, to the end that it may be fully understood by the Government of the United States, and the people of the co-States, that we are determined to maintain this, our ordinance and declaration, at every hazard, do further declare that we will not submit to the application of force, on the part of the Federal Government, to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorizing the employment of a military or naval force against the State of South Carolina, her constituted authorities or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports, or any other act on the part of the Federal Government, to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union: and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connexion with the people of the other States, and will forthwith proceed to organize a separate Government, and do all other acts and things which sovereign and independent States may of right to do.

Done in Convention at Columbia, the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the declaration of the independence of the United States of America.

JAMES HAMILTON, jr.,

*President of the Convention, and Delegate from St. Peters.*

James Hamilton, sen.	Nathaniel Heyward	L. M. Ayer
Richard Bohun Baker, sr.	Robert Long	Benjamin Adams
Samuel Warren	J. B. Earle	James Adams

James Anderson  
 Robert Anderson  
 William Arnold  
 John Ball  
 Barnard E. Bee  
 Thomas W. Boone  
 R. W. Barnwell  
 Isaac Bradwell, jr.  
 Thomas G. Blewett  
 P. M. Butler  
 John G. Brown  
 J. G. Brown  
 John Bauskett  
 A. Burt  
 Francis Burt, jr.  
 Bailey Barton  
 A. Bowie  
 James A. Black  
 A. H. Belin  
 Phillip Cohen  
 Samuel Cordes  
 Thomas H. Colcock  
 C. J. Colcock  
 Charles G. Capers  
 Wm. C. Clifton  
 West Caughman  
 John Counts  
 Benjamin Chambers  
 J. A. Campbell  
 Wm. Dubose  
 John H. Dawson  
 John Douglas  
 George Douglas  
 F. H. Elmore  
 Wm. Evans  
 Edmund J. Felder  
 A. Fuller  
 Tho. L. Gourdin  
 Peter G. Gourdin  
 T. J. Goodwyn  
 Peter Gaillard, jun.  
 John K. Griffin  
 George W. Glenn

Alex. L. Gregg  
 Robert Y. Hayne  
 William Harper  
 Thomas Harrison  
 John Hatton  
 Thomas Harllee  
 Abm. Huguenin  
 Jacob Bond I'On  
 John S. Jeter  
 Job Johnston  
 John S. James  
 M. Jacobs  
 J. A. Keith  
 John Key  
 Jacob H. King  
 Stephen Lacoste  
 James Lynah  
 Francis Y. Legare  
 Alex. J. Lawton  
 John Lipscomb  
 John Logan  
 J. Littlejohn  
 A. Lancaster  
 John Magrath  
 Benj. A. Markley  
 John S. Maner  
 Wm. M. Murray  
 R. G. Mills  
 John B. McCall  
 D. H. Means  
 R. G. Mays  
 George McDuffie  
 James Moore  
 John L. Miller  
 Stephen D. Miller  
 John B. Miller  
 R. P. McCord  
 John L. Nowell  
 Jennings O'Bannon  
 J. Walter Phillips  
 Charles Parker  
 Wm. Porcher

Edward G. Palmer  
 Chs. C. Pinckney  
 Wm. C. Pinckney  
 Thomas Pinckney  
 Francis D. Quash  
 John Rivers  
 Donald Rowe  
 Benjamin Rogers  
 Thomas Ray  
 James G. Spann  
 James Spann  
 S. L. Simons  
 Peter J. Shand  
 James Mongin Smith  
 G. H. Smith  
 Wm. Smith  
 Stephen Smith  
 Wm. Stringfellow  
 Edwin J. Scott  
 F. W. Symmes  
 J. S. Sims  
 T. D. Singleton  
 Joseph L. Stevens  
 T. E. Screven  
 Robt. J. Turnbull  
 Elisha Tyler  
 Philip Tidyman  
 Isaac B. Ulmer  
 Peter Vaught  
 Elias Vanderhorst  
 John L. Wilson  
 Isham Walker  
 Wm. Williams  
 Thos. B. Woodward  
 Sterling C. Williamson  
 F. H. Wardlaw  
 Abner Whatley  
 J. T. Whitefield  
 Saml. L. Watt  
 Nicholas Ware  
 Wm. Waties  
 Archibald Young

Attest:

ISAAC W. HAYNE,  
*Clerk of the Convention.*

## ADDRESS TO THE PEOPLE OF SOUTH CAROLINA,

BY THEIR DELEGATES IN CONVENTION.

FELLOW CITIZENS: The situation in which you have been placed by the usurpations of the Federal Government, is one which you so peculiarly feel as to render all reference to it at this moment unnecessary. For the last ten years the subject of your grievances has been presented to you. This subject you have well considered. You have reviewed it in all its aspects, bearings, and tendencies, and you seem more and more confirmed in the opinion, expressed by both branches of the Legislature, that the tariff, in its operation, is not only "grossly unequal and unjust, but is such an abuse of power as is incompatible with the principles of a free government, and the great ends of civil society;" and that if persisted in, "the fate of this State would be poverty and utter desolation." Correspondent with this conviction, a disposition is manifested in every section of the country to arrest, by some means or other, the progress of this intolerable evil. This disposition having arisen from no sudden excitement, but having been gradually formed by the free and temperate discussions of the press, there is no reason to believe that it can ever subside by any means short of the removal of the urgent abuse; and it is under this general conviction that we have been convened to take into consideration, not only the character and extent of your grievances, but also the mode and measure of redress.

This duty, fellow citizens, we have discharged to the best of our judgments, and the result of our deliberations will be found in the DECLARATION and ORDINANCE just passed by us, founded on the great and undeniable truth, that, in all cases of a palpable, oppressive, and dangerous infraction of the federal compact, each State has a right to annul, and to render inoperative within its limits, all such unauthorized acts. After the luminous expositions which have been already furnished by so many great minds, that the exercise of this right is compatible with the first principles of our anomalous scheme of government, it would be superfluous here to state at length the reasons by which this mode of redress is to be sustained. A deference, however, for the opinions of those of our fellow citizens who have hitherto dissented from us, demands that we should briefly state the principal ground upon which we place the right and the expediency of nullification.

The Constitution of the United States, as is admitted by cotemporaneous writers, is a compact between sovereign States. Though the subject-matter of that compact was a Government, the powers of which *Government* were to operate to a *certain extent* upon the people of those sovereign States *aggregately*, and not upon the State authorities, as is usual in confederacies, still the Constitution is a confederacy. First. It is a confederacy, because, in its FOUNDATIONS, it possesses not one single feature of *nationality*. The people of the separate States, as distinct political communities, *ratified* the Constitution, each State acting for itself, and binding its own citizens and not those of any other State. The act of ratification declares it "to be binding on the *States* so ratifying. The *States* are its authors; *their* power created it; *their* voice clothed it with authority; the Government it formed is in reality *their* Government, and the Union of which it is the bond, is a Union of *States*, and not of individuals." Secondly. It is a confederacy,



because the *EXTENT* of the powers of the Government depends, not upon the people of the United States *collectively*, but upon the State Legislatures, or on the people of the separate States acting in their State Conventions, each State being represented by a single vote.

It must never be forgotten that it is to the *creating* and to the *controlling* power that we are to look for the true character of the Federal Government, for the present controversy is not as to the *SOURCES* from which the ordinary powers of the Government are drawn: these are partly *federal* and partly *national*. Nor is it relevant to consider upon *whom* those powers operate. In this last view, the Government, for *limited* purposes, is entirely national. The true question is, who are the parties to the compact? Who created, and who can alter and destroy it? Is it the *States* or the *people*? This question has been already answered. The States, as *States*, ratified the compact. The people of the United States, collectively, had no agency in its formation. There did not exist then, nor has there existed at any time since, such a political body as the People of the United States. There is not now, nor has there ever been, such a relation existing as that of a citizen of New Hampshire and a citizen of South Carolina, bound together in the same *social* compact. It would be a waste of time to dwell longer on this part of our subject. We repeat that, as regards the *FOUNDATION* and the *EXTENT* of its powers, the Government of the United States is strictly what its name implies—a *FEDERAL* Government: a league between several sovereigns; and in these views a more perfect confederacy has never existed in ancient or modern times.

On looking into this Constitution, we find that the most important sovereign powers are delegated to the central Government, and all other powers are reserved to the States. A foreign or an inattentive reader, unacquainted with the origin, progress, and history of the Constitution, would be very apt, from the phraseology of the instrument, to regard the States as having divested themselves of their sovereignty, and to have become great corporations subordinate to one supreme government. But this is an error. The States are as sovereign now as they were prior to their entering into the compact. In common parlance, and to avoid circumlocution, it may be admissible enough to speak of *delegated* and *reserved* sovereignty. But, correctly speaking, sovereignty is a unit. It is “one, indivisible, and unalienable.” It is, therefore, an absurdity to imagine that the sovereignty of the States is surrendered in *part*, and retained in *part*. The Federal Constitution is a treaty, a confederation, an alliance, by which so many sovereign States agree to exercise their sovereign powers *conjointly* upon certain objects of external concern, in which they are equally interested, such as *WAR, PEACE, COMMERCE*, foreign negotiation, and Indian trade; and upon all other subjects of civil government, they were to exercise their sovereignty *separately*. This is the true nature of the compact.

For the convenient conjoint exercise of the sovereignty of the States, there must, of necessity, be some common agency or functionary. This agency is the Federal Government. It represents the confederated States, and executes their joint will as expressed in the compact. The powers of this Government are wholly *derivative*. It possesses no more inherent sovereignty than an incorporated town, or any other great corporate body. It is a political corporation, and, like all corporations, it looks for its powers to an exterior source. That source is the States. It wants that “irresistible, absolute, uncontrolled authority,” without which, according to jurists, there can

be no sovereignty. As the States conferred, so the States can take away its powers. All inherent sovereignty is therefore in the States. It is the *moral obligation* alone, which each State has chosen to impose upon herself, and not the want of sovereignty, which restrains her from exercising all those powers which (as we are accustomed to express ourselves) she has surrendered to the Federal Government. The present organization of our Government, as far as regards the *terms* in which the powers of Congress are delegated, in no wise differs from the old confederation. The powers of the old Congress were delegated rather in stronger language than we find them written down in the new charter, and yet he would hazard a bold assertion who would say, that the States of the old confederacy were not as sovereign as Great Britain, France, and Russia, would be in an alliance offensive and defensive. It was not the reservation in express terms of the "sovereignty, freedom, and independence of each State" which made them sovereign. They would have been equally sovereign, as is universally admitted, without such a reservation.

We have said thus much upon the subject of sovereignty, because the only foundation upon which we can safely erect the right of a State to protect its citizens, is, that South Carolina, by the declaration of independence, became, and has since continued, a free, sovereign, and independent State. That, as a sovereign state, she has the *inherent* power to do all those acts which, by the law of nations, any prince or potentate may of right do. That, like all independent States, she neither has, nor ought she to suffer any other restraint upon her sovereign will and pleasure, than those high moral obligations under which all princes and States are bound, before God and man, to perform their solemn pledges. The inevitable conclusion from what has been said, therefore, is, that, as in all cases of compact between independent sovereigns, where, from the very nature of things, there can be no common judge or umpire, each sovereign has a right "to judge as well of infractions, as of the mode and measure of redress;" so in the present controversy between South Carolina and the Federal Government, it belongs solely to her, by her delegates in solemn Convention assembled, to decide whether the federal compact be violated, and what remedy the State ought to pursue. South Carolina, therefore, cannot and will not yield to any department of the Federal Government, and still less to the Supreme Court of the United States, the creature of a Government, which itself is a creature of the States—a right which enters into the essence of all sovereignty, and without which it would become a bauble and a name.

It is fortunate for the view which we have just taken; that the history of the Constitution, as traced through the journals of the Convention which framed that instrument, places the right contended for upon the same sure foundation. These journals furnish abundant proof that "no line of jurisdiction between the States and Federal Government, in doubtful cases," could be agreed on. It was conceded by Mr. Madison and Mr. Randolph, the most prominent advocates for a Supreme Government, that it was impossible to draw this line, because no tribunal sufficiently impartial, as they conceived, could be found, and that there was no alternative but to make the Federal Government supreme, by giving it, in all such cases, a negative on the acts of the State Legislatures. The pertinacity with which this negative power was insisted on by the advocates of a national government, even after all the important provisions of the *judiciary* or *third article* of the Constitution were arranged and agreed to, proves, beyond doubt, that the Supreme

Court was never contemplated by either party in that Convention as an arbiter to decide conflicting claims of sovereignty between the States and Congress; and the repeated rejection of all proposals to take from the States the power of placing their own construction upon the articles of union, evinces that the States were resolved never to part with the right to judge whether the acts of the Federal Legislature were or were not an infringement of those articles.

Correspondent with the right of a sovereign State to judge of the infractions of the federal compact, is the duty of this Convention to declare the extent of the grievance, and the mode and measure of redress. On both these points, public opinion has already anticipated us in much that we could urge. It is doubted whether, in any country, any subject has undergone, before the people, a more thorough examination than the constitutionality of the several acts of Congress for the protection of domestic manufactures.

Independent of the present embarrassments they throw in the way of our commerce, and the plain indications, that certain articles, which are the natural exchange for our valuable staple products, are sooner or later to be virtually prohibited; independent of the diminution which these impost duties cause in our incomes, and the severity of the tax upon all articles of consumption needed by the poor; they recognize a principle not less at war with the ends for which this great confederacy was formed, than it is with that spirit of justice, and those feelings of concord, which ought to prevail amongst States united by so many common interests and exalted triumphs. The people surely need not be told, in this advanced period of intellect and of freedom, that no government can be free which can rightfully impose a tax for the encouragement of one branch of industry at the expense of all others, unless such a tax be justified by some great and unavoidable public necessity. Still less can the people believe that, in a confederacy of States, designed principally as an alliance offensive and defensive, its authors could ever have contemplated that the federal head should regulate the domestic industry of a widely extended country, distinguished, above all others, for the diversity of interests, pursuits, and resources, in its various sections. It was this acknowledged diversity that caused the arrangement of a conjoint and separate exercise of the sovereign authority—the one to regulate external concerns, and the other to have absolute control “over the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the States.”

It is the striking characteristic in the operation of a simple and consolidated government, that it protects manufactures, agriculture, or any other branch of the public industry; that it can establish corporations, or make roads and canals, and patronize learning and the arts. But it would be difficult to show that such was the government which the sages of the Convention designed for the States. All these powers were proposed to be given to Congress, and they were proposed by that party in the Convention who desired a *firm national government*. The Convention having decided on the *federal* form, in exclusion of the national, all these propositions were rejected; and yet we have lived to see an American Congress, who can hold no power except by express grant, as fully in the exercise of these powers as if they were part and parcel of their expressly delegated authority. Under a pretence of regulating commerce, they would virtually prohibit it. Were this regulation of commerce resorted to, as a means of coercing foreign nations to a fair reciprocity in their intercourse with us, or for some other *bona fide* com-

mercial purpose, as has been justly said by our Legislature, the tariff acts would be constitutional. But none of these acts have been passed as counter-vailing or *retaliatory* measures for restrictions placed on our commerce by foreign nations. Whilst other nations seem disposed to relax in their restraints upon trade, our Congress seems absolutely bent upon the interdiction of those articles of merchandise which are exchangeable for the products of southern labor; thus causing the principal burthen of taxation to fall upon this portion of the Union, and, by depriving us of our accustomed markets, to impoverish our whole southern country. In the same manner, and under the pretence of promoting the internal improvement of the States, and for other equally unjustifiable and unconstitutional purposes, Congress is in the constant habit of violating those fundamental principles of the Constitution on which alone can rest the prosperity of the States, and the durability of the Union.

It is in vain to imagine, that with a people who have struggled for freedom, and know its inestimable value, such a state of affairs can be endured longer than there is a well founded hope that reason and justice will resume their empire in the common council of the confederacy. That hope having expired with the last session of Congress, by the present tariff act, distinctly and fully recognizing, as the permanent policy of the country, the odious principle of protection, it occurs to us, that there is but one course for the State to pursue. That course, fellow citizens, is RESISTANCE. Not *physical*, but MORAL, resistance—not resistance in an angry or irritated feeling, but resistance by such counter-legislation which, whilst it shall convince to the world that our measures are built upon the necessity of tendering to Congress an amicable issue, to try a doubtful question between friends and neighbors, shall, at the same time, secure us in the enjoyment of our rights and privileges. It matters not, fellow citizens, by what name this counter-legislation shall be designated—call it nullification, State interposition, State veto, or by whatever other name you please, still, if it be but resistance to an oppressive measure, it is the course which duty, patriotism, and self-preservation, prescribes. If we are asked, upon what ground we place the right to resist a particular law of Congress, and yet regard ourselves as a constituent member of the Union? we answer, the ground of the COMPACT. We do not choose, in a case of this kind, to recur to what are called our natural rights, or the right of revolution. We claim to nullify by a more imposing title. We claim it as a CONSTITUTIONAL right, not meaning, as some have imagined, that we *derive* the right from the Constitution; for derivative rights can only belong to the *functionaries* of the high contracting parties to the Constitution, but we claim to exercise it as one of the PARTIES to the compact, and as consistent with its letter, its genius, and its spirit; it being distinctly understood, at the time of ratifying the Constitution, that the exercise of all sovereign rights, not agreed to be had conjointly, were to be exerted separately by the States. Though it be true that the provision in favor of what we call the reserved rights of the States was not necessary to secure to the States such reserved rights, yet the mere circumstance of its insertion in the instrument makes it as clear a *constitutional* provision as that of the power of Congress to raise armies or to declare war. Any exercise of a right in conformity with a constitutional provision, we conceive, to be a *constitutional* right, whether it be founded on an express grant of the right, or be included in a general reservation of undefined powers. The Constitution being the supreme law, and instrumen



in which a distribution of powers is made between the Federal Government and the States, it is incumbent on the authorities of each Government so to shape their legislation as not to overstep the boundaries assigned to them. No act can therefore be done by either Government which, for its *validity*, can be referred to any other test than the **STANDARD OF THE CONSTITUTION**. If a State Government passes an act, defining and punishing a burglary, or a law abolishing the rights of primogeniture, it is more correct to say, that she is in the exercise of her *constitutional*, than of her *natural* rights, because it is an express *constitutional* provision that she should exercise all her sovereign rights not already entrusted to the common functionary of the parties. As it is impossible, then, that any act can be passed by either Government which, if disputed, must not be referred to the Constitution as the supreme law of the parties, so a right is constitutional or unconstitutional, as it shall be found to comport with, or to be repugnant to, the terms or the spirit of that instrument. There is not, therefore, a sovereign or a natural right which South Carolina can lawfully exercise in conformity with her engagements, which is not stipulated for in the tenth amendment to the Constitution. All such rights stipulated for, must be constitutional. To regard them otherwise, would be a perversion of terms.

That nullification under our reserved rights was regarded as constitutional by the Virginia resolutions of 1798, is clear from the exposition of them by the celebrated report drawn by Mr. Madison. In defending the third of these resolutions, which asserts the doctrine of State interposition and protection, the committee say, "that they have *scanned* it not merely with a strict, *but with a severe eye*, and they feel confidence in pronouncing that, in its *just and fair construction*, it is unexceptionably *true in its several positions*, as well as **CONSTITUTIONAL** and conclusive in its *inferences*."

What were the positions of the third resolution? 1st. That the powers of the Federal Government were limited to the plain sense of the instrument constituting the compact. 2d. That, in case of a deliberate, palpable, and dangerous infraction of the compact, the State has the right to interpose, &c. Now what is the inference? It is, that "they are in duty bound to arrest the progress of the evil, by maintaining, within their **RESPECTIVE** limits, the authorities, rights, and liberties appertaining to them." This inference, says the report, is "**CONSTITUTIONAL** and conclusive." The same doctrine was as distinctly affirmed by the Virginia Assembly in their resolutions adopting the report. They say, "that, having fully and accurately re-examined and re-considered these resolutions, they find it to be their indispensable duty to **ADHERE TO THE SAME** as founded in truth, as **CONSONANT WITH THE CONSTITUTION**, and as **CONDUCTIVE TO ITS PRESERVATION**."

We are aware that it has been recently maintained, that by the State interposition referred to in this third resolution, the Virginia Assembly had allusion to the natural right, and Mr. Madison himself has been brought forward to give a construction to this resolution contrary to the most obvious import of the terms. Be it so. Then, if the State interposition here spoken of be a natural right, it is a right which the Virginia Assembly have pronounced "**CONSONANT with the Constitution**, and as conducive to its preservation." Or, in other words, that, without the exercise of this natural sovereign right of interposition, the Constitution cannot be preserved. There is no incongruity in this. It is quite competent for two monarchs to stipulate in a treaty for that right which, independent of the treaty, would

be a natural right, as if a power were conferred by the treaty on the citizens of either prince, to capture, adjudge, and execute, all subjects of the other engaged in piracy on the high seas. It certainly would be more proper to call such a right a *conventional* right than a natural right, though it be both. Several of the State Constitutions furnish instances of natural rights being secured by a constitutional provision. Even in the instrument we are now considering, there is a distinct affirmation in terms of a natural right of sovereignty; such as the sovereign right of a State to keep troops and ships of war in a certain emergency, or the sovereign right of a State to lay import and export duties for the purpose of executing its inspection laws. In these cases, a natural right is also a constitutional right, contrary to the definition of those who maintain that no right is properly constitutional which is a sovereign right—because constitutional rights are derivative rights exercised by functionaries. That reasoning would be indeed strange which would place a natural reserved sovereign right, expressed in terms, upon a better footing than all that mass of residuary power included in the general reservation of the tenth amendment. It would be to create a distinction without a difference. The reserved rights, though undefined, are easily ascertained. Any particular right not found in the enumerated powers of Congress, of course belongs to the States.

The right to nullify is universally admitted to be a natural or sovereign right. The natural rights of the States are also admitted to be their reserved rights. If they are reserved, they must be constitutional, because the Constitution being an agreement to arrange the mode by which the States shall exercise their sovereignty, expressly stipulates for the exercise of these powers in all cases not enumerated. To some it may be unimportant upon what basis we place the right of a State to protect its citizens, as counter-legislation would be the beginning of resistance in either case; others may, perhaps justly, say, that the whole controversy is resolvable into a dispute as to what is, or is not, the proper definition of a constitutional right. We, however, think it of infinite importance, in urging the right of nullification, to regard it as a *constitutional*, rather than as a natural remedy, because a constitutional proceeding is calculated to give it a pacific course, and a higher recommendation. The characteristic, in fact, of the American Constitutions in general, is, that they sanctify the fundamental principles of the American revolution. Whilst other nations have to resort to the law of nature, and by force to drive despots from their thrones, thus incurring what, amongst them, is odiously termed the guilt of rebellion, we here have the incalculable advantage of a thorough understanding amongst all classes, that it is the right as well as the duty of a free people, to recur, when necessary, to their sovereign rights, to resist oppression. Such a sentiment as this becoming familiar to the public mind, acquires prodigious strength when its spirit is seen to pervade a written constitution, and prevents, rather than accelerates, opportunities for an unnecessary recurrence to revolutionary movements. Under such a structure of the public sentiment, when the voice of a sovereign State shall be spoken, “it will be heard in a tone which virtuous governors will obey, and tyrannical ones shall dread.” Nothing can more reconcile nullification to our citizens, than to know, that if we are not proceeding according to the forms of the Constitution, we are nevertheless adhering to its *spirit*. The Convention which framed the Constitution could not agree upon any mode of settling a dispute like the present. The case was therefore left unprovided for, under the conviction, no doubt, as is admitted by Mr

Hamilton in "The Federalist," that if the Federal Government should oppress the States, the State Governments would be ready to check it by virtue of their own inherent sovereign powers. "It may safely be received as an *AXIOM in our political system*, (says Mr. Hamilton,) that the *State Governments will, in all possible contingencies*, afford *COMPLETE SECURITY* against invasion of the public liberty by the *national authority*. *Projects of usurpation cannot be masked under pretences* so likely to escape the penetration of *select bodies* of men, as of the people at large. The *LEGISLATURES* will have better means of information. They can discover the danger at a distance; and, *possessing all the organs of CIVIL POWER*, and the confidence of the people, they can at once adopt a *REGULAR PLAN OF OPPOSITION*, in which they can *combine all the resources of the community*."

That measure cannot be revolutionary, which is adopted, not with a view to resort to force, but by some decisive measures to call the attention of the co-States to a disputed question, in such a form as to compel them to decide what are or are not the rights of the States in a case of a palpable and dangerous infraction of those fundamental principles of liberty in which they all have an interest.

In the exercise of the right of nullification, we are not unmindful of the many objections which have been urged against it. That it may embarrass the present majority in Congress, who are fatally bent upon building up the sectional interests of their constituents upon the ruin of our commerce, we can readily imagine; but these embarrassments, on examination, will be found to proceed rather from an unwillingness on their part to adjust the controversy on principles of reason and justice, than from any real difficulty existing in the Constitution. The provisions of the Constitution are ample for taking the sense of the States on a question more important than any which has occurred since the formation of the Government. But, if the spirit of justice departs from the councils to which we have a right to look up as the guardians of the public liberty and the public peace, no provisions of human wisdom can avail. We have heard much of the danger of suffering one State to impede the operations of twenty-three States; but it must be obvious to every considerate man that the danger can only exist where a State is wrong. If the people of any one State are *right* in the principles for which they contend, it is desirable that they should impede the operations of Congress until the sentiments of its co-States shall be had. A higher eulogy could not be bestowed upon our system than the power of resorting to some conservative principle that shall stay a disruption of the league. It is no argument to say that a State may have no grounds on which to place herself upon her sovereign rights. This is a possible, but by no means a probable case. Experience has given us a most instructive lesson on this very subject. It has taught us that the danger is not that a State may resort to her sovereign rights too often, but that it will not avail herself of them when necessary. Look, fellow citizens, to our State: for ten years we have petitioned and remonstrated against the unconstitutionality of the tariff acts, and though the conviction has been universal that the effects of the system would be ruinous to our interests, yet the difficulty has been great to bring the people to the resisting point.

And so with other objections. It has been maintained by us, that according to the philosophy of the Government, and the true spirit of the compact, it becomes Congress, in all emergencies like the present, to solicit from the

States the call of a Convention. That upon such a convocation, it should be incumbent on the States claiming the doubtful power, to propose an amendment to the Constitution, giving the doubtful power, and on failure to obtain it by a consent of three-fourths of all the States, to regard the power as never having been intended to be given. We must not be understood to say, that this was matter even of implied stipulation at the formation of the compact. The Constitution is designedly silent on the subject, on account of the extreme difficulty in the minds of its framers of appointing a mode of adjusting these differences. This difficulty we now discover was imaginary. It had its source in apprehensions, which an experience of upwards of forty years has proved to be without the shadow of a foundation. Many of the sages of that day were dissatisfied with their work for a reason which is the very opposite of the truth. They feared, not that the General Government would encroach upon the rights of States, but that the States would perpetually be disposed to pass their boundaries of power, and finally destroy the confederation. Had they been blessed with the experience which we have acquired, there could have been no objection to trusting the States who created the Government, and who would not fully embarrass it with a veto under certain modifications. It seems but reasonable, that a *disputed* power, which it would have required three-fourths of the States to *add* to the Constitution, ought not to be insisted on by a majority in Congress, as impliedly conferred, if more than one-fourth should object to it. To deny this, would be to decide finally the validity of a power by a positive majority of the people at large, instead of a concurring majority of the States. There is, it is true, one objection, and only one to this view, and that is, that under this theory, a majority little beyond the three-fourths, as, for instance seven States out of twenty-four, might deprive Congress of powers which have been expressly delegated. The answer to this, is, that it would be a very extreme case for a single State to claim the resumption of a power which it had clearly delegated in *positive* terms. But it seems almost beyond the range of possibility, that six other States should be found to sustain a nullifying State in such a pretension. Should such a case ever occur, as one-fourth and upwards of the States resolving to break their pledges, without the slightest pretence, it would show that it was time to dissolve the league. If a spirit of friendship and fair dealing cannot bind together the members of this Union, the sooner it is dissolved the better. So that this objection is rather nominal than substantial. But the evil of this objection is, that whilst its admission would relieve us from an imaginary peril, we should be plunged into that certain danger of an unrestricted liberty of Congress to give us instead of a confederated government, a government without any other limitation upon its power than the will of a majority.

Other objections have been urged against nullification. It is said that the President or Congress might employ the military and naval force of the United States to reduce the nullifying State into obedience, and thus produce a civil dissention amongst the members of the confederacy. We do not deem it necessary in a community so conversant with this part of the subject as that of South Carolina, to recapitulate the arguments which have been urged against such an improbable course, both for the want of power, and on the ground of expediency. But we cannot pass over one view, which we think sufficient to quiet all apprehension on that score. We live in an age of reason and intellect. The idea of using force on an occasion of this kind is utterly at variance with the genius and spirit of the American people. In



truth, it is becoming repugnant even to the genius and spirit of the governments of the old world. We have lately seen in England one of the greatest reforms achieved, which her history records—a reform which her wisest statesmen twenty years ago, would have predicted could not be accomplished without civil war, brought about by a bloodless revolution. The cause is manifest. Not only are the people every where better informed, but such is the influence which public opinion exerts over constituted authorities, that the rulers of this earth are more swayed by reason and justice than formerly. Under such evident indications of the march of mind and intellect, it would be to pay but a poor compliment to the people of these States, to imagine, that a measure taken by a sovereign State, with the most perfect good feeling to her confederates, and to the perpetuity of the Union, and with no other view than to force upon its members the consideration of a most important constitutional question, should terminate otherwise than peaceably.

Fellow citizens, it is our honest and firm belief that nullification will preserve, and not destroy this Union. But we should regret to conceal from you that if Congress should not be animated with a patriotic and liberal feeling in this conjuncture, they can give to this controversy what issue they please. Admit, then, that there is risk of a serious conflict with the Federal Government. We know no better way to avoid the chance of hostile measures in our opponents, than to evince a readiness to meet danger, come from what quarter it will. We should think that the American revolution was indeed to little purpose, if a consideration of this kind were to deter our people from asserting their sovereign rights. That revolution, it is well known, was not entered into by our southern ancestors from any actual oppression which the people suffered. It was a contest waged for principle, emphatically for principle. The calamities of revolution, strife, and civil war, were fairly presented to the illustrious patriots of those times, which tried the souls of men. The alternative was either to remain dependant colonies in hopeless servitude, or to become free, sovereign, and independent States. To attain such a distinguished rank amongst the nations of the earth, there was but one path, and that the path of glory—the crowning glory of being accounted worthy of all suffering, and of embracing all the calamities of a protracted war abroad, and of domestic evils at home, rather than to surrender their liberties. The result of their labors is known to the world, through the flood of light which that revolution has shed upon the science of government, and the rights of man—in the “*lësson* it has taught the oppressor, and in the example it has afforded to the oppressed”—in the invigoration of the spirit of freedom every where, and in the amelioration it is producing in the social order of mankind.

Inestimable are the blessings of that well-regulated freedom which permits man to direct his labors and his enterprise to the pursuit or branch of industry to which he thinks nature has qualified him, unmolested by avarice, enthroned in power. Such was the freedom for which South Carolina struggled when a dependant colony: such is the freedom of which she once tasted as the first fruit of that revolutionary triumph which she assisted to achieve. Such is the freedom she reserved to herself on entering into the league. Such is the freedom of which she has been deprived, and to which she must be restored, if her commerce be worth preserving, or the spirit of her Laurens and her Gadsden has not fled forever from our bosoms. It is in vain to tell South Carolina that she can look to any administration of the Federal Government for the protection of her sovereign rights, or the redress of

her southern wrongs. Where the fountain is so polluted it is not to be expected that the stream will again be pure. The protection to which, in all representative governments, the people have been accustomed to look, to wit, the responsibility of the governors to the governed, has proved nerveless and illusory. Under such a system, nothing but a radical reform in our political institutions can preserve this Union. It is full time that we should know what rights we have under the Federal Constitution, and more especially ought we to know whether we are to live under a consolidated government, or a confederacy of States; whether the States be sovereign or their local Legislatures be mere corporations. A FRESH UNDERSTANDING OF THE BARGAIN we deem absolutely NECESSARY. No mode can be devised by which a dispute can be referred to the source of all power, but by some one State taking the lead in the great enterprise of reform. Till some one southern State tenders to the Federal Government an issue, it will continue to have its "appetite increased by what it feeds on." History admonishes us that rulers never have the forecast to substitute, in good time, reform for revolution. They forget that it is always more desirable that the just claims of the governed should break in on them "through well contrived and well disposed windows, through flaws and breaches through the yawning chasms of their own ruin." One State must, under the awful prospects before us, throw herself into the breach, in this great struggle for constitutional freedom. There is no other mode of awakening the attention of the co-States to grievances which, if suffered to accumulate, must dismember the Union. It has fallen to our lot, fellow citizens, first to quit our trenches. Let us go on to the assault with cheerful hearts and undaunted minds.

Fellow citizens, the die is now cast. We have solemnly resolved on the course which it becomes our beloved State to pursue; we have resolved that, until these abuses shall be reformed, **NO MORE TAXES SHALL BE PAID HERE.** "Millions for defence but not a cent for tribute." And now we call upon our citizens, native and adopted, to prepare for the crisis, and to meet it as becomes men and freemen. We call upon all classes and all parties to forget their former differences, and to unite in a solemn determination never to abandon this contest until such a change be effected in the councils of the nation, that all the citizens of this confederacy shall participate equally in the benefits and the burthens of the Government. To this solemn duty, we now invoke you in the name of all that is sacred and valuable to man. We invoke you in the name of that LIBERTY which has been acquired by you from an illustrious ancestry, and which it is your duty to transmit unimpaired to the most distant generations. We invoke you in the name of that CONSTITUTION which you profess to venerate, and of that UNION which you are all desirous to perpetuate. By the reverence you bear to these your institutions, by all the love you bear to liberty, by the detestation you have for servitude, by all the abiding memorials of your past glories, by the proud association of your exalted and your common triumphs in the first and greatest of revolutions, by the force of all those sublime truths which that event has inculcated amongst the nations, by the noble flame of republican enthusiasm which warms your bosoms, we conjure you, in this mighty struggle to give your hearts and souls and minds to your injured and oppressed State, and to support her cause publicly and privately, with your opinions, your prayers, and your actions. If appeals such as these prove unavailing, we then COMMAND

**YOUR OBEDIENCE** to the laws and the authorities of the State, by a title which none can gainsay. We demand it by that allegiance which is reciprocal with the protection you have received from the State. We admit of no obedience to any authority which shall conflict with that primary allegiance which every citizen owes to the State of his birth or his adoption. There is not, nor has there ever been, "any *direct* or *immediate* allegiance between the citizens of South Carolina and the Federal Government. The relation between them is through the State." South Carolina having entered into the constitutional compact as a separate, independent, political community, as has already been stated, has the right to declare an unconstitutional act of Congress null and void. After her sovereign declaration that the act shall not be enforced within her limits, "such a declaration is obligatory on her citizens. As far as its citizens are concerned, the clear right of the State is to declare the extent of the obligation." This declaration once made, the citizen has no course but **TO OBEY**. If he refuses obedience, so as to bring himself under the displeasure of his only and lawful sovereign, and within the severe pains and penalties which, by her high sovereign power, the Legislature will not fail to provide in her self-defence, the fault and the folly must be his own.

And now, fellow citizens, having discharged the solemn duty to which we have been summoned, in a crisis big with the most important results to the liberties, peace, safety, and happiness of this once harmonious, but now distracted, confederacy, we commend our cause to that Great Disposer of events, who (if he has not already, for some inscrutable purposes of his own, decreed otherwise) will smile on the efforts of truth and justice. We know that "unless the Lord keepeth the city, the watchman waketh but in vain;" but relying, as we do, in this controversy, on the purity of our *motives*, and the honor of our *ends*, we make this appeal with all the confidence which, in times of trial and difficulty, ought to inspire the breast of the patriot and the christian. Fellow citizens, **DO YOUR DUTY TO YOUR COUNTRY, AND LEAVE THE CONSEQUENCES TO GOD.**

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No. 4.

**ADDRESS TO THE PEOPLE OF THE UNITED STATES.**

*To the people of Massachusetts, Virginia, New York, Pennsylvania, North Carolina, Maryland, Connecticut, Vermont, New Hampshire, Maine, New Jersey, Georgia, Delaware, Rhode Island, Kentucky, Tennessee, Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama, and Missouri.*

We, the people of South Carolina, assembled in Convention, have solemnly and deliberately declared, in our paramount sovereign capacity, that the act of Congress, approved the 19th day of May, 1828, and the act approved the 14th July, 1832, altering and amending the several acts imposing duties on imports, are unconstitutional, and, therefore, absolutely void and of no binding force within the limits of this State; and for the purpose of carrying this declaration into full and complete effect, we have invested the Legislature with ample powers, and made it the duty of all the functionaries and all the citizens of the State, on their allegiance, to co operate in enforcing the aforesaid declaration.

In resorting to this important measure, to which we have been impelled by the most sacred of all the duties which a free people can owe either to the memory of their ancestors or to the claims of their posterity, we feel that it is due to the intimate political relation which exists between South Carolina and the other States of this confederacy, that we should present a clear and distinct exposition of the principles on which we have acted, and of the causes by which we have been reluctantly constrained to assume this attitude of sovereign resistance in relation to the usurpations of the Federal Government.

For this purpose, it will be necessary to state, briefly, what we conceive to be the relation created by the Federal Constitution between the States and the General Government; and also what we conceive to be the true character and practical operation of the system of protecting duties, as it effects our rights, our interests, and our liberties.

We hold, then, that, on their separation from the Crown of Great Britain, the several colonies became free and independent States, each enjoying the separate and independent right of self-government; and that no authority can be exercised over them, or within their limits, but by their consent, respectively given as States. It is equally true, that the Constitution of the United States is a compact formed between the several States acting as sovereign communities; that the Government created by it is a joint agency of the States, appointed to execute the powers enumerated and granted by that instrument; that all its acts, not intentionally authorized, are themselves essentially null and void, and that the States have the right, in the same sovereign capacity in which they adopted the Federal Constitution, to pronounce, in the last resort, authoritative judgment on the usurpations of the Federal Government, and to adopt such measures as they may deem necessary and expedient to arrest the operation of the unconstitutional acts of that Government within their respective limits. Such we deem to be the inherent rights of the States—rights, in the very nature things, absolutely inseparable from sovereignty. Nor is the duty of a State, to arrest an unconstitutional and oppressive act of the Federal Government less imperative, than the right is incontestible. Each State, by ratifying the Federal Constitution, and becoming a member of the confederacy, contracted an obligation to “protect and defend that instrument, as well by resisting the usurpations of the Federal Government, as by sustaining that Government in the exercise of the powers actually conferred upon it. And the obligation of the oath which is imposed, under the Constitution, on every functionary of the States, to “preserve, protect, and defend” the Federal Constitution, as clearly comprehends the duty of protecting and defending it against the usurpations of the Federal Government, as that of protecting and defending it against violation in any other form, or from any other quarter.

It is true, that, in ratifying the Federal Constitution, the States placed a large and important portion of the rights of their citizens under the joint protection of all the States, with a view to their more effectual security; but it is not less true that they reserved a portion still larger, and not less important, under their own immediate guardianship, and in relation to which, their original obligation to protect their citizens, from whatever quarter assailed, remains unchanged and undiminished.

But clear and undoubted as we regard the right, and sacred as we regard the duty of the States, to interpose their sovereign power for the purpose of protecting their citizens from the unconstitutional and oppressive acts of



the Federal Government, yet, we are as clearly of the opinion, that nothing short of that high moral and political necessity, which results from acts of usurpation, subversive of the rights and liberties of the people, should induce a member of this confederacy to resort to this interposition. Such, however, is the melancholy and painful necessity under which we have declared the acts of Congress imposing protecting duties null and void within the limits of South Carolina. The spirit and the principles which animated your ancestors, and ours, in the councils and in the fields of their common glory, forbid us to submit any longer to a system of legislation, now become the established policy of the Federal Government, by which we are reduced to a condition of colonial vassalage, in all its aspects more oppressive and intolerable than that from which our common ancestors relieved themselves by the war of the revolution. There is no right which enters more essentially into a just conception of liberty, than that of the free and unrestricted use of the productions of our industry. This clearly involves the right of carrying the productions of that industry wherever they can be most advantageously exchanged, whether in foreign or domestic markets. South Carolina produces, almost exclusively, agricultural staples, which derive their principal value from the demand for them in foreign countries. Under these circumstances, her natural markets are abroad; and restrictive duties imposed upon her intercourse with those markets, diminish the exchangeable value of her productions very nearly to the full extent of those duties.

Under a system of free trade, the aggregate crop of South Carolina could be exchanged for a larger quantity of manufactures, by at least one-third, than it can be now exchanged for under the protecting system. It is no less evident, that the value of that crop is diminished by the protecting system very nearly, if not precisely, to the extent that the aggregate quantity of manufactures which can be obtained for it is diminished. It is, indeed, strictly and philosophically true, that the quantity of consumable commodities which can be obtained for the cotton and rice annually produced by the industry of the State, is the precise measure of their aggregate value. But, for the prevalent and habitual error of confounding the money price with the exchangeable value of our agricultural staples, these propositions would be regarded as self-evident. If the protecting duties were repealed, one hundred bales of cotton or one hundred barrels of rice would purchase as large a quantity of manufactures as one hundred and fifty will now purchase. The annual income of the State, its means of purchasing and consuming the necessaries and comforts and luxuries of life, would be increased in a corresponding degree.

Almost the entire cotton crop of South Carolina, amounting, annually, to more than six millions of dollars, is ultimately exchanged either for foreign manufactures, subject to protecting duties, or for similar domestic manufactures. The *natural* value of that crop would be all the manufactures which we could obtain for it under a system of unrestricted commerce. The *artificial* value, produced by the unjust and unconstitutional legislation of Congress, is only such part of those manufactures as will remain after paying a duty of fifty per cent. to the Government; or, to speak with more precision, to the northern manufacturers. To make this obvious to the humblest comprehension, let it be supposed that the whole of the present crop should be exchanged, by the planters themselves, for those foreign manufactures for which it is destined, by the inevitable course of trade, to

be ultimately exchanged, either by themselves or their agents. Let it be also assumed, in conformity with the facts of the case, that New Jersey, for example, produces, of the very same description of manufactures, a quantity equal to that which is purchased by the cotton crop of South Carolina. We have, then, two States of the same confederacy, bound to bear an equal share of the burthens, and entitled to enjoy an equal share of the benefits of the common Government, with precisely the same quantity of productions, of the same quality and kind, produced by their lawful industry. We appeal to your candor, and to your sense of justice, to say whether South Carolina has not a title as sacred and indefeasible to the full and undiminished enjoyment of these productions of her industry acquired by the combined operations of agriculture and commerce, as New Jersey can have to the like enjoyment of similar productions of her industry, acquired by the process of manufacture? Upon no principle of constitutional right—upon no principle of human reason or justice, can any discrimination be drawn between the titles of South Carolina and New Jersey to these productions of their capital and labor. Yet, what is the discrimination actually made by the unjust, unconstitutional, and partial legislation of Congress? A duty, on an average, of fifty per cent. is imposed upon the productions of South Carolina, while no duty at all is imposed upon the similar productions of New Jersey! The inevitable result is, that the manufactures thus lawfully acquired by the honest industry of South Carolina are worth, annually, three millions of dollars less to her citizens than the very same quantity of the very same description of manufactures are worth to the citizens of New Jersey:—a difference of value produced exclusively by the operation of the protecting system.

No ingenuity can either evade or refute this proposition. The very axioms of geometry are not more self-evident. For even if the planters of South Carolina, in the case supposed, were to sell and not consume these productions of their industry, it is plain that they could obtain no higher price for them, after paying duties to the amount of \$3,000,000, than the manufacturers of New Jersey would obtain for the same quantity of the same kind of manufactures, without paying any duty at all.

This single view of the subject, exhibits the enormous inequality and injustice of the protecting system in such a light, that we feel the most consoling confidence that we shall be fully justified by the impartial judgment of posterity, whatever may be the issue of this unhappy controversy. We confidently appeal to our confederate States, and to the whole world, to decide whether the annals of human legislation furnish a parallel instance of injustice and oppression perpetrated under the forms of a free government. However it may be disguised by the complexity of the process by which it is effected, it is nothing less than the monstrous outrage of taking three millions of dollars annually from the value of the productions of South Carolina, and transferring it to the people of other and distant communities. No human government can rightfully exercise such a power. It violates the eternal principles of natural justice, and converts the Government into a mere instrument of legislative plunder. Of all the governments on the face of the earth, the Federal Government has the least shadow of a constitutional right to exercise such a power. It was created principally, and almost exclusively, for the purpose of protecting, improving, and extending that very commerce, which, for the last ten years, all its powers have been most unnaturally and unrighteously perverted to cripple and destroy. The

power to "regulate commerce with foreign nations," was granted obviously for the preservation of that commerce. The most important of all the duties which the Federal Government owes to South Carolina under the compact of Union; is the protection and defence of her foreign commerce against all the enemies by whom it may be assailed. And in what manner has this duty been discharged? All the powers of the earth, by their commercial restrictions, and all the pirates of the ocean, by their lawless violence, could not have done so much to destroy our commerce as has been done by that very Government to which its guardianship has been committed by the Federal Constitution. The commerce of South Carolina consists in exchanging the staple productions of her soil for the manufactures of Europe. It is a lawful commerce. It violates the rights of no class of people in any portion of the confederacy. It is this very commerce, therefore, which the Constitution has enjoined it upon Congress to encourage, protect, and defend, by such regulations as may be necessary to accomplish that object. But instead of that protection, which is the only tie of our allegiance, as individual citizens, to the Federal Government, we have seen a gigantic system of restrictions gradually reared up, and at length brought to a fatal maturity, of which it is the avowed object, and must be the inevitable result, to sweep our commerce from the great highway of nations, and cover our land with poverty and ruin.

Even the States most deeply interested in the maintenance of the protecting system will admit that it is the interest of South Carolina to carry on a commerce of exchanges with foreign countries, free from restrictions, prohibitory burthens, or incumbrances of any kind. We feel, and we know, that the vital interests of the State are involved in such a commerce. It would be a downright insult to our understandings to tell us that our interests are not injured, deeply injured, by those prohibitory duties, intended and calculated to prevent us from obtaining the cheap manufactures of foreign countries for our staples, and to compel us to receive for them the dear manufactures of our domestic establishments, or pay the penalty of the protecting duties for daring to exercise one of the most sacred of our natural rights. What right, then, human or divine, have the manufacturing States—for we regard the Federal Government as a mere instrument in their hands—to prohibit South Carolina, directly or indirectly, from going to her natural markets, and exchanging the rich productions of her soil, without restriction or encumbrance, for such foreign articles as will most conduce to the wealth and prosperity of her citizens? It will not, surely, be pretended—for truth and decency equally forbid the allegation—that, in exchanging our productions for the cheaper manufactures of Europe, we violate any right of the domestic manufacturers, however gratifying it might be to them, if we would purchase their inferior productions at higher prices.

Upon what principle, then, can the State of South Carolina be called upon to submit to a system which excludes her from her natural markets, and the manifold benefits of that enriching commerce which a kind and beneficent Providence has provided to connect her with the family of nations, by the bonds of mutual interest? But one answer can be given to this question. It is in vain that we attempt to disguise the fact, mortifying as it must be, that the principle by which South Carolina is thus excluded, is, in strict propriety of language, and to all rational intents and purposes, a principle of colonial dependence and vassalage, in all respects identical with that which restrained our forefathers from trading with any manufacturing nation of

Europe other than Great Britain. South Carolina now bears the same relation to the manufacturing States of this confederacy, that the Anglo-American colonies bore to the mother country, with the single exception, that our burthens are incomparably more oppressive than those of our ancestors. Our time, our pride, and the occasion, equally forbid us to trace out the degrading analogy. We leave that to the historian who shall record the judgment which an impartial posterity will pronounce upon the eventful transactions of this day.

It is in vain that we attempt to console ourselves by the empty and unreal mockery of our representation in Congress. As to all those great and vital interests of the State which are affected by the protecting system, it would be better that she had no representation in that body. It serves no other purpose but to conceal the chains which fetter our liberties, under the vain and empty forms of a representative Government. In the enactment of the protecting system, the majority of Congress is, in strict propriety of speech, an irresponsible despotism. A very brief analysis will render this clear to every understanding. What then, we ask, is involved in the idea of political responsibility in the imposition of public burthens? It clearly implies, that those who impose the burthens should be responsible to those who bear them. Every representative in Congress should be responsible, not only to his own immediate constituents, but through them and their common participation in the burthens imposed, to the constituents of every other representative. If, in the enactment of a protecting tariff, the majority in Congress imposed upon their own constituents the same burthens which they impose upon the people of South Carolina, that majority would act under all the restraints of political responsibility, and we should have the best security which human wisdom has yet devised against oppressive legislation.

But the fact is precisely the reverse of this. The majority in Congress, in imposing protecting duties, which are utterly destructive to the interests of South Carolina, not only impose no burthens, but actually confer enriching bounties upon their constituents, proportioned to the burthens they impose upon us. Under these circumstances, the principle of representative responsibility is perverted into a principle of absolute despotism. It is this very tie, binding the majority of Congress to execute the will of their constituents, which makes them our inexorable oppressors. They dare not open their hearts to the sentiments of human justice, or to the feelings of human sympathy. They are tyrants by the very necessity of their position, however elevated may be their principles in their individual capacities.

The grave question, then, which we have to determine, as the sovereign power of the State, upon the awful responsibility under which we have acted, is, whether we will voluntarily surrender the glorious inheritance purchased and consecrated by the toils, the sufferings, and the blood, of an illustrious ancestry, or transmit that inheritance to our posterity untarnished and undiminished? We could not hesitate in deciding this question. We have, therefore, deliberately and unalterably resolved, that we will no longer submit to a system of oppression which reduces us to the degrading condition of tributary vassals, and which would reduce our posterity, in a few generations, to a state of poverty and wretchedness that would stand in melancholy contrast with the beautiful and delightful region in which the Providence of God has cast our destinies. Having formed this resolution with a full view of all its bearings, and of all its probable and possible issues, it is due to



the gravity of the subject, and the solemnity of the occasion, that we should speak to our confederate brethren in the plain language of frankness and truth. Though we plant ourselves upon the Constitution, and the immutable principles of justice, and intend to operate exclusively through the civil tribunals and civil functionaries of the State, yet we *will* throw off this oppression *at every hazard*. We believe our remedy to be essentially peaceful. We believe the Federal Government has no shadow of right or authority to act against a sovereign State of the confederacy in any form, much less to coerce it by military power. But we are aware of the diversities of human opinion, and have seen too many proofs of the infatuation of human power, not to have looked with the most anxious concern to the possibility of a resort to military or naval force on the part of the Federal Government; and, in order to obviate the possibility of having the history of this contest stained by a single drop of fraternal blood, we have solemnly and irrevocably resolved that we will regard such a resort as a dissolution of the political ties which connect us with our confederate States; and will, forthwith, provide for the organization of a new and separate government.

We implore you, and particularly the manufacturing States, not to believe that we have been actuated, in adopting this resolution, by any feeling of resentment or hostility towards them, or by a desire to dissolve the political bonds which have so long united our common destinies. We still cherish that rational devotion to the Union by which this State has been pre-eminently distinguished in all times past. But that blind and idolatrous devotion which would bow down and worship oppression and tyranny, veiled under that consecrated title, if it ever existed among us, has now vanished for ever. CONSTITUTIONAL LIBERTY is the only idol of our political devotion; and, to preserve that, we will not hesitate a single moment to surrender the Union itself, if the sacrifice be necessary. If it had pleased God to cover our eyes with ignorance, if he had not bestowed upon us the understanding to comprehend the enormity of the oppression under which we labor, we might submit to it without absolute degradation and infamy. But the gifts of Providence cannot be neglected or abused with impunity. A people who deliberately submit to oppression, with a full knowledge that they are oppressed, are fit only to be slaves; and all history proves that such a people will soon find a master. It is the pre-existing spirit of slavery in the people that has made tyrants in all ages of the world. No tyrant ever made a slave; no community, however small, having the spirit of freemen, ever yet had a master. The most illustrious of those States which have given to the world examples of human freedom have occupied territories not larger than some of the districts of South Carolina; while the largest masses of population that were ever united under a common government have been the abject, spiritless, and degraded, slaves of despotic rulers. We sincerely hope, therefore, that no portion of the States of this confederacy will permit themselves to be deluded into any measures of rashness by the vain imagination that South Carolina will vindicate her rights and liberties with a less inflexible and unfaltering resolution, with a population of some half a million, than she would do with a population of twenty millions.

It does not belong to freemen to count the costs, and calculate the hazards of vindicating their rights and defending their liberties; and even if we should stand alone in the worst possible emergency of this great controversy, without the co-operation or encouragement of a single State of the con-

federacy, we will march forward with an unflinching step, until we have accomplished the object of this great enterprise.

Having now presented, for the consideration of the Federal Government, and our confederate States, the fixed and final determination of this State in relation to the protecting system, it remains for us to submit a plan of taxation in which we would be willing to acquiesce, in a spirit of liberal concession, provided we are met in due time, and in a becoming spirit, by the States interested in the protection of manufactures.

We believe that, upon every just and equitable principle of taxation, the whole list of protected articles should be imported free of all duty, and that the revenue derived from import duties should be raised exclusively from the unprotected articles, or that whenever a duty is imposed upon protected articles imported, an excise duty of the same rate should be imposed upon all similar articles manufactured in the United States. This would be as near an approach to perfect equality as could possibly be made in a system of indirect taxation. No substantial reason can be given for subjecting manufactures obtained from abroad in exchange for the productions of South Carolina to the smallest duty, even for revenue, which would not show that similar manufactures made in the United States, should be subject to the very same rate of duty. The former, not less than the latter, are, to every rational intent, the productions of domestic industry, and the mode of acquiring the one is as lawful, and more conducive to the public prosperity, than that of acquiring the other.

But we are willing to make a large offering to preserve the Union; and, with a distinct declaration that it is a concession on our part, we will consent that the same rate of duty may be imposed upon the protected articles that shall be imposed upon the unprotected, provided that no more revenue be raised than is necessary to meet the demands of the Government for constitutional purposes, and provided, also, that a duty, substantially uniform, be imposed upon all foreign imports.

It is obvious, that even under this arrangement, the manufacturing States would have a decided advantage over the planting States. For it is demonstrably evident that, as communities, the manufacturing States would bear no part of the burthens of federal taxation, so far as the revenue should be derived from protected articles. The earnestness with which their representatives seek to increase the duties on these articles, is conclusive proof that those duties are bounties, and not burthens, to their constituents. As at least two-thirds of the federal revenue would be raised from protected articles, under the proposed modification of the tariff, the manufacturing States would be entirely exempted from all participation in that proportion of the public burthens.

Under these circumstances, we cannot permit ourselves to believe for a moment, that, in a crisis marked by such portentous and fearful omens, those States can hesitate in acceding to this arrangement, when they perceive that it will be the means, and possibly the only means, of restoring the broken harmony of this great confederacy. They most assuredly have the strongest of human inducements, aside from all considerations of justice, to adjust this controversy, without pushing it to extremities. This can be accomplished only by the proposed modification of the tariff, or by the call of a General Convention of all the States. If South Carolina should be driven out of the Union, all the other planting States, and some of the western States, would follow by an almost absolute necessity. Can it be believed

that Georgia, Mississippi, Tennessee, and even Kentucky, would continue to pay a tribute of fifty per cent. upon their consumption to the northern States, for the privilege of being united to them, when they could receive all their supplies through the ports of South Carolina without paying a single cent of tribute?

The separation of South Carolina would inevitably produce a general dissolution of the Union; and, as a necessary consequence, the protecting system, with all its pecuniary bounties to the northern States, and its pecuniary burthens upon the southern States, would be utterly overthrown and demolished, involving the ruin of thousands and hundreds of thousands in the manufacturing States.

By these powerful considerations connected with their own pecuniary interests, we beseech them to pause and contemplate the disastrous consequences which will certainly result from an obstinate perseverance, on their part, in maintaining the protecting system. With them it is a question of merely pecuniary interest, connected with no shadow of right, and involving no principle of liberty. With us, it is a question involving our most sacred rights—those very rights which our common ancestors left to us as a common inheritance, purchased by their common toils, and consecrated by their blood. It is a question of liberty on the one hand, and slavery on the other. If we submit to this system of unconstitutional oppression, we shall voluntarily sink into slavery, and transmit that ignominious inheritance to our children. We will not, we cannot, we dare not, submit to this degradation; and our resolve is fixed, and unalterable, that a protecting tariff shall be no longer enforced within the limits of South Carolina. We stand upon the principles of everlasting justice, and no human power shall drive us from our position.

We have not the slightest apprehension that the General Government will attempt to force this system upon us by military power. We have warned our brethren of the consequences of such an attempt. But if, notwithstanding, such a course of madness should be pursued, we here solemnly declare that this system of oppression shall never prevail in South Carolina until none but slaves are left to submit to it. We would infinitely prefer that the territory of the State should be the cemetery of freemen than the habitation of slaves. Actuated by these principles, and animated by these sentiments, we will cling to the pillars of the temple of our liberties, and if it must fall, we will perish amidst the ruins.

J. HAMILTON, Jr.

*President of the Convention.*

Attest:

ISAAC W. HAYNE, *Clerk.*

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No. 5.

### GOVERNOR HAMILTON'S MESSAGE.

*To the Senate and House of Representatives:*

FELLOW CITIZENS: In meeting you after the short interval which has supervened since your adjournment, allow me to tender you my most cordial and respectful salutations.

At this annual period of our assembling, it becomes us to review the occurrences of the last year, connected with our domestic concerns, if not with a minute scrutiny, at least with a sentiment of fervent gratitude to the Great Disposer of human events. These tributes of our grateful acknowledgement are due, for the various and multiplied blessings He has been pleased to bestow upon our people. Abundant harvests, in every quarter of our State, have crowned the exertions of our agricultural labors; health, almost beyond former precedent, has blessed our homes, as yet undisturbed by the frightful ravages of that new and terrible pestilence which has elsewhere made such portentous havoc in a large portion of the human family. Nor have we less reason for thankfulness in surveying our social condition. If a political excitement, connected with the public liberty of the country, has stimulated the public mind to a degree of fervor and vigor beyond all former example, this very excitement has furnished the consoling exponent of our fitness for the enjoyment of this inestimable blessing; for, in despite of a painful exasperation of public feeling, social order has been preserved, and the majesty of the law has been supreme.

The officer at the head of your financial department will give a detailed exposition of the condition of your treasury. You will perceive, by his statements, that the receipts, during the last fiscal year, were four hundred and sixty-eight thousand seven hundred and thirteen dollars fifty-eight cents; and that the payments were three hundred and fifty-one thousand four hundred and ninety-six dollars ninety-four cents; and that the difference between these two sums, added to the sums which we received on account of our claims on the General Government, left a balance in the treasury on the first of October, of two hundred and seventy-two thousand five hundred and thirty-three dollars fifty-eight cents.

In our settlement with the United States, we received in money one hundred and fifty-seven thousand two hundred and fifty-nine dollars sixteen cents, and the sum of forty-one thousand six hundred and twenty-five dollars eighty cents in arms—making, in all, the sum of one hundred and ninety-eight thousand eight hundred and eighty-four dollars twenty cents, which we have thus recovered on account of these claims. A further balance, amounting to sixty thousand dollars, on account of arrearages for interest, is yet due, which we should likewise have received under the provisions of an act which passed both branches of Congress, but it was not returned by the President of the United States prior to the adjournment of Congress.

In this adjustment, which may be considered as final, for our State will come in under the general provisions of the act in question whenever it is ratified, which regulates the allowance of interest to the States on sums advanced by them on account of the expenses incurred during the late war, it would be eminently unjust not to press upon your consideration the strong claims which the Comptroller General has, both on your justice and liberality. I trust you will accord to him remuneration for the zeal and industry, and signal ability, which he displayed in the discharge of the special duty which you assigned him in your resolution of the last annual session. Under this he repaired to Washington, and, for six months, during an inconvenient absence from his family, dedicated his time and talents to the irksome unravelling, and, finally successful adjustment, of these accounts. Such members of our delegation in Congress, as co-operated with this officer in this settlement, and had the best means of witnessing his highly effective services in the performance of his trust, at once urge and bear testimony to the



equity of this claim. I would respectfully suggest, as the Comptroller has only received a sum for this duty equivalent to his personal expenses in travelling to, remaining at, and returning from Washington, that he may be allowed a reasonable commission on the amount now received, and hereafter to be received, during his agency and continuance in office.

The very full and satisfactory report of the able officer at the head of the Bank of the State of South Carolina, supersedes the necessity of my dwelling on any thing connected with this institution, but the encouraging fact, that, after appropriating a sum deemed amply sufficient to cover all bad debts during the coming year, the amount of one hundred and twenty thousand dollars has been transferred to the sinking fund, which is equivalent to a dividend of eight per centum on the entire capital and sinking fund placed at its disposal. Permit me, however, to renew my recommendation, that your patriotic solicitude be invoked, and your vigilant superintendence be exercised, over an institution so vitally connected with the public credit of our State.

You will discover by the report of the Comptroller, that the loan hitherto authorized, of one hundred thousand dollars, to the South Carolina Railroad Company, has been accepted by, and paid to that corporation, on the conditions incident to its appropriation. I am happy to be able, from authentic sources of information, to announce that this interesting enterprise is progressing with vigor and success, and that its present operations already reveal the gratifying probability that the auspicious hopes of its great and diversified usefulness, which were cherished at its commencement, will, in the end, be abundantly realized. For a work which is destined, by diminishing the cost of transportation, to add so much to the value of our products, and to increase our convenience and enjoyments, whilst it augments our physical resources and our domestic security, I scarcely deem it necessary to ask your fostering patronage.

No circumstance has occurred to diminish our well founded confidence in the usefulness of the South Carolina College, which is going on with regularity and success, in the process of qualifying those who are to come after us to fill the high functionaries and offices appertaining to the public weal. That this fountain of light may diffuse its beams over our whole State, and be felt in the wide extension of literature, science, and all useful knowledge, must depend on your parental care and unrelaxed vigilance. To discharge this duty is a debt which you must pay, under a sacred obligation, to posterity.

The attention of the Legislature has been so frequently invited to the subject of public education, as administered through our free schools, to our penal code, and to our existing road system, and the improvements so long desired in each of these departments of the public service have been so long postponed, that I can scarcely cherish the hope, at a period of such profound and intense interest on another and absorbing topic of public policy, connected with our relations with the Federal Government, that these subjects will command your deliberations. They are nevertheless topics of great domestic urgency, in which the necessity for reform is more readily recognized than the means of effecting it, except in relation to a mitigation of our penal code, by striking from our statute book, some of the old common law penalties which yet disfigure it. That adequate means may be devised for securing an effective responsibility on the part of the trustees of the school fund, for its useful appropriation, and that this beneficent scheme of carrying the rays of light and moral life into the recesses of poverty and igno-

rance, may not fail, either through apathy or neglect, or by the ill-judged rashness with which a benevolent enterprise may be abandoned under temporary miscarriages, susceptible of remedy, is as much my earnest hope, as it should be your anxious concern.

Whether, in reference to public roads, a commutation from labor into money, at one half of the estimated value of the labor, to be placed as a permanent road fund, in the hands of the commissioners of roads, would not be a mode of keeping them in repair, less burthensome to the community, and much more effective in itself, is submitted to your consideration.

I likewise submit for your deliberation whether, after the events of the last year in Virginia, some restriction ought not to be placed on the free ingress of slaves brought into our State for sale—a subject surely of momentous interest.

I beg leave to transmit you a communication from the Secretary of State of the United States, (marked A,) enclosing a statement of the apportionment of the representation of the several States under the fifth census. The expediency of your acting on this topic, is so obvious, as to supersede the necessity of making any recommendation on the subject.

I likewise transmit resolutions, marked B and C, from the Legislature of Indiana, “relative to the officers and soldiers who bore arms in the revolution, and who are not entitled to pensions under any existing law,” and one in regard “to a more perfect organization of the militia.”

A resolution (marked D) from the House of Delegates of Maryland, is also hereby transmitted.

The laws and maps of several of the States, which I have received in the course of the present year, shall be deposited, with all convenient despatch, in the Legislative library.

Immediately after your recent adjournment, at the end of the last month, a brig called the *Amelia*, bound from New York to New Orleans, was wrecked on Folly island, about fifteen miles distant from Charleston, having on board a crew and passengers, amounting, in all, to upwards of one hundred souls. On the unhappy sufferers reaching the shore, it was discovered that malignant cholera had, some days previously, broken out among them, and was then extending its ravages, with alarming mortality, among the survivors. On my arrival in the city, the Intendant communicated to me these facts. Being compelled to leave Charleston immediately, I requested the city authorities to continue to enforce the quarantine laws in relation to this case, and stated to them that I felt assured you would indemnify the city for the expenses which might be incurred in protecting the health of the whole State from this dreadful epidemic.

A military guard was authorized, and stationed at Folly island, to prevent all intercourse between the crew and passengers of the brig, and the citizens of our State; and I am gratified to be able to state, that, by the decision and judicious measures of the Intendant and council, and the skill and intrepidity of the attending physicians, the infection was arrested, and confined to the island.

As the city authorities acted in fact as the agents of the State, I earnestly recommend that the amounts expended by the city of Charleston on this occasion, be refunded; more especially, as I cannot but think, that but for the promptitude and energy of its public authorities, the pestilence would now be desolating a portion of our State.

It is, moreover, gratifying for us to know that the unfortunate sufferers were treated with a kindness and liberality in every respect comporting with the benevolence and hospitality of our people.

During the interval between your last adjournment and the period of your present meeting, a Convention of the people of the State of South Carolina, called under the high sanctions of the Constitution of the State, and by your authority, "to take into consideration the several acts of the Congress of the United States imposing duties on foreign imports for the protection of domestic manufactures, or for other unauthorized objects; to determine on the character thereof, and to devise the means of redress; and further, in like manner, to take into consideration such acts of the said Congress laying duties on imports, as may be passed in amendment of, or substitution for, the act or acts aforesaid; and also all other laws and acts of the Government of the United States which shall be passed or done for the purpose of more effectually executing and enforcing the same"—has assembled, deliberated, decided, and adjourned. In obedience to the injunctions of this high and sovereign assembly, I send you the result of their proceedings in relation to several of the premises, by which you will perceive that your action and co-operation are required and demanded.

I now beg leave to make special reference to the documents, in the series in which they may be respectively classified. The paper marked E, is a report of a committee, to whom was referred the act "to provide for the calling of a Convention, with instructions to consider and report thereon, and especially as to the measures proper to be adopted by the Convention in reference to the violations of the Constitution of the United States, in the enactment by Congress, on divers occasions, of laws laying duties and imposts for the purpose of encouraging and protecting domestic manufactures, and for other unwarrantable purposes."

This report comprises a view of the rise, progress, unconstitutionality, and oppressiveness, of the tariff laws, and concludes with submitting an ordinance (marked F,) entitled "an ordinance to nullify certain acts of the Congress of the United States, purporting to be laws laying duties and imposts on the importation of foreign commodities."

The acts thus nullified are the acts passed by Congress on the 19th May, 1828, and the act passed on the 14th July, 1832. It is there declared that they are unauthorized by the Constitution of the United States; that they violate the true meaning and intent thereof, and are null and void, and not law, nor binding on this State, its officers, or citizens; and all promises, contracts, and obligations, made or entered into, or to be made or entered into, with purpose to secure the duties imposed by the said acts, and all judicial proceedings which shall be hereafter had in affirmance thereof, are and shall be held utterly null and void.

The Convention has, moreover, declared that the acts to enforce this ordinance shall go into effect on the first of February next; that in no case of law or equity shall their authority be called in question; that no appeal shall be allowed or taken to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed; that all persons now holding any office of honor, profit, or trust, under this State (members of the Legislature excepted) shall take an oath well and truly to obey, execute, and enforce this ordinance; and it concludes with a solemn declaration, that "the people of South Carolina, to the end that it may be fully understood by the Government of the United States, and the people of the co-States, that we are determined to maintain this our ordinance and declaration at every hazard, do further declare that we will not submit to the application of force, on the part of the Federal Government, to reduce this State to obedience; but that we will consider the passage, by Congress, of any act authorizing the

employment of a military or naval force against the State of South Carolina, her constituted authorities, or citizens; or any act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports; or any other act on the part of the Federal Government to coerce the State, shut up her ports, destroy or harrass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this State will henceforth hold themselves absolved from all further obligation to maintain or preserve their political connexion with the people of the other States, and will forthwith proceed to organize a separate Government, and do all other acts and things which sovereign and independent States may of right do."

It is moreover, made your duty to adopt such measures, and pass such acts as may be necessary to give full effect to the ordinance, and to prevent the enforcement and arrest the operation of the acts of Congress thus nullified. This ordinance has thus become a part of the fundamental law of South Carolina, and it, together with a report and an address to the people of South Carolina, (marked G,) and an address to the people of the co-States, (marked H) setting forth the motives, the scope and objects of these acts and doings, were likewise adopted by the Convention, and the executive of the State was directed to transmit copies of the same to the President of the United States, to be laid before Congress, and to the Governor of the several States, to be laid before their respective legislatures—a duty which shall be discharged with as much despatch as is compatible with a proper preparation of the papers in question.

Fellow citizens, the die has been at last cast, and South Carolina has at length appealed to her ulterior sovereignty as a member of this confederacy, and planted herself upon her reserved rights. The rightful exercise of this power is not a question which we will any longer argue. It is sufficient that she has willed it, and that the act is done; nor is its strict compatibility with our constitutional obligations to all laws passed by the General Government, within the authorized grants of power, to be drawn in question when this interposition is exerted in a case in which the compact has been palpably, deliberately, and dangerously violated. That it brings up a conjuncture of deep and momentous interest, is neither to be concealed nor denied.

The crisis first presents a class of duties which is referable to yourselves. You have been commanded by the people, in their highest sovereignty, to take care that, within the limits of this State, their will shall be obeyed. They have armed you with the requisite authority, and on the wisdom, firmness, and forecast with which you discharge these duties, will depend the tranquillity, peace, liberty, and happiness, of our beloved State. Obedience to necessary laws, flowing from a legitimate source of public right, is the best security to social order and civil freedom. To leave this obedience to the voluntary suggestions of public duty or private conscience, or to feeble and defective enactments, in the end leads to extreme rigor, or it brings all just authority into derision and contempt. The measure of legislation which you have to employ at this crisis, is the precise amount of such enactments as may be necessary to render it utterly impossible to collect, within our limits, the duties imposed by the protective tariffs thus nullified. That you will resort to such civil and penal provisions as will accomplish this purpose, without unnecessary rigor on the one hand, or a weak and mistaken leniency on



on the other, I feel so well assured, that I shall refrain from entering into a detail of suggestions on a subject on which you are so much better advised than myself. That you should arm every citizen with a civil process, by which he may claim, if he pleases, a restitution of his goods seized under the existing impost, on his giving security to abide the issue of a suit at law, and at the same time to define what shall constitute treason against the State, and, by a bill of pains and penalties, compel obedience, and punish disobedience to your own laws, are points too obvious to require any discussion. In one word, you must survey the whole ground. You must look to and provide for all possible contingencies. In your own limits, your own courts of judicature must not only be supreme, but you must look to the ultimate issue of any conflict of jurisdiction and power between them and the courts of the United States.

There is one contingency in particular, for which you ought to provide, and that is, in case the collectors of the customs in any of the ports of the State, under the instructions of the General Government, should refuse to grant clearances to vessels outward bound, that no injury should accrue to our trade, or to those who may be carrying on friendly commercial intercourse with us, the Governor should, under such circumstances, be authorized to grant instantly certificates of clearance under the seal of the State.

An enlightened forecast will not, however, permit you to stop here—remember that ours is emphatically a country paying an habitual reverence to the laws. As little must be left to the discretion of the executive as possible. Every conjuncture must be anticipated by your own enactments.

From these legislative provisions, let me now pass to the consideration of consequences, I trust, of a remote and improbable occurrence.

We claim that our remedy is essentially of a pacific character. When we set up this claim, all we mean to say is, that of right it ought to be, and, as far as we are concerned, it shall be so. To the peaceful redress afforded by our courts, in the restitution which they decree, and to the ultimate arbitrament of our sister States in a General Convention assembled on the disputed powers, we look with confidence to the adjustment of this painful controversy. But the final issue may be adverse to this hope.

Threats of coercion we know were once, in relation to the probable measures of this State, officially promulged, and public rumor, to which it is not safe for those in charge of the public authorities to be absolutely deaf, has not diminished the conviction that these dispositions may probably be yet entertained. Nor ought we, in a struggle like this, to rely entirely on the confidence that power will not be used, because right may be violated.

We must be prepared for this alternative. I would, therefore, recommend that our militia system, and its laws, undergo a thorough revision. That the executive be authorized to accept, for the defence of Charleston and its dependencies, the services of two thousand volunteers, either by companies or fites, as they may volunteer, and that they be formed into four battalions of infantry, with one flank company of riflemen attached to each battalion; one squadron of cavalry; and two battalions, one of field, and the other of heavy artillery: that these corps be organized in a legionary brigade, and that the executive, from the precincts in which these volunteers are organized, select the officers of the appropriate rank for the several commands. I suggest the expediency of this brigade being armed and equipped from the public arsenals completely for the field, and that appropriations may be made for supplying all deficiencies in our munitions of war.

In addition to these volunteer drafts, I deem it safe to recommend that the executive be authorized also to accept of the services of ten thousand volunteers from the other division of the State, to be organized and arranged in regiments and brigades, and the officers to be selected by the commander-in-chief, and that this whole force be called the State Guard.

That portion of the claims upon the General Government, which was payable in arms, amounting, in value, to forty-one thousand six hundred and twenty-five dollars and eighty cents, I have received in arms of various descriptions, but still some appropriations will be necessary to augment our supplies. Provision should likewise be made for mounting some of our heavy pieces of ordnance, and a fixed and annual appropriation made for the artillery in Charleston, and in other parts of the State, according to their relative expense. I have ordered the quartermaster general, whose report will be presented to you, and the arsenal keeper at Charleston, the latter an experienced officer of artillery, to repair to this place, to attend in consultation the committees of your respective bodies in reference to the condition of their several departments.

I would, moreover, recommend that the President be requested to remove the United States' troops, now in garrison in the State citadel in Charleston, which they now occupy, at the conjoint instance and request of the State and city authorities, as the accommodations of that post are much wanted for our own arms and munitions. I would moreover suggest, that, after the citadel is thus returned to the State, and the public stores belonging to the State are deposited there, the magazine guard be removed from the Neck to garrison this post, and that a daily guard be detached from it to the magazine, and that the guard be augmented to sixty men, and that the appointment of its officers and general disposition and organization, be under the orders and authority of the commander-in-chief.

I should consider myself, gentlemen, as recreant to my trust, if I did not recommend to you these provisions, or the adoption of those of much wiser import that may suggest themselves to you, and which may be necessary to the public safety and public honor, however improbable the contingency of their ever being required. It is not enough that a people may be right in the struggle for their privileges and liberties, but they must have the means of securing their safety by ample resources for repelling force by force.

I cannot, however, but think, that, on a calm and dispassionate review by Congress, and the functionaries of the General Government, of the true merits of this controversy, the arbitration, by a call of a Convention of all the States, which we sincerely and anxiously seek and desire, will be accorded to us.

To resort to force, is at once to prefer a dissolution of the Union to its preservation. South Carolina has declared that she admits of no arbiters but her co-States, assembled with her in their sovereign capacity. To deny to her this reference, is to admit that our league has no conservative principle short of an appeal to the sword. To suppose, when one of the most prominent of our objections to the protective system is its unconstitutionality, that this, and the other vexatious and conflicting questions of constructive power which now convulse the whole country, are not susceptible of compromise or adjustment in an assembly of equivalent authority to that which formed the Constitution, is to affirm that the spirit of amity and justice without which the Union would be a revolting and compulsory league, is utterly extinct.

But be this as it may—whatever may be the issues of this unhappy controversy, relying on the intelligence and spirit of a free and gallant people, and the imperishable truth and sacred character of our rights, let us advance with an unfaltering heart and a steady step to the performance of our duty to our country. On your deliberations, I fervently invoke the blessings of Almighty God.

JAMES HAMILTON, Jr.

COLUMBIA, S. C., November 17, 1832.

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No. 6.

GOVERNOR HAYNE'S INAUGURAL ADDRESS.

*Fellow Citizens of the Senate,  
and House of Representatives:*

I appear before you, in obedience to your commands, to enter upon the duties you have assigned me. The chief magistracy of South Carolina, at all times an office of high dignity and trust, has now assumed an importance which might well induce the most highly gifted amongst us to hesitate in taking upon himself the fearful responsibility which belongs to it. Putting out of view the considerations which would have induced me, at any time, to desire to be excused from this service—a sincere distrust of my abilities to discharge, in a satisfactory manner, the various and trying duties which must, at this momentous crisis, devolve on the executive, would have deterred me from making the attempt, but for the conviction that every man now owes a duty to his country which he is bound, at every sacrifice, to perform. Deeply sensible of the high honor conferred upon me in being selected to preside over the destinies of the State at this interesting period, and feeling myself bound to defer to your judgment, I am constrained to yield an implicit obedience to the public will, officially made known to me through you.

In taking this step, I am fully aware of the difficulties which are before me. In a period of intense excitement, threatened with dangers from without, and embarrassed by unhappy divisions at home, it belongs not to any wisdom or virtue, merely human, to reconcile conflicting opinions, harmonize discordant views, and meet the expectations of the public. Emergencies will probably arise, concerning which opinions will be so divided, that, act as he may, your chief magistrate will have to encounter the severest censure and reproach. Nevertheless, I will not shrink from the task you have assigned me, but, relying with confidence on your cordial support, and on the wisdom and virtue, courage and patriotism, of the people, I will walk steadily forward in the path of duty, indulging the hope that our united efforts for the promotion of the welfare, honor, and safety of the State, may be crowned with success.

In the great struggle in which we are engaged for the preservation of our rights and liberties, it is my fixed determination to assert and uphold the SOVEREIGN AUTHORITY OF THE STATE, and to enforce, by all the means that may be entrusted to my hands, her SOVEREIGN WILL. I recognize no allegiance as paramount to that which the citizens of South Carolina owe to the State of their birth or their adoption. I here publicly declare, and wish it to be distinctly understood, that I shall hold myself bound, by the highes

of all obligations, to carry into full effect, not only the ordinance of the Convention, but every act of the Legislature, and every judgment of our own courts, the enforcement of which may devolve on the executive. I claim no right to revise their acts. It will be my duty to execute them; and that duty I mean, to the utmost of my power, faithfully to perform.

In the administration of the ordinary duties of my office, it shall be my constant aim, and earnest endeavor, to reconcile discordant opinions—to allay party animosities—and, as far as may be practicable, to bring all the citizens of Carolina to regard each other as brethren of one family. In the administration of our criminal code, I am firmly resolved to “execute justice;” but I shall endeavor to do so in the spirit of the constitution, which instructs me that this shall be done “in mercy.” I should despise myself, and feel that I was utterly unworthy of public confidence, if I were not unalterably determined to perform this most painful part of my public duty without “fear, favor, or affection.” The pure stream of public justice shall not be contaminated by personal feelings or party animosities.

And now, fellow citizens, having thus frankly laid down the principles by which I intend to be governed in the administration of the affairs of the State, let us look forward to the prospect before us, in order that we may be prepared to meet the crisis as becomes men, firmly resolved to do our duty in every emergency. South Carolina, after ten years of unavailing petitions and remonstrances against a system of measures on the part of the Federal Government, which, in common with the other southern states, she has repeatedly declared to be founded in **USURPATION**, utterly subversive of the rights, and fatal to the prosperity of her people, has, in the face of the world, put **HERSELF UPON HER SOVEREIGNTY**, and made the solemn declaration that this system shall no longer be enforced within her limits. All hope of a redress of this grievance from a returning sense of justice on the part of our oppressors, or from any probable change in the policy of the Government, having fled, nothing was left for South Carolina but to throw herself upon her reserved rights, or to remain for ever in a condition of “colonial vassalage.” She has therefore resolved to stand upon her rights; and it is for her sister States now to determine what is to be done in this emergency. She has announced to them her anxious desire that this controversy shall be amicably adjusted, either by a satisfactory modification of the tariff, or by a reference of the whole subject to a Convention of all the States. Should neither of these reasonable propositions be acceded to, then she will feel herself justified before God and man, in firmly maintaining the position she has assumed, until some other mode can be devised for the removal of the difficulty. South Carolina is anxiously desirous of living at peace with her brethren; she has not the remotest wish to dissolve the political bands which have connected her with the great American family of confederated States. With Thomas Jefferson, “she would regard the dissolution of our UNION with them as *one of the greatest of evils—but not the greatest*:—there is one greater: **SUBMISSION TO A GOVERNMENT WITHOUT LIMITATION OF POWERS**,” and such a government she conscientiously believes will be our portion, should the system against which she is now struggling, be finally established as the settled policy of the country.

South Carolina is solicitous to preserve the **CONSTITUTION** as our fathers framed it—according to its true spirit, intent, and meaning; but she is inflexibly determined never to surrender her reserved rights, nor to suffer the constitutional compact to be converted into an instrument for the oppression of her citizens.



She cannot bring herself to believe that, standing as she does on the basis of the Constitution, and the immutable principles of truth and justice, any attempt will be made by her confederate States, and, least of all, by the Government which they have created for special purposes, to reduce her to subjection by military force. A confederacy of sovereign States, formed by the free consent of all, cannot possibly be held together by any other tie than mutual sympathies and common interest. The unhallowed attempt to cement the Union with the blood of our citizens, (which, if successful, would reduce the free and sovereign States of this confederacy to mere dependant provinces,) South Carolina has solemnly declared would be regarded by her as absolving her "from all further obligation to maintain or preserve her political connexion with the people of the other States." The spirit of our free institutions, the very temper of the age, would seem to forbid the thought of an appeal to force for the settlement of a constitutional controversy. If, however, we should be deceived in this reasonable expectation, South Carolina, so far as her means extend, stands prepared to meet danger, and repel invasion, come from what quarter it may. She has warned her brethren of the inevitable consequences of an appeal to arms; and if she should be driven, in defence of her dearest rights, to resist aggression, let it be remembered that the innocent blood which may be shed in such a contest, will, in the great day of account, be required of those who shall persevere in the unhallowed attempt to exercise an "unwarrantable jurisdiction over us."

If such, fellow citizens, should be our lot; if the sacred soil of Carolina should be polluted by the footsteps of an invader, or be stained with the blood of her citizens, shed in her defence; I trust in Almighty God that no son of hers, native or adopted, who has been nourished at her bosom, or been cherished by her bounty, will be found raising a parricidal arm against our common mother. And even should she stand ALONE in this great struggle for constitutional liberty, encompassed by her enemies, that there will not be found, in the wide limits of the State, one recreant son who will not fly to the rescue, and be ready to lay down his life in her defence.

South Carolina cannot be drawn down from the proud eminence on which she has now placed herself, except by the hands of her own children. Give her but a fair field, and she asks no more. Should she succeed, hers will be glory enough to have led the way in the noble work of REFORM. And if, after making these efforts due to her own honor, and the greatness of the cause, she is destined utterly to fail, the bitter fruits of that failure, not to herself alone, but to the entire south, nay to the whole Union, will attest her virtue. The speedy establishment on the ruins of the rights of the States, and the liberties of the people, of a great CONSOLIDATED GOVERNMENT, "riding and ruling over the plundered ploughman and beggared yeomanry" of our once happy land—our glorious confederacy broken into scattered and dishonored fragments—the light of liberty extinguished, never, perhaps, to be relumed—*these—these* will be the melancholy memorials of that wisdom which saw the danger while yet at a distance, and of that patriotism which struggled gloriously to avert it; memorials over which repentant though unavailing tears will assuredly be shed by those who will discover, when too late, that they have suffered the last occasion to pass away when the liberties of the country might have been redeemed, and the Union established upon a foundation as enduring as the everlasting rocks.

We may not live to witness these things. To some of us it may not be

allotted to survive the republic. But, if we are only true to our duty, our example will, in that dark hour, be a rich legacy to our children—and which of us would desire a higher reward than to have it inscribed upon his tomb—“here lies the man who sacrificed himself in a noble effort to rescue the Constitution from violation, and to restore the liberties of his country!”

Fellow citizens, this is our “OUR OWN, OUR NATIVE LAND;” it is the soil of CAROLINA, which has been enriched by the precious blood of our ancestors, shed in defence of those rights and liberties which we are bound by every tie, divine and human, to transmit unimpaired to our posterity. It is *here* that we have been cherished in youth and sustained in manhood by the generous confidence of our fellow-citizens; *here* repose the honored bones of our fathers; *here* the eyes of our children first beheld the light; and *here*, when our earthly pilgrimage is over, we hope to sink to rest on the bosom of our common mother. Bound to our country by such sacred and endearing ties, let others desert her if they can; let them revile her if they will; let them give aid and countenance to her enemies if they may; but for us, we will STAND OR FALL WITH CAROLINA.

God grant that the wisdom of your counsels, sustained by the courage and patriotism of our people, may crown our efforts for the preservation of our liberties with triumphant success. But if, in the inscrutable purposes of an all-wise Providence, it should be otherwise decreed, let us be prepared to do our DUTY in every emergency.

If assailed by violence from abroad, and deserted by those to whom she has a right to look for support, our beloved State is to be “humbled in dust and ashes” before the footstool of the oppressor, we shall not rejoice in her humiliation, nor join in the exultation of her enemies, but, in adversity as in prosperity, in weal and in wo, “through good report and evil report,” we will GO FOR CAROLINA.

And now, fellow citizens, offering up my most fervent prayers to Him in whose hands are the destinies of nations, that he will prosper all your measures, and have our WHOLE COUNTRY “in his holy keeping,” I am ready, in the solemn form prescribed by the Constitution, to dedicate myself to the service of the State.

December 13, 1832.

### REPLEVIN ACT.

*An act to carry into effect, in part, an Ordinance to Nullify certain acts of the Congress of the United States, purporting to be laws laying duties on the importation of foreign commodities, passed in Convention of this State, at Columbia, on the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two.*

Whereas, by the said ordinance it is declared and ordained that the several acts, and parts of acts, of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and, more especially, an act entitled an act in alteration of the several acts imposing duties on imports, approved on the nineteenth

day of May, one thousand eight hundred and twenty-eight; and also an act entitled an act to alter and amend the several acts imposing duties on imports, approved on the fourteenth day of July, one thousand eight hundred and thirty-two, are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null, void, and no law, nor binding upon this State, its officers, or citizens." And whereas, also, by the said ordinance, it is ordained that it shall be the duty of the Legislature to adopt such measures, and pass such acts, as may be necessary to give full effect to that ordinance, and to prevent the enforcement, and arrest the operation of the said acts and parts of acts of the Congress of the United States within the limits of this State, from and after the first day of February next: Now, therefore, to carry into effect, in part, the said ordinance,

SEC. 1. *Be it enacted by the Senate and House of Representatives now met, and sitting in General Assembly, and by the authority of the same,* That from and after the first day of February next, if any goods, wares, or merchandise, shall be seized or detained, under pretence of securing the duties imposed by any of the said several acts or parts of acts of the Congress of the United States, so annulled by the ordinance as aforesaid, or for the non-payment of any such duties, or under any process, order, or decree, mesne or final, or other pretext, contrary to the true intent or meaning of the said ordinance, the person or persons to whom the said goods, wares, or merchandise, are consigned, or who may be lawfully entitled to the possession of the same, may, upon making affidavit of such seizure or detention, proceed to recover possession thereof, and damages, by an act of replevin; and the proceedings therein shall be as in other cases of replevin, according to the laws and usages of this State, except as modified or altered by this act; or such person or persons may proceed in any other manner authorized by law in cases of unlawful seizure or detention of personal property.

SEC. 2. *Be it further enacted,* That, before the sheriff shall deliver the said goods to the plaintiff in replevin, it shall be his duty to take from the said plaintiff a bond, with good and sufficient security, in the penal sum of the full value of the said goods, with the condition that he will prosecute the said suit with effect, and will well and truly abide and fulfil the final judgment and determination of the court therein.

SEC. 3. *Be it further enacted,* That, in case of refusal to deliver the said goods, or of removal of the same in any way, so that the writ of replevin cannot be executed, on the return of the sheriff to that effect, and an affidavit made before any justice of the quorum, that the said goods had been seized and detained, and of the refusal to deliver the same, or that the same had been removed as aforesaid, and of the value thereof, the plaintiff in replevin may sue out a writ, in the nature of a *capias in withernam*, authorizing and requiring the sheriff of any of the districts of this State to distrain the personal estate of the person or persons refusing to deliver the said goods, or removing the same, so that the said process cannot be executed; and the sheriff shall thereupon seize and take into his possession any personal estate of the defendant or defendants to the amount of double the value so sworn as aforesaid, and hold the same at the proper expense of the owner or owners thereof, until the said goods are produced and delivered to the said sheriff: *Provided,* That nothing in either clause contained shall be in any manner construed to deprive the sheriff of any right and power which he now has by law in the execution of the writ of replevin.

SEC. 4. *Be it further enacted*, That if, after the delivery of the said goods by the sheriff to the plaintiff in replevin, any attempt should be made to recapture or to seize the same, or the same should be actually recaptured or seized under pretence of securing the duties imposed by any of the several acts of Congress aforesaid, or for the non-payment of any such duties, or under any process, order, or decree, or other pretext, contrary to the true intent and meaning of the ordinance aforesaid, it shall be the duty of the sheriff, on affidavit made to that effect, to prevent such capture or seizure, or to re-deliver the goods to the plaintiff in replevin, as the case may be; and the sheriff shall have the same power and authority for that purpose as he had in the original execution of the writ of replevin.

SEC. 5. *Be it further enacted by the authority aforesaid*, That, if any person shall pay any of the duties imposed by either of the acts of Congress aforesaid, the person so paying may recover back the same, together with the interest thereon, in an action for money had and received, in any court of competent jurisdiction: *Provided*, That such action be brought within one year from the time of said payment.

SEC. 6. *Be it further enacted by the authority aforesaid*, That, if any person shall be arrested or imprisoned by virtue of any order or execution for the enforcement or satisfaction of any judgment or decree obtained in any federal court for duties claimed under the acts of Congress so annulled as aforesaid, or upon any other proceeding, contrary to the true intent and meaning of the said ordinance, he shall be entitled to all the benefits and privileges secured to the citizen in case of unlawful arrest or imprisonment, by the statute made of force in this State, commonly called the habeas corpus act, and he may also maintain an action for such unlawful arrest or imprisonment.

SEC. 7. *Be it further enacted by the authority aforesaid*, That, if any real or personal estate of any person shall be seized or levied on, or sold by virtue of any fieri facias, or other process, for the enforcement or satisfaction of any judgment or decree obtained in any federal court for duties claimed under the acts of Congress so annulled as aforesaid, such seizure, levy, or sale, shall be held and regarded in the courts of this State as illegal, and such sale shall in no wise divest, or in any manner impair, the title of the defendant in such suit or action to the property thus sold.

SEC. 8. *Be it further enacted*, That if any clerk, commissioner, master, or register, shall furnish a record, or a copy of a record, in his office, of any case in law or equity, wherein is drawn in question the authority of said ordinance, or the validity of the acts of the Legislature passed to give effect thereto, or the validity of the said acts of Congress, or permit or allow any such record, or copy of such record, to be taken for any purpose, he shall be guilty of a misdemeanor, and, upon conviction thereof, be punished by fine not exceeding one thousand, nor less than one hundred dollars, and by imprisonment not exceeding one year, nor less than one month.

SEC. 9. *Be it further enacted*, That, if any person shall disobey, obstruct, or resist any process granted or allowed by this act, or shall eloin, secrete, or wilfully remove any goods, wares, or merchandise, or do any other act, so as to prevent the same from being replevied according to the provisions of the first section of this act, such person, his aiders, and abettors, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine, not exceeding five thousand dollars, nor less than one thousand dollars, and be imprisoned for a term not exceeding two years, nor



less than six months, besides being liable to indictment or other proceeding allowed by law for any other offence involved in the commission of said misdemeanor.

SEC. 10. *Be it further enacted*, That, should any person, after the delivery of any goods by the sheriff to the plaintiff in replevin, as herein provided, recapture or seize, or attempt to recapture or seize the same, under pretence of securing the duties imposed by any of the several acts of Congress aforesaid, or for the non-payment of any such duties, or under any process, order, or decree, or other pretext, contrary to the true intent and meaning of the ordinance aforesaid, such person, his aiders, or abettors, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine not exceeding ten thousand, nor less than three thousand dollars, and imprisonment for a term not exceeding two years, nor less than one year, besides being liable to indictment or other proceeding allowed by law for any other offence involved in the commission of said misdemeanor.

SEC. 11. *And be it further enacted*, That, if any of the keepers of the public jails in this State shall receive and detain any person arrested or committed by virtue of any order, process, or other judicial proceedings made, had, or issued, to enforce the payment or collection of any of the duties imposed by, or claimed under the said acts of Congress, annulled by the ordinance aforesaid, or on any other proceedings contrary to the true intent and meaning of the said ordinance, such keeper shall be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned for a term not exceeding one year, nor less than one month, and fined in a sum not exceeding one thousand dollars, nor less than one hundred dollars, and shall also be liable to the person aggrieved in an action of trespass.

SEC. 12. *And be it further enacted*, That, if any person or persons shall knowingly let, or hire, or use, or permit to be used, any place, house, or building, to serve as a jail, for the detention or confinement of any person arrested or committed by virtue of any order, process, or other judicial proceedings, made, had, or issued, to enforce the payment or collection of any duties imposed by the said acts of Congress annulled by the ordinance aforesaid, or upon any other proceedings contrary to the true intent and meaning of the said ordinance, he or they shall be guilty of a misdemeanor, and, upon conviction thereof, shall be imprisoned for a term not exceeding one year, nor less than one month, and fined in a sum not exceeding one thousand dollars, nor less than one hundred dollars.

SEC. 13. *Be it further enacted*, That no indictment under this act shall be subject to traverse.

SEC. 14. *Be it further enacted*, That the fines collected under this act shall be paid into the public treasury.

SEC. 15. *Be it further enacted*, That, on the trial of any suit or action in which shall be in question the ordinance aforesaid, or this act, the same may be given in evidence without being specially pleaded.

SEC. 16. *Be it further enacted*, That this act shall commence and be of force from and after the first of February next.

## A BILL TO CARRY THE ORDINANCE INTO EFFECT.

*A bill to provide for the Security and Protection of the State of South Carolina.*

SEC. 1. Be it enacted, by the honorable the Senate and House of Representatives, now met and sitting in General Assembly, That in case the Government of the United States, or any officer thereof, shall, by the employment of naval or military force, attempt to coerce the State of South Carolina into submission to the acts of Congress, declared and ordained to be, null, void, and no law, in a Convention of the people of the State of South Carolina, on the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, to resist the enforcement of an ordinance adopted by the Convention aforesaid, or the laws passed in pursuance thereof, or in case of any armed or forcible resistance thereto, the Governor is hereby authorized and empowered to resist the same; and, in order to render such resistance effectual, he is hereby authorized and empowered to order into service the whole military force of this State, or so much thereof as he may, from time to time, deem necessary and proper.

SEC. 2. In case of any overt act of coercion, or an intention on the part of the Government of the United States, or any officer thereof, to commit such an act, manifested by an unusual assemblage of naval or military forces in or near the State, or the occurrence of any circumstances indicating the probability that armed force is about to be employed against this State, or in resistance to its laws, the Governor be, and is hereby authorized, to call into the service of this State, from time to time, such portions of militia as may be required to meet the emergency.

SEC. 3. Each company of infantry called into the service shall consist of sixty privates, four sergeants, and four corporals; to be officered by one captain, one first and second lieutenant, and one ensign; and each company of light infantry or riflemen shall consist of not less than forty privates, and the requisite number of non-commissioned and commissioned officers. Each company to choose its own officers.

SEC. 4. Each regiment of infantry called into service as aforesaid, shall consist of eight companies of infantry and two companies of light infantry or riflemen, to be commanded by one colonel, one lieutenant-colonel, and one major, to be selected, by the commander-in-chief, from amongst the officers of their respective grades in commission at the time, in the brigade or division out of which such regiment shall be raised; and each colonel commanding a regiment of volunteers or militia, shall appoint his regimental staff, subject to the approval of the brigadier general.

SEC. 5. That the Governor be authorized, out of the several brigades or divisions of the State, to permit volunteer companies, troops, battalions, squadrons, and regiments of infantry, artillery, cavalry, light infantry and Riflemen, to be raised, and he is hereby authorized to accept the service of volunteers, whether by files, companies, or otherwise; and it shall be his duty, whenever, in his opinion, the public interest shall require it, to cause such volunteers to be organized into companies, troops, battalions, squadrons or regiments, as the case may be, and he may form the same into brigade and divisions; provided no troop or company shall consist of less than forty or more than one hundred rank and file, with the proper complement of non-commissioned and commissioned officers, required by law: the field and po

general officers to be selected by the Governor, from amongst the officers of their respective grades in the brigade or division, out of which such regiment or brigade shall be raised; and where any officer already in commission shall accept a command in any such volunteer corps, he may retain both commissions, and, at the end of his term of service as a volunteer, shall be at liberty to resume his rank and command, provided that every volunteer company, troop, battalion, squadron, or regiment, which shall offer its services as a whole, shall be so received, and permitted to retain its own officers.

SEC. 6. The officers, non-commissioned officers, and privates, of every volunteer company, troop, battalion, squadron, or regiment, which may be raised, or whose services may be accepted as aforesaid, shall not be called upon to do militia duty in any other corps, but shall be liable to perform, in their respective volunteer companies, all the duties now required, or which may hereafter be required, of the militia by law; and the officers of such volunteer corps shall, when acting in conjunction with other corps, take rank according to the date of their respective commissions.

SEC. 7. That the volunteers which shall be raised, or whose service shall be accepted as aforesaid, or any portion thereof, may be called out by the Governor, in any of the cases above mentioned, or other emergency, in which he is authorized, by law, to call out the militia; and the term of service of the said volunteers, as well as the other militia corps, shall be six months from the day of their being mustered into service, unless sooner discharged; and all free white men, between the ages of sixteen and sixty, may be accepted as volunteers; and all between the ages of sixteen and fifty shall be liable to be called out as is herein before provided for.

SEC. 8. Whenever any portion of the volunteers or militia aforesaid, shall be required for actual service, they shall, in every respect, be subject to the provisions contained in the second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh sections of the act of the General Assembly, ratified on the 24th day of September, 1818, entitled "An act to alter and amend the militia laws of this State."

SEC. 9. *And be it further enacted,* That the Governor be, and he is hereby authorized to order out any portion of the volunteers and militia of this State for review, inspection, and military instruction, as often as, in his opinion, the public service may require, provided that, when so ordered out, they shall not be kept longer in the field than twelve hours at any one time; and every officer, non-commissioned officer, and private, shall be liable to the same fines and other penalties, for non-attendance or disobedience of order while under arms, as are now imposed by law for non-attendance or disobedience of orders at regimental musters: the same to be imposed, collected, and appropriated, as now provided for by law in relation to regimental musters.

SEC. 10. The Governor is hereby authorized and empowered to purchase, for the use of the State, as he may judge necessary, from time to time, ten thousand stand of small arms and the necessary accoutrements; the requisite quantity of cannon ball, powder, lead, and other munitions; such ordnance as he may deem advisable, and to repair and mount such ordnance now belonging to the State, as may be worth the expense. The Governor be, and he is hereby authorized to appoint, from time to time, such assistant staff officers of the grades now established by law, as may be necessary for the purpose of carrying this act into complete effect; and he is also authorized to appoint additional aides-de-camp, whenever, in his opinion, the public service

may require it: provided that such appointments shall not continue in force longer than two years after the passage of this act.

SEC. 11. *Be it further enacted.* That all the power herein conferred upon the Governor in relation to the acceptance of volunteers, and the calling out the militia, shall be held and taken to be applicable to all cases of insurrection or invasion, or imminent danger thereof, and in cases where the laws of the State shall be opposed, and the execution thereof forcibly obstructed by combinations too powerful to be suppressed by the power vested in the sheriffs or other civil officers of the State, who may be charged with the execution of the said laws; and it is hereby declared to be the duty of the Governor, in every such case, to call forth such portions of the militia and volunteers aforesaid, as may be necessary promptly to suppress such combinations, and to cause the laws of the State to be duly executed.

SEC. 12 And if any person or persons whosoever shall be sued, impleaded, molested, or prosecuted, for any matter, cause, or thing, done or executed, or caused to be done or executed, by virtue of, or in pursuance of this act, and all and every person and persons, who shall or may by the commands, or in aid of, or assistance of any person, who shall do or execute, or cause to be done or executed, any matter or thing by virtue of, or in pursuance of the direction of this act, and may plead the general issue, and give this act an especial matter in evidence, in case the plaintiff should suffer a discontinuance, enter a nulli-prosequi, suffer a nonsuit, or if a verdict or judgment shall pass against him, he shall pay to every defendant that shall be acquitted, or for whom judgment shall pass, his full double costs and suit.

SEC. 13. *And be it further enacted.* That the laws now of force, prohibiting the reduction of beat companies below the number of thirty, or the raising a greater portion of certain description of troops than are now authorized within the limits of each military division, be, and the same are hereby suspended so far as the operation of this act is concerned: and this act shall continue in force, unless sooner repealed, for two years from the passage thereof, and no longer.

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## No. 9

### TEST OATH ACT.

*An act concerning the Oath required by the ordinance passed in Convention at Columbia, the twenty-fourth day of November, one thousand eight hundred and thirty-two.*

Whereas, by the ordinance passed in Convention of this State, at Columbia, on the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty two, it is ordained, that all persons holding any office of honor, profit, or trust, civil or military, under this State, (members of the Legislature excepted,) shall, within such time, and in such manner as the Legislature shall prescribe, take an oath well and truly to obey, execute, and enforce the said ordinance, and such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same; and, on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead or had



resigned; and no person hereafter elected to any office of honor, profit, or trust, civil or military, (members of the Legislature excepted,) shall, until the Legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall in like manner take a similar oath.

*Be it therefore enacted by the Senate and House of Representatives, and by the authority of the same,* That the form of said oath should be as follows:

[ I do solemnly swear, or affirm, that I will well and truly obey, execute, and enforce the ordinance to nullify certain acts of the Congress of the United States, purporting to be laws laying duties and imposts upon the importation of foreign commodities, passed in Convention of this State, at Columbia, on the twenty-fourth day of November, in the year of our Lord one thousand eight hundred and thirty-two, and all such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same. So help me God. ]

SEC. 2. *And be it further enacted,* That the said oath may be administered by any person authorized by law to administer an oath, and likewise by military officers to those under their command, and the administration thereof shall be authenticated by the signature of the person administering and the person taking the same. In cases of military officers, a certificate of the oath so authenticated shall be endorsed on their commissions, and in cases of civil officers, the person administering said oath shall make a certificate showing the name, residence, and office, of the officer taking said oath, with the date when administered; in the case of a civil officer, whose duties are confined to a single district, the certificate shall be lodged in the office of the clerk of the court of common pleas, or commissioner in equity, for the district in which the officer resides; and in all other cases the certificate shall be lodged in the office of the Secretary of State.

SEC. 3. *And be it further enacted,* That every judge of the court of appeals, judge of the circuit court, chancellor, and recorder of the city court of Charleston, now in office, shall take the said oath at or before the time when he shall sit in judgment upon any case or matter, civil or criminal, at chambers or in open court, in which shall be in question, directly or indirectly, the aforesaid ordinance, or any act or acts of the Legislature that may be passed in pursuance thereof; and every civil officer who held his office at the passing of the said ordinance shall take the said oath before or at the time, when, in the execution of his office, he may be required to perform any duty consequent upon, or in any wise connected with, the said ordinance, or any act of the Legislature passed in pursuance thereof, except the administering of an oath, or filing a certificate under this act.

SEC. 4. *And be it further enacted,* That every military officer who held his office at the passage of the said ordinance, shall take the said oath before or at the time when he shall be called into service under any act of the Legislature passed in pursuance of said ordinance, or for carrying the same into effect.

SEC. 5. *And be it further enacted,* That the Governor may, whenever, in his opinion, the public interests demand it, by proclamation, require all or any particular officers, civil or military, within the State, or within any particular district thereof, to take the said oath within not less than one week from the publication of the proclamation in the district in which such officer may be; and such officer shall take the oath within the time required

by the said proclamation, and on refusal, neglect, or omission to do so by any such officer, his office shall be vacated.

In the Senate House, the twentieth day of December, in the year of our Lord one thousand eight hundred and thirty-two, and in the fifty-seventh year of the independence of the United States of America.

HENRY DEAS,

*President of the Senate.*

HENRY L. PINCKNEY,

*Speaker of the House of Representatives.*

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No. 10.

### PRESIDENT'S PROCLAMATION.

*Proclamation by Andrew Jackson, President of the United States.*

Whereas a Convention assembled in the State of South Carolina have passed an ordinance, by which they declare "That the several acts and parts of acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importation of foreign commodities, and now having actual operation and effect within the United States, and more especially," two acts for the same purposes passed on the 29th of May, 1828, and on the 14th of July, 1832, "are unauthorized by the Constitution of the United States, and violate the true meaning and intent thereof, and are null and void, and no law," nor binding on the citizens of that State or its officers: and by the said ordinance, it is further declared to be unlawful for any of the constituted authorities of the State or of the United States to enforce the payment of the duties imposed by the said acts within the same State, and that it is the duty of the Legislature to pass such laws as may be necessary to give full effect to the said ordinance:

And whereas, by the said ordinance, it is further ordained, that, in no case of law or equity decided in the courts of said State, wherein shall be drawn in question the validity of the said ordinance, or of the acts of the Legislature that may be passed to give it effect, or of the said laws of the United States, no appeal shall be allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose, and that any person attempting to take such appeal shall be punished as for a contempt of court:

And, finally, the said ordinance declares that the people of South Carolina will maintain the said ordinance at every hazard; and that they will consider the passage of any act, by Congress, abolishing or closing the ports of the said State, or otherwise obstructing the free ingress or egress of vessels to and from the said ports, or any other act of the Federal Government to coerce the State, shut up her ports, destroy or harrass her commerce, or to enforce the said acts otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of the said State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate government, and do all other acts and things which sovereign and independent States may of right do.

And whereas, the said ordinance prescribes to the people of South Carolina a course of conduct in direct violation of their duty as citizens of the United States, contrary to the laws of their country, subversive of its Constitution, and having for its object the destruction of the Union—that Union, which, coeval with our political existence, led our fathers, without any other ties to unite them than those of patriotism and a common cause, through a sanguinary struggle to a glorious independence—that sacred Union, hitherto inviolate, which, perfected by our happy Constitution, has brought us, by the favor of Heaven, to a state of prosperity at home, and high consideration abroad, rarely, if ever, equalled in the history of nations. To preserve this bond of our political existence from destruction, to maintain inviolate this state of national honor and prosperity, and to justify the confidence my fellow citizens have reposed in me, I, ANDREW JACKSON, *President of the United States*, have thought proper to issue this my **PROCLAMATION**, stating my views of the Constitution and laws applicable to the measures adopted by the Convention of South Carolina, and to the reasons they have put forth to sustain them, declaring the course which duty will require me to pursue, and, appealing to the understanding and patriotism of the people, warm them of the consequences that must inevitably result from an observance of the dictates of the Convention.

Strict duty would require of me nothing more than the exercise of those powers with which I am now, or may hereafter be invested, for preserving the peace of the Union, and for the execution of the laws. But the imposing aspect which opposition has assumed in this case, by clothing itself with State authority, and the deep interest which the people of the United States must all feel in preventing a resort to stronger measures, while there is a hope that any thing will be yielded to reasoning and remonstrance, perhaps demand, and will certainly justify, a full exposition to South Carolina and the nation of the views I entertain of this important question, as well as a distinct enunciation of the course which my sense of duty will require me to pursue.

The ordinance is founded, not on the indefeasible right of resisting acts which are plainly unconstitutional, and too oppressive to be endured; but on the strange position that any one State may not only declare an act of Congress void, but prohibit its execution—that they may do this consistently with the Constitution—that the true construction of that instrument permits a State to retain its place in the Union, and yet be bound by no other of its laws than those it may choose to consider as constitutional. It is true, they add, that to justify this abrogation of a law, it must be palpably contrary to the Constitution; but it is evident, that, to give the right of resisting laws of that description, coupled with the uncontrolled right to decide what laws deserve that character, is to give the power of resisting all laws. For, as by the theory, there is no appeal, the reasons alleged by the State, good or bad, must prevail. If it should be said that public opinion is a sufficient check against the abuse of this power, it may be asked why it is not deemed a sufficient guard against the passage of an unconstitutional act by Congress? There is, however, a restraint in this last case, which makes the assumed power of a State more indefensible, and which does not exist in the other. There are two appeals from an unconstitutional act passed by Congress—one to the Judiciary, the other to the people and the States. There is no appeal from the State decision in theory, and the practical illustration shows that the courts are closed against an application to review it, both

judges and jurors being sworn to decide in its favor. But reasoning on this subject is superfluous, when our social compact, in express terms, declares that the laws of the United States, its Constitution, and treaties made under it, are the supreme law of the land; and, for greater caution, adds "that the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding." And it may be asserted without fear of refutation, that no Federative Government could exist without a similar provision. Look for a moment to the consequence. If South Carolina considers the revenue laws unconstitutional, and has a right to prevent their execution in the port of Charleston, there would be a clear constitutional objection to their collection in every other port, and no revenue could be collected any where; for all imposts must be equal. It is no answer to repeat, that an unconstitutional law is no law, so long as the question of its legality is to be decided by the State itself; for every law operating injuriously upon any local interest will be perhaps thought, and certainly represented, as unconstitutional, and, as has been shown, there is no appeal.

If this doctrine had been established at an earlier day, the Union would have been dissolved in its infancy. The excise law in Pennsylvania, the embargo and non intercourse law in the eastern States, the carriage tax in Virginia, were all deemed unconstitutional, and were more unequal in their operation than any of the laws now complained of; but fortunately none of those States discovered that they had the right now claimed by South Carolina. The war into which we were forced to support the dignity of the nation and the rights of our citizens, might have ended in defeat and disgrace instead of victory and honor, if the States who supposed it a ruinous and unconstitutional measure, had thought they possessed the right of nullifying the act by which it was declared, and denying supplies for its prosecution. Hardly and unequally as those measures bore upon several members of the Union, to the Legislatures of none did this efficient and peaceable remedy, as it is called, suggest itself. The discovery of this important feature in our Constitution was reserved to the present day. To the statesmen of South Carolina belongs the invention, and upon the citizens of that State will unfortunately fall the evils of reducing it to practice.

If the doctrine of a State veto upon the laws of the Union carries with it internal evidence of its impracticable absurdity, our constitutional history will also afford abundant proof that it would have been repudiated with indignation had it been proposed to form a feature in our Government.

In our colonial state although dependant on another power, we very early considered ourselves as connected by common interest with each other. Leagues were formed for common defence, and, before the declaration of independence, we were known in our aggregate character as the UNITED COLONIES OF AMERICA. That decisive and important step was taken jointly. We declared ourselves a nation by a joint, not by several acts, and when the terms of our confederation were reduced to form, it was in that of a solemn league of several States, by which they agreed that they would collectively form one nation for the purpose of conducting some certain domestic concerns and all foreign relations. In the instrument forming that Union is found an article which declares that "every State shall abide by the determinations of Congress on all questions which, by that confederation, should be submitted to them."

Under the confederation, then, no State could legally annul a decision of



the Congress, or refuse to submit to its execution; but no provision was made to enforce these decisions. Congress made requisitions, but they were not complied with. The Government could not operate on individuals. They had no judiciary, no means of collecting revenue.

But the defects of the confederation need not be detailed. Under its operation we could scarcely be called a nation. We had neither prosperity at home nor consideration abroad. This state of things could not be endured, and our present happy Constitution was formed, but formed in vain, if this fatal doctrine prevails. It was formed for important objects that are announced in the preamble made in the name and by the authority of the people of the United States, whose delegates framed, and whose Conventions approved it. The most important among these objects, that which is placed first in rank, on which all the others rest, is, "*to form a more perfect Union.*" Now, is it possible that even if there were no express provision giving supremacy to the Constitution and laws of the United States over those of the States—can it be conceived, that an instrument made for the purpose of "*forming a more perfect Union*" than that of the confederation, could be so constructed by the assembled wisdom of our country as to substitute for that confederation a form of government dependant for its existence on the local interest, the party spirit of a State, or of a prevailing faction in a State? Every man of plain, unsophisticated understanding, who hears the question, will give such an answer as will preserve the Union. Metaphysical subtlety, in pursuit of an impracticable theory, could alone have devised one that is calculated to destroy it.

I consider, then, the power to annul a law of the United States, assumed by one State, INCOMPATIBLE WITH THE EXISTENCE OF THE UNION, CONTRADICTED EXPRESSLY BY THE LETTER OF THE CONSTITUTION, UNAUTHORIZED BY ITS SPIRIT, INCONSISTENT WITH EVERY PRINCIPLE ON WHICH IT WAS FOUNDED, AND DESTRUCTIVE OF THE GREAT OBJECT FOR WHICH IT WAS FORMED.

After this general view of the leading principle, we must examine the the particular application of it which is made in the ordinance.

The preamble rests its justification on these grounds: It assumes, as a fact, that the obnoxious laws, although they purport to be laws for raising revenue, were in reality intended for the protection of manufactures, which purpose it asserts to be unconstitutional; that the operation of these laws is unequal; that the amount raised by them is greater than is required by the wants of the Government; and, finally, that the proceeds are to be applied to objects unauthorized by the Constitution. These are the only causes alleged to justify an open opposition to the laws of the country, and a threat of seceding from the Union, if any attempt should be made to enforce them. The first virtually acknowledges that the law in question was passed under a power expressly given by the Constitution to lay and collect imposts; but its constitutionality is drawn in question from the *motives* of those who passed it. However apparent this purpose may be in the present case, nothing can be more dangerous than to admit the position that an unconstitutional purpose, entertained by the members who assent to a law enacted under a constitutional power, shall make that law void: for how is that purpose to be ascertained? Who is to make the scrutiny? How often may bad purposes be falsely imputed—in how many cases are they concealed by false professions—in how many is no declaration of motive made? Admit this doctrine, and you give to the States an uncontrolled right to decide,

and every law may be annulled under this pretext. If, therefore, the absurd and dangerous doctrine should be admitted, that a State may annul an unconstitutional law, or one that it deems such, it will not apply to the present case.

The next objection is, that the laws in question operate unequally. This objection may be made with truth, to every law that has been or can be passed. The wisdom of man never yet contrived a system of taxation that would operate with perfect equality. If the unequal operation of a law makes it unconstitutional, and if all laws of that description may be abrogated by any State for that cause, then indeed is the Federal Constitution unworthy of the slightest effort for its preservation. We have hitherto relied on it as the perpetual bond of our Union. We have received it as the work of the assembled wisdom of the nation. We have trusted to it as to the sheet anchor of our safety in the stormy times of conflict with a foreign or domestic foe. We have looked to it with sacred awe as the palladium of our liberties, and with all the solemnities of religion have pledged to each other our lives and fortunes here, and our hopes of happiness hereafter, in its defence and support. Were we mistaken, my countrymen, in attaching this importance to the Constitution of our country? Was our devotion paid to the wretched, inefficient, clumsy, contrivance which this new doctrine would make it? Did we pledge ourselves to the support of an airy nothing—a bubble that must be blown away by the first breath of disaffection? Was this self-destroying, visionary theory, the work of the profound statesmen, the exalted patriots, to whom the task of constitutional reform was entrusted? Did the name of Washington sanction, did the States deliberately ratify such an anomaly in the history of fundamental legislation? No. We were not mistaken. The letter of this great instrument is free from this radical fault: its language directly contradicts the imputation: its spirit—its evident intent, contradicts it. No, we did not err! Our Constitution does not contain the absurdity of giving power to make laws, and another power to resist them. The sages whose memory will always be revered, have given us a practical, and, as they hoped, a permanent constitutional compact. The Father of his Country did not affix his revered name to so palpable an absurdity. Nor did the States, when they severally ratified it, do so under the impression that a veto on the laws of the United States was reserved to them, or that they could exercise it by implication. Search the debates in all their Conventions, examine the speeches of the most zealous opposers of federal authority, look at the amendments that were proposed—they are all silent—not a syllable uttered, not a vote given, not a motion made, to correct the explicit supremacy given to the laws of the Union over those of the States, or to show that implication, as is now contended, could defeat it. No, we have not erred! The Constitution is still the object of our reverence, the bond of our Union, our defence in danger, the source of our prosperity in peace: it shall descend as we have received it, uncorrupted by sophistical construction, to our posterity, and the sacrifices of local interest, of State prejudices, of personal animosities, that were made to bring it into existence, will again be patriotically offered for its support.

The two remaining objections made by the ordinance to these laws, are that the sums intended to be raised by them are greater than are required, and that the proceeds will be unconstitutionally employed.

The Constitution has given, expressly, to Congress the right of raising revenue, and of determining the sum the public exigencies will require.

The States have no control over the exercise of this right other than that which results from the power of changing the representatives who abuse it, and thus procure redress. Congress may, undoubtedly, abuse this discretionary power, but the same may be said of others with which they are vested. Yet the discretion must exist somewhere. The Constitution has given it to the representatives of all the people, checked by the representatives of the States, and by the Executive power. The South Carolina construction gives it to the Legislature or the Convention of a single State, where neither the people of the different States, nor the States in their separate capacity, nor the Chief Magistrate elected by the people, have any representation. Which is the most discreet disposition of the power? I do not ask you, fellow citizens, which is the constitutional disposition—that instrument speaks a language not to be misunderstood. But if you were assembled in general Convention, which would you think the safest depository of this discretionary power in the last resort? Would you add a clause giving it to each of the States, or would you sanction the wise provisions already made by your Constitution? If this should be the result of your deliberations when providing for the future, are you, can you be ready, to risk all that we hold dear, to establish, for a temporary and a local purpose, that which you must acknowledge to be destructive, and even absurd, as a general provision? Carry out the consequences of this right vested in the different States, and you must perceive that the crisis your conduct presents at this day would recur whenever any law of the United States displeased any of the States, and that we should soon cease to be a nation.

The ordinance, with the same knowledge of the future that characterizes a former objection, tells you that the proceeds of the tax will be unconstitutionally applied. If this could be ascertained with certainty, the objection would, with more propriety, be reserved for the law so applying the proceeds, but surely cannot be urged against the laws levying the duty.

These are the allegations contained in the ordinance. Examine them seriously, my fellow citizens,—judge for yourselves. I appeal to you to determine whether they are so clear, so convincing, as to leave no doubt of their correctness: and even if you should come to this conclusion, how far they justify the reckless, destructive course, which you are directed to pursue. Review these objections, and the conclusions drawn from them, once more. What are they? Every law, then, for raising revenue, according to the South Carolina ordinance, may be rightfully annulled, unless it be so framed as no law ever will or can be framed. Congress have a right to pass laws for raising revenue, and each State have a right to oppose their execution—two rights directly opposed to each other; and yet is this absurdity supposed to be contained in an instrument drawn for the express purpose of avoiding collisions between the States and the General Government, by an assembly of the most enlightened statesmen and purest patriots ever embodied for a similar purpose.

In vain have these sages declared that Congress shall have power to lay and collect taxes, duties, imposts, and excises—in vain have they provided that they shall have power to pass laws which shall be necessary and proper to carry those powers into execution, that those laws and that Constitution shall be the “supreme law of the land, and that the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.” In vain have the people of the several States solemnly sanctioned these provisions, made them their para-

mount law, and individually sworn to support them whenever they were called on to execute any office. Vain provisions! ineffectual restrictions! vile profanation of oaths! miserable mockery of legislation!—if a bare majority of the voters in any one State may, on a real or supposed knowledge of the intent with which a law has been passed, declare themselves free from its operation—say here it gives too little, there too much, and operates unequally—here it suffers articles to be free that ought to be taxed—there it taxes those that ought to be free—in this case, the proceeds are intended to be applied to purposes which we do not approve—in that the amount raised is more than is wanted.

Congress, it is true, are invested by the Constitution with the right of deciding these questions according to their sound discretion: Congress is composed of the representatives of all the States, and of all the people of all the States; but we, part of the people of one State, to whom the Constitution has given no power on the subject, from whom it has expressly taken it away,—we, who have solemnly agreed that this Constitution shall be our law—we, most of whom have sworn to support it—we now abrogate this law, and swear, and force others to swear, that it shall not be obeyed. And we do this not because Congress have no right to pass such laws—this we do not allege—but because they have passed them with improper views. They are unconstitutional from the motives of those who passed them, which we can never with certainty know—from their unequal operation, although it is impossible, from the nature of things, that they should be equal—and from the disposition which we presume may be made of their proceeds, although that disposition has not been declared. This is the plain meaning of the ordinance in relation to laws which it abrogates for alleged unconstitutionality. But it does not stop there. It repeals, in express terms, an important part of the Constitution itself, and of laws passed to give it effect, which have never been alleged to be unconstitutional. The Constitution declares that the judicial powers of the United States extend to cases arising under the laws of the United States, and that such laws, the Constitution and treaties, shall be paramount to the State constitutions and laws. The judiciary act prescribes the mode by which the case may be brought before a court of the United States, by appeal, when a State tribunal shall decide against this provision of the Constitution. The ordinance declares there shall be no appeal; makes the State law paramount to the Constitution and laws of the United States; forces judges and jurors to swear that they will disregard their provisions; and even makes it penal in a suitor to attempt relief by appeal. It further declares that it shall not be lawful for the authorities of the United States, or of that State, to enforce the payment of duties imposed by the revenue laws within its limits.

Here is a law of the United States, not even pretended to be unconstitutional, repealed by the authority of a small majority of the voters of a single State. Here is a provision of the Constitution which is solemnly abrogated by the same authority.

On such expositions and reasonings, the ordinance grounds not only an assertion of the right to annul the laws of which it complains, but to enforce it by a threat of seceding from the Union if any attempt is made to execute them.

This right to secede is deduced from the nature of the Constitution, which, they say, is a compact between sovereign States, who have preserved their whole sovereignty, and, therefore, are subject to no superior; that, because



they made the compact, they can break it when, in their opinion, it has been departed from by the other States. Fallacious as this course of reasoning is, it enlists State pride, and finds advocates in the honest prejudices of those who have not studied the nature of our Government sufficiently to see the radical error on which it rests.

The people of the United States formed the Constitution, acting through the State Legislatures in making the compact, to meet and discuss its provisions, and acting in separate Conventions when they ratified those provisions: but the terms used in its construction, show it to be a government in which the people of all the States collectively are represented. We are **ONE PEOPLE** in the choice of the President and Vice President. Here the States have no other agency than to direct the mode in which the votes shall be given. The candidates having the majority of all the votes are chosen. The electors of a majority of States may have given their votes for one candidate, and yet another may be chosen. The people, then, and not the States, are represented in the Executive branch.

In the House of Representatives there is this difference, that the people of one State do not, as in the case of President and Vice President, all vote for the same officers. The people of all the States do not vote for all the members, each State electing only its own representatives. But this creates no material distinction. When chosen, they are all representatives of the United States, not representatives of the particular State from which they come. They are paid by the United States, not by the State, nor are they accountable to it for any act done in the performance of their legislative functions; and however they may in practice, as it is their duty to do, consult and prefer the interests of their particular constituents when they come in conflict with any other partial or local interest, yet it is their first and highest duty, as representatives of the United States, to promote the general good.

The Constitution of the United States then forms a *government*, not a league; and whether it be formed by compact between the States, or in any other manner, its character is the same. It is a government in which all the people are represented, which operates directly on the people individually, not upon the States—they retained all the power they did not grant. But each State having expressly parted with so many powers as to constitute, jointly with the other States, a single nation, cannot, from that period, possess any right to secede, because such secession does not break a league, but destroys the unity of a nation; and any injury to that unity is not only a breach which would result from the contravention of a compact, but it is an offence against the whole Union. To say that any State may at pleasure secede from the Union, is to say that the United States are not a nation, because it would be a solecism to contend that any part of a nation might dissolve its connexion with the other parts, to their injury or ruin, without committing any offence. Secession, like any other revolutionary act, may be morally justified by the extremity of oppression; but to call it a constitutional right, is confounding the meaning of terms; and can only be done through gross error, or to deceive those who are willing to assert a right, but would pause before they made a revolution, or incur the penalties consequent on a failure.

Because the Union was formed by compact, it is said the parties to that compact may, when they feel themselves aggrieved, depart from it: but it is precisely because it is a compact that they cannot. A compact is an agree-

ment or binding obligation. It may by its terms have a sanction or penalty for its breach or it may not. If it contains no sanction, it may be broken with no other consequence than moral guilt: if it have a sanction, then the breach insures the designated or implied penalty. A league between independent nations, generally, has no sanction other than a moral one; or if it should contain a penalty, as there is no common superior, it cannot be enforced. A government, on the contrary, always has a sanction, express or implied; and, in our case, it is both necessarily implied and expressly given. An attempt, by force of arms, to destroy a government, is an offence by whatever means the constitutional compact may have been formed, and such government has the right, by the law of self-defence, to pass acts for punishing the offender, unless that right is modified, restrained, or resumed by the constitutional act. In our system, although it is modified in the case of treason, yet authority is expressly given to pass all laws necessary to carry its powers into effect, and, under this grant, provision has been made for punishing acts which obstruct the due administration of the laws.

It would seem superfluous to add any thing to show the nature of that union which connects us; but, as erroneous opinions on, this subject are the foundation of doctrines the most destructive to our peace, I must give some further development to my views on this subject. No one, fellow citizens, has a higher reverence for the reserved rights of the States than the magistrate who now addresses you. No one would make greater personal sacrifices, or official exertions, to defend them from violation; but equal care must be taken to prevent, on their part, an improper interference with, or resumption of, the rights they have vested in the nation. The line has not been so distinctly drawn as to avoid doubts in some cases of the exercise of power. Men of the best intentions and soundest views may differ in their construction of some parts of the Constitution; but there are others on which dispassionate reflection can leave no doubt. Of this nature appears to be the assumed right of secession. It treats, as we have seen, on the alleged undivided sovereignty of the States, and on their having formed, in this sovereign capacity, a compact which is called the Constitution, from which, because they made it, they have the right to secede. Both of these positions are erroneous, and some of the arguments to prove them so have been anticipated.

The States severally have not retained their entire sovereignty. It has been shown that, in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty. The right to make treaties—declare war—levy taxes—exercise exclusive judicial and legislative powers—were all of them functions of sovereign power. The States, then, for all these purposes, were no longer sovereign. The allegiance of their citizens was transferred, in the first instance, to the Government of the United States: they became American citizens, and owed obedience to the Constitution of the United States, and to laws made in conformity with the powers it vested in Congress. This last position has not been, and cannot be denied. How, then, can that State be said to be sovereign and independent whose citizens owe obedience to laws not made by it, and whose magistrates are sworn to disregard those laws when they come in conflict with those passed by another? What shows conclusively that the States cannot be said to have reserved an undivided sovereignty, is, that they expressly ceded the right to punish treason, not treason against their separate power, but treason against the United States. Treason is an offence against *sovereignty*, and sovereignty must reside with the power to punish it. But the reserved rights of the States are not less sacred because they

have, for their common interest, made the General Government the depository of these powers.

The unity of our political character (as has been shown for another purpose) commenced with its very existence. Under the royal government we had no separate character: our opposition to its oppressions began as UNITED COLONIES. We were the UNITED STATES under the confederation, and the name was perpetuated, and the Union rendered more perfect, by the Federal Constitution. In none of these stages did we consider ourselves in any other light than as forming one nation. Treaties and alliances were made in the name of all. Troops were raised for the joint defence. How, then, with all these proofs, that under all changes of our position we had, for designated purposes and defined powers, created national governments—how is it, that the most perfect of those several modes of union should now be considered as a mere league that may be dissolved at pleasure? It is from an abuse of terms. Compact is used as synonymous with league, although the true term is not employed, because it would at once show the fallacy of the reasoning. It would not do to say that our Constitution was only a league, but it is labored to prove it a compact, (which in one sense it is,) and then to argue that as a league is a compact, every compact between nations must of course be a league, and that from such an engagement every sovereign power has a right to recede. But it has been shown that, in this sense, the States are not sovereign, and that even if they were, and the national Constitution had been formed by compact, there would be no right in any one State to exonerate itself from its obligations.

So obvious are the reasons which forbid this secession, that it is necessary only to allude to them. The Union was formed for the benefit of all. It was produced by mutual sacrifices of interests and opinions. Can those sacrifices be recalled? Can the States, who magnanimously surrendered their title to the territories of the west, recal the grant? Will the inhabitants of the inland States agree to pay the duties that may be imposed without their assent by those on the Atlantic or the Gulf, for their own benefit? Shall there be a free port in one State, and onerous duties in another? No one believes that any right exists in a single State to involve all the others in these and countless other evils contrary to the engagements solemnly made. Every one must see that the other States, in self defence, must oppose it at all hazards.

These are the alternatives that are presented by the Convention: a repeal of all the acts for raising revenue, leaving the Government without the means of support, or an acquiescence in the dissolution of our Union by the secession of one of its members. When the first was proposed, it was known that it could not be listened to for a moment. It was known, if force was applied to oppose the execution of the laws that it must be repelled by force; that Congress could not, without involving itself in disgrace and the country in ruin, accede to the proposition: and yet if this is not done in a given day, or if any attempt is made to execute the laws, the State is, by the ordinance, declared to be out of the Union. The majority of a Convention assembled for the purpose, have dictated these terms, or rather this rejection of all terms, in the name of the people of South Carolina. It is true that the Governor of the State speaks of the submission of their grievances to a Convention of all the States, which, he says, they “sincerely and anxiously seek and desire.” Yet this obvious and constitutional mode of obtaining the sense of the other States on the construction of the federal compact, and amending it,

if necessary, has never been attempted by those who have urged the State on to this destructive measure. The State might have proposed the call for a General Convention to the other States; and Congress, if a sufficient number of them concurred, must have called it. But the first magistrate of South Carolina, when he expressed a hope that, "on a review by Congress and the functionaries of the General Government, of the merits of the controversy," such a Convention will be accorded to them, must have known that neither Congress, nor any functionary of the General Government, has authority to call such a Convention, unless it be demanded by two-thirds of the States. This suggestion, then, is another instance of the reckless inattention to the provisions of the Constitution with which this crisis has been madly hurried on; or of the attempt to persuade the people that a constitutional remedy had been sought and refused. If the Legislature of South Carolina "anxiously desire" a General Convention to consider their complaints, why have they not made application for it in the way the Constitution points out? The assertion that they "earnestly seek it," is completely negatived by the omission.

This, then, is the position in which we stand. A small majority of the citizens of one State in the Union have elected delegates to a State Convention; that Convention has ordained that all the revenue laws of the United States must be repealed, or that they are no longer a member of the Union. The Governor of that State has recommended to the Legislature the raising of an army to carry the secession into effect, and that he may be empowered to give clearances to vessels in the name of the State. No act of violent opposition to the laws has yet been committed, but such a state of things is hourly apprehended; and it is the intent of this instrument to proclaim, not only that the duty imposed on me by the Constitution "to take care that the laws be faithfully executed," shall be performed to the extent of the powers already vested in me by law, or of such others as the wisdom of Congress shall devise and entrust to me for that purpose, but to warn the citizens of South Carolina who have been deluded into an opposition to the laws, of the danger they will incur by obedience to the illegal and disorganizing ordinance of the Convention; to exhort those who have refused to support it to persevere in their determination to uphold the Constitution and laws of their country; and to point out to all the perilous situation into which the good people of that State have been led, and that the course they are urged to pursue is one of ruin and disgrace to the very State whose rights they affect to support.

Fellow citizens of my native State, let me not only admonish you, as the First Magistrate of our common country, not to incur the penalty of its laws, but use the influence that a father would over his children whom he saw rushing to certain ruin. In that paternal language, with that paternal feeling, let me tell you, my countrymen, that you are deluded by men who are either deceived themselves, or wish to deceive you. Mark under what pretences you have been led on to the brink of insurrection and treason, on which you stand! First, a diminution of the value of your staple commodity, lowered by over production in other quarters, and the consequent diminution in the value of your lands, were the sole effect of the tariff laws.

The effect of those laws was confessedly injurious, but the evil was greatly exaggerated by the unfounded theory you were taught to believe, that its burthens were in proportion to your exports, not to your consumption of imported articles. Your pride was roused by the assertion that a submis-



sion to those laws was a state of vassalage, and that resistance to them was equal, in patriotic merit, to the oppositions our fathers offered to the oppressive laws of Great Britain. You were told that this opposition might be peaceably—might be constitutionally made;—that you might enjoy all the advantages of the Union, and bear none of its burthens. Eloquent appeals to your passions, to your State pride, to your native courage, to your sense of real injury, were used to prepare you for the period when the mask, which concealed the hideous features of disunion, should be taken off. It fell, and you were made to look with complacency on objects which, not long since, you would have regarded with horror. Look back to the arts which have brought you to this state—look forward to the consequences to which it must inevitably lead! Look back to what was first told you as an inducement to enter into this dangerous course. The great political truth was repeated to you, that you had the revolutionary right of resisting all laws that were palpably unconstitutional and intolerably oppressive: it was added that the right to nullify a law rested on the same principle, but that it was a peaceable remedy! This character which was given to it, made you receive, with too much confidence, the assertions that were made of the unconstitutionality of the law and its oppressive effects. Mark, my fellow citizens, that, by the admission of your leaders, the unconstitutionality must be *palpable*, or it will not justify either resistance or nullification! What is the meaning of the word *palpable*, in the sense in which it is here used? that which is apparent to every one; that which no man of ordinary intellect will fail to perceive. Is the unconstitutionality of these laws of that description? Let those among your leaders who once approved and advocated the principle of protective duties, answer the question; and let them choose whether they will be considered as incapable, then, of perceiving that which must have been apparent to every man of common understanding, or as imposing upon your confidence, and endeavoring to mislead you now. In either case, they are unsafe guides in the perilous path they urge you to tread. Ponder well on this circumstance, and you will know how to appreciate the exaggerated language they address to you. They are not champions of liberty emulating the fame of our revolutionary fathers; nor are you an oppressed people, contending, as they repeat to you, against worse than colonial vassalage.

You are free members of a flourishing and happy Union. There is no settled design to oppress you. You have indeed felt the unequal operation of laws which may have been unwisely, not unconstitutionally passed; but that inequality must necessarily be removed. At the very moment when you were madly urged on to the unfortunate course you have begun, a change in public opinion had commenced. The nearly approaching payment of the public debt, and the consequent necessity of a diminution of duties, had already produced a considerable reduction, and that, too, on some articles of general consumption in your State. The importance of this change was underrated, and you were authoritatively told that no further alleviation of your burthens was to be expected at the very time when the condition of the country imperiously demanded such a modification of the duties as should reduce them to a just and equitable scale. But, as if apprehensive of the effect of this change in allaying your discontents, you were precipitated into the fearful state in which you now find yourselves.

I have urged you to look back to the means that were used to hurry you on to the position you have now assumed, and forward to the consequences

it will produce. Something more is necessary. Contemplate the condition of that country of which you still form an important part. Consider its Government uniting in one bond of common interest and general protection so many different States—giving to all their inhabitants the proud title of American citizens, protecting their commerce, securing their literature and their arts; facilitating their intercommunication; defending their frontiers; and making their name respected in the remotest parts of the earth. Consider the extent of its territory; its increasing and happy population; its advance in arts, which render life agreeable; and the sciences, which elevate the mind! See education spreading the lights of religion, morality, and general information into every cottage in this wide extent of our Territories and States! Behold it as the asylum where the wretched and the oppressed find a refuge and support! Look on this picture of happiness and honor, and say—WE, TOO, ARE CITIZENS OF AMERICA!—Carolina is one of these proud States—her arms have defended—her best blood has cemented this happy Union! And then add, if you can, without horror and remorse, this happy Union we will dissolve; this picture of peace and prosperity we will deface; this free intercourse we will interrupt; these fertile fields we will deluge with blood; the protection of that glorious flag we renounce; the very name of Americans we discard. And for what, mistaken men—for what do you throw away these inestimable blessings? for what would you exchange your share in the advantages and honor of the Union? For the dream of separate independence—a dream interrupted by bloody conflicts with your neighbors, and a vile dependance on a foreign power. If your leaders could succeed in establishing a separation, what would be your situation? Are you united at home—are you free from the apprehension of civil discord, with all its fearful consequences? Do our neighboring republics, every day suffering some new revolution, or contending with some new insurrection—do they excite your envy? But the dictates of a high duty obliges me solemnly to announce that you cannot succeed. The laws of the United States must be executed. I have no discretionary power on the subject—my duty is emphatically pronounced in the Constitution. Those who told you that you might peaceably prevent their execution, deceived you—they could not have been deceived themselves. They know that a forcible opposition could alone prevent the execution of the laws, and they know that such opposition must be repelled. Their object is disunion: but be not deceived by names: disunion, by armed force, is TREASON. Are you really ready to incur its guilt? If you are, on the heads of the instigators of the act be the dreadful consequences—on their heads be the dishonor; but on yours may fall the punishment: on your unhappy State will inevitably fall all the evils of the conflict you force upon the Government of your country. It cannot accede to the mad project of disunion, of which you would be the first victims—its First Magistrate cannot, if he would, avoid the performance of his duty:—the consequence must be fearful for you, distressing to your fellow citizens here, and to the friends of good government throughout the world. Its enemies have beheld our prosperity with a vexation they could not conceal—it was a standing refutation of their slavish doctrines, and they will point to our discord with the triumph of malignant joy. It is yet in your power to disappoint them. There is yet time to show that the descendants of the Pinckneys, the Sumters, the Rutledges, and of the thousand other names which adorn the pages of your revolutionary history, will not abandon that Union, to support which so many of them fought, and bled, and died.

I adjure you, as you honor their memory—as you love the cause of freedom, to which they dedicated their lives—as you prize the peace of your country, the lives of its best citizens, and your own fair fame, to retrace your steps. Snatch from the archives of your State the disorganizing edict of its Convention—bid its members to re-assemble, and promulgate the decided expressions of your will to remain in the path which alone can conduct you to safety, prosperity, and honor. Tell them that, compared to disunion, all other evils are light, because that brings with it an accumulation of all. Declare that you will never take the field unless the star spangled banner of your country shall float over you; that you will not be stigmatized when dead, and dishonored and scorned while you live, as the authors of the first attack on the Constitution of your country. Its destroyers you cannot be. You may disturb its peace—you may interrupt the course of its prosperity—you may cloud its reputation for stability, but its tranquillity will be restored, its prosperity will return, and the stain upon its national character will be transferred, and remain an eternal blot on the memory of those who caused the disorder.

Fellow citizens of the United States! The threat of unhallowed disunion—the names of those once respected, by whom it is uttered—the array of military force to support it—denote the approach of a crisis in our affairs, on which the continuance of our unexampled prosperity, our political existence, and perhaps that of all free governments, may depend. The conjuncture demanded a free, a full, and explicit enunciation, not only of my intentions, but of my principles of action; and, as the claim was asserted of a right by a State to annul the laws of the Union, and even to secede from it at pleasure, a frank exposition of my opinions in relation to the origin and form of our Government, and the construction I give to the instrument by which it was created, seemed to be proper. Having the fullest confidence in the justness of the legal and constitutional opinion of my duties, which has been expressed, I rely, with equal confidence, on your undivided support in my determination to execute the laws—to preserve the Union by all constitutional means—to arrest, if possible, by moderate but firm measures, the necessity of a recourse to force; and, if it be the will of Heaven, that the recurrence of its primeval curse on man for the shedding of a brother's blood should fall upon our land, that it be not called down by any offensive act on the part of the United States.

Fellow citizens! The momentous case is before you. On your undivided support of your Government depends the decision of the great question it involves, whether your sacred Union will be preserved, and the blessings it secures to us as one people, shall be perpetuated. No one can doubt that the unanimity with which that decision will be expressed, will be such as to inspire new confidence in republican institutions, and that the prudence, the wisdom, and the courage which it will bring to their defence, will transmit them unimpaired and invigorated to our children.

May the great Ruler of Nations grant that the signal blessings with which he has favored ours, may not, by the madness of party or personal ambition, be disregarded and lost; and may his wise Providence bring those who have produced this crisis to see their folly, before they feel the misery of civil strife, and inspire a returning veneration for that Union, which, if we may dare to penetrate his designs, he has chosen as the only means of attaining the high destinies to which we may reasonably aspire.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the city of Washington, this 10th day of December, in the year of our Lord one thousand eight hundred and thirty-two, and of the independence of the United States the fifty-seventh.

ANDREW JACKSON.

By the President:

EDW. LIVINGSTON,  
*Secretary of State.*

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No. 11.

## INSTRUCTIONS TO THE COLLECTOR.

[CONFIDENTIAL.]

TREASURY DEPARTMENT, *November 6, 1832.*

SIR: The act of the Legislature of South Carolina passed at their recent special session, and the anticipation of measures which may be apprehended from the Convention called by that act for the avowed purpose of opposing and preventing the execution of the laws of the United States imposing duties on foreign goods, wares, and merchandise, make it proper immediately to draw your attention to the subject, and especially to some of the provisions of the existing acts of Congress for the collection and security of the revenue.

It is difficult, and indeed impossible, to foresee in detail the precise measures which may be adopted by the Convention; and the instructions now given must be more or less hypothetical, and the particular acts you may be called, in the discharge of your duty, to perform, must be, in a great degree, regulated by the character of the emergency, as it may arise. It is sufficiently obvious, however, that all the means which ingenuity can devise will be adopted to elude, or render null and inoperative within the State of South Carolina, the laws of the Union imposing duties on foreign merchandise, and that a corresponding energy and vigilance in the performance of their duties, will be required from those charged with the execution.

You will require no observation from me to impress you with the delicacy and importance of the crisis in which you may soon be called to act, or with the indispensable necessity of unshrinking firmness and fidelity in the discharge of your duties. The crisis may involve no less than the safety of our inestimable Union, and the self approbation and public gratitude attendant upon all honorable exertions for the preservation of that precious palladium of our happiness, will insure, on your part, all that the Government can expect.

It is greatly to be apprehended that the measures of the Convention may be such as not to be effectually counteracted without further legislation on the part of Congress, which, of course, cannot be had in season for a prompt application of the remedy which their wisdom may devise; but I entertain a confident hope that, with a vigilant, faithful, and fearless exercise of the authority conferred by the existing laws, aided by the moral support of the patriotic and unprejudiced portion of the community, much of the meditated evil may be for the present averted, if not altogether prevented.



Without a better knowledge than can now be had of the means of resistance to which the Convention may resort, it is supposed that authority sufficient, for the present, is conferred by the Constitution, which makes it the duty of the President to execute the laws; by the act vesting in the Department of the Treasury, the special power to superintend the collection of the revenue, which may fairly be supposed to give all power not contrary to the laws, and necessary to their execution; and by the several provisions of the act entitled "An act to regulate the collection of duties on imports and tonnage," passed the 2d of March, 1799, to which last act it is my intention, at present, to request your particular attention.

It will be perceived by the 13th section of that act, that each of the collection districts, established in South Carolina, and the whole and every part of each district, is constituted a port of entry; and though the collector, naval officer, and surveyor, are directed to reside at Charleston, and a collector at each of the other ports, it cannot be questioned that a vessel may lawfully discharge her cargo, and, if directed, make entry at any other point within the port of entry; and it appears also certain, that whenever, from physical or moral necessity, the laws shall be suspended at the residence of the collector, and he be prevented by a superior and unlawful force from the exercise of his authority at the usual place, it may be competent to place his officers to receive and compel the legal entry at some other safe and convenient place within the port of entry, as described by law.

You are already aware that, by the provisions of the same act, no goods, wares, or merchandise, can be "brought into the United States" from any foreign port or place, in any ship or vessel, without having on board a proper manifest; that, within twenty-four hours after the arrival of any ship or vessel from any foreign port or place, at any port of the United States established by law, at which an officer of the customs resides, or *within any harbor, inlet, or creek thereof*, the master must repair to the custom-house, and make report of her arrival, and, within forty-eight hours after such arrival, he must make further report in writing, accompanied by his manifest; and that, within fifteen days (and by the act of the 3d March, 1821, in case of vessels of more than three hundred tons, within twenty days) after such report by the master, the owner, or consignee of the merchandise on board, must make entry thereof, in writing, with the said collector; and that, in default thereof, the collector is authorized to take possession of said goods, wares, and merchandise, in the manner particularly described in the 56th section. At the time of making an entry, the tonnage duties (if any) must be paid; and previously thereto, the register, or other document in lieu thereof, together with the clearance and other papers, must be produced to the collector, and must remain in his office until returned to the master, or the clearance of the vessel for another port; which clearance cannot be granted, and consequently the delivery of the papers cannot be made, until all the formalities in regard to the vessel on her arrival, shall have been complied with, and (by the 93d section) until receipts for all the legal fees which shall have accrued on the vessel, shall have been produced to the collector. By the 29th section, a vessel which shall have arrived from a foreign port, and shall attempt to depart without having been reported, or entered by the master, is liable to be arrested and brought back by the officers of the customs. The entry of the merchandise by the owner or consignee already adverted to, consists, besides the other proceedings and formalities particularly required, in paying or securing, according to law, the duties which shall

be ascertained by the collector and naval officer. Where the duties are to be secured, it is by bond or bonds, which shall include one or more securities, to the satisfaction of the collector; who should be satisfied not merely of the solvency of the surety, but of his sufficiency in other respects, and would not be expected or authorized to accept, as surety, any individual who should be understood to have formed a determination not to pay the bond, or comply with his obligation.

You will perceive, moreover, by the 50th section of the act, no goods, wares, or merchandise, brought in any ship or vessel, from any foreign port or place, shall be unladen or delivered but in open day, except by special license, nor at any time, without a permit from the collector, under severe penalties, including the forfeiture of the goods; and by the 62d section, no permit shall be granted for landing the same, until all duties thereon shall have been paid, or secured to be paid, according to law.

By the 53d section, the collector of any district at which any ship or vessel may arrive, and *immediately on her first coming within such district*, is directed to put and keep on board such ship or vessel, whilst remaining in the district, or in going from one district to another, *one or more* inspectors to examine the cargo, and superintend the delivery thereof, *and to perform such other duties according to law, as they shall be directed by the collector to perform for the better securing the collection of the duties*; and it is expressly made the duty of the said inspectors to suffer no goods, wares, or merchandise, of any nature or kind whatever, to be landed from such ship or vessel without a permit in writing from the collector of the port, and naval officer, where any, first had and granted for that purpose.

It may be proper, also, to observe, that after twenty-four hours from the time of her arrival, a vessel cannot proceed from one port to another without a clearance in the manner particularly pointed out. By the 21st section of the act referred to, and by the 2d section of the act of the same date "establishing the compensation of the officers employed in the collection of the duties on imports and tonnage," the collectors are authorized to employ, with the approbation of the Secretary of the Treasury, such inspectors as the public service may require; and by the 97th, 98th, 99th, 100th, and 101st sections of the act first referred to, ample authority is given to provide the requisite number of cutters and boats for the better securing the collection of the duties. The officers of such boats are subjected to the direction of the collectors, and are, moreover, empowered and directed to go on board all ships and vessels which shall arrive within the United States, or four leagues of the coast thereof, if bound to the United States; and, among other duties, to affix and put proper fastenings on the hatches and other communications with the hold, and to remain on board the said vessels until their arrival at the port of their destination. They are likewise to execute and perform such other duties for the collection and security of the revenue, as, from time to time, shall be enjoined and directed by the Secretary of the Treasury, not contrary to law and the provisions of said act; and they are further authorized to fire at or into any vessel liable to examination which shall not bring to, on being required or chased by any cutter or boat, as described in the 102d section.

Neither the validity of these provisions of the act of the 2d March, 1799, to which I have adverted thus particularly, that the further observations which my duty requires me to make may be more intelligible, nor of the

act itself, has ever heretofore been questioned: and it is not altogether clear that the purposes of the Convention, to assemble in South Carolina, as defined by the recent act of the Legislature of that State, would extend to acts of a collector merely in execution of these provisions. However this may be, they are now, and always have been applicable to every district and every part of the Union; they are now, and have uniformly been, in daily and strict observance in each of them; they are not merely of universal application every where, but embrace almost every imaginable case, and if, as has been sometimes publicly professed, the meditated resistance to the laws of the Union is to assume the form of legal redress, and avoid a resort to open force or violence, it is believed they will be found, when properly enforced, to be fully equal to every emergency likely to arise.

In this view, it is presumed, your own official conduct has been and is now in strict conformity with the provisions of the act of 1799, and that, in observing these instructions, you will be merely executing your duties with, perhaps, greater vigilance than ordinary, and adapting existing regulations, of daily use and application, to new circumstances of greater emergency, as they may arise. It is the more important that you should keep this view of the subject constantly in mind, as it is the wish of the President, and of this department, to take no step, nor employ any means calculated to provoke or excite to force those who are now threatening resistance, but to defeat their operations by the moral force of the laws and the Constitution, and to execute the former in the manner therein prescribed, and to employ force only when it shall be clearly authorized, and be found unavoidable in the discharge of your duty, and indispensably necessary to resist its employment by those who shall have resorted to it for the subversion of the laws.

It may be sufficient, therefore, in the first place, to call your particular attention to legal provisions already adverted to, and to the duties which they enjoin; and to direct that, in every case to which they are applicable, you will conform to their provisions by all the means which they place in your power.

But as there are some contingencies inseparable from the measures of the Convention about to assemble which cannot be overlooked, it is proper that, in regard to these, you should be now advised.

Upon the supposition, therefore, that the measures of the Convention, or the acts of the Legislature may consist, in part, at least, in declaring the laws of the United States imposing duties unconstitutional, and null and void, and in forbidding their execution, and the collection of the duties within the State of South Carolina, you will, immediately after it shall be formally announced, resort to all the means provided by the laws, and particularly by the act of the 2d of March, 1799, to counteract the measures which may be adopted to give effect to that declaration.

For this purpose, you will consider yourself authorized to employ the revenue cutters which may be within your district, and provide as many boats, and employ as many inspectors, as may be necessary for the execution of the law, and for the purposes of the act already referred to. You will, moreover, cause a sufficient number of officers of cutters and inspectors to be placed on board, and in charge of every vessel arriving from a foreign port or place, with goods, wares, or merchandise, as soon as practicable after her first coming within your district, and direct them to anchor her in some safe place within the harbor, where she may be secure from any act of violence, and from any unauthorized attempt to discharge her

cargo before a compliance with the laws; and they will remain on board of her at such place until the reports and entries required by law shall be made, both of vessel and cargo, and the duties paid, or secured to be paid to your satisfaction, and until the regular permit shall be granted for landing the cargo: and it will be your duty, against any forcible attempt, to retain and defend the custody of the said vessel, by the aid of the officers of the customs, inspectors, and officers of the cutters, until the requisitions of the law shall be fully complied with; and in case of any attempt to remove her or her cargo from the custody of the officers of the customs by the form of legal process from State tribunals, you will not yield the custody to such attempt, but will consult the law officer of the district, and employ such means as, under the particular circumstances, you may legally do, to resist such process, and prevent the removal of the vessel and cargo.

Should the entry of such vessel and cargo not be completed, and the duties paid, or secured to be paid, by bond or bonds, with sureties to your satisfaction, within the time limited by law, you will, at the expiration of that time, take possession of the cargo, and land and store the same at Castle Pinckney, or some other safe place, and in due time, if the duties are not paid, sell the same, according to the direction of the 56th section of the act of the 2d of March, 1799; and you are authorized to provide such stores as may be necessary for that purpose.

It may be hoped that the foregoing precautions, and the prompt prosecution, in all cases, of those who may violate the law or resist the officers of the customs in its execution, will be sufficient for the present, and as long as you may find it practicable to perform your official duties, and as long as the rights of your person, and those of the other officers of your district shall be secure, and property respected, the custom-house may be continued at Charleston. But, should the measures of the Convention, or those of the Legislature, expose your person, or the persons of the other officers to outrage, or to arrest and imprisonment, and by force or other necessity render the execution of the laws of the United States impracticable, you may remove the custom-house to Castle Pinckney, or to some other secure place within the port of entry, where you may take and receive the entries of vessels and their cargoes, and perform other duties necessary by law to be performed at the custom-house.

You will, moreover, cause the officers of the cutters under your direction, to board all vessels departing from the port of Charleston, and in case any shall be found without having been regularly entered and cleared in the manner required by law, to seize and detain the same, to be prosecuted according to law.

It will be proper, in every case of doubt and difficulty, to consult the law officer of the district, and, on all occasions where these instructions do not afford an adequate guide, to follow his advice.

It is expected that you will promptly inform the department of any difficulty that may occur in your district, and keep it regularly advised of all the measures that may be adopted by any person or persons for obstructing the execution of the laws, and also of the means which you may deem it your duty to adopt, and that, in every case of importance, where the time will admit of it, you will, previously to taking any unusual or important step on your part, apply to the department for further instructions. For this purpose, you are authorized to despatch a special messenger, whenever, in your opinion, it may be necessary either for safety or expedition.



To enable you to execute the laws, and to fulfil these instructions, the revenue cutter Alert has been ordered to proceed to Charleston. On her arrival, there will be two cutters on that station, and you will place them where you may think best.

You will treat those instructions as confidential, until it shall become necessary to act; but, in the mean time, you will exhibit them confidentially to the district attorney, naval officer, and surveyor, that you may have the benefit of their counsels, and that you may all be better prepared to act together when occasion shall require.

I am, very respectfully,

Your obedient servant,

L. McLANE,

*Secretary of the Treasury.*

To JAMES K. PRINGLE, Esq.,

*Collector of the Customs, Charleston.*

Similar letters were addressed to \_\_\_\_\_, collector at Georgetown, and \_\_\_\_\_, collector at Beaufort, differing only in the following particulars, viz. the reference to Castle Pinckney was omitted, and, in lieu of the last two paragraphs, the following was substituted:

To enable you the better to execute the laws, and fulfil these instructions, a revenue cutter will be placed under your direction, and you will assign her to such station, and give such instructions from time to time to her commander, as you may deem best adapted to those objects. The cutter for your district will be despatched in a few days.

You will treat these instructions as confidential until it shall become time to act.

No. 12.

## LETTER TO THE DISTRICT ATTORNEY.

[EXTRACT.]—CONFIDENTIAL.

TREASURY DEPARTMENT,

*November 19th, 1832.*

SIR: Your letter of the 10th instant was duly received on the 17th instant; but the pressure of business requiring attention, after an absence of a few days from the city, has prevented a reply until now.

The time fixed for the meeting of the Convention in South Carolina having actually arrived, renders it unadvisable for you to leave the scene of your official duties. And, indeed, the time that a journey to Washington would occupy, may, at present, perhaps, be better employed in the consultations and investigations which ought to be made preparatory to a proper course of conduct on the part of the officers of the district, in the emergencies that may be expected.

You will, before now, have seen the instructions which have been transmitted to the collector at Charleston, and are thus fully informed of the views of the President and of this department as to the manner in which the occasion is to be met, and as to the means which the law has placed in the hands of its officers for securing the revenue and enforcing its collection. After examining them, I shall be glad to have your own reflections upon the subject.

As it may be apprehended that, among other measures for defeating the operation of the revenue laws, an attempt will be made to take the goods from the custody of the officers of the customs by process from the State courts, your attention is particularly invited to the course to be pursued in such an event.

In the case of *Slocum vs. Mayberry*, reported in the 2d Wheaton, page 1, the Supreme Court decided that the courts of the United States have exclusive jurisdiction of all seizures made on land or water for a breach of the laws of the United States, and that any intervention of a State authority, which, by taking the thing seized out of the hands of the United States' officer, might obstruct the exercise of this jurisdiction, is unlawful. It is true that this was a case of a seizure, under the direction of the collector, pursuant to law; but it will be proper to consider whether the principles of the case do not equally apply, whenever a vessel and her cargo may be in the custody of the officers of the customs under the law, and where the preservation of that custody is necessary to the execution of the laws of the United States. By the 53d section of the act of 1799, the collector is directed to put inspectors on board vessels, who shall suffer no goods, wares, or merchandise, of any nature or kind whatsoever, to be landed or unladen, or otherwise taken or removed from the same, without a permit in writing from the collector of the port, and naval officer thereof, where any, first had and granted for that purpose.

If the principles of the decision in the case of *Slocum vs. Mayberry* apply to the custody of vessels and their cargoes authorized by that act, or if the officers of the customs be deprived of such custody by any means whatever, before a compliance with the law, and the collector should thereafter seize the property for that reason, it would appear to be plain, that, in either event, any attempts to deprive him of the custody, by State authority, would be unlawful.

The means which may be lawfully employed for preserving the custody, against such interference, will therefore require immediately your best and most discreet consideration; and, while it is desirable that you should advise none that are not strictly legal, it is expected that you will firmly support the collector by your aid and advice, in doing whatever he may lawfully do to retain the custody of the vessel and cargo until the law is fully complied with.

It is to be hoped that the augmentation of the number of inspectors, by the appointment of discreet and firm men, may prove equal to any emergency that may, for the present, arise; and as the power of the collector to do so is ample, under the instructions already given to him, I have only here to suggest that, in exercising such authority, he should be careful to select individuals of known character and consideration in the community, and in whose probity, firmness, and discretion, the fullest reliance may be placed. This is the more necessary, in order that, while the Government secures the services of men who will not shrink from their duty, and who,

from their character, may insure respect, its officers may avoid provoking unnecessary excitement by the selection of improper agents in the execution of the laws.

You are authorized to exhibit this letter to the collector, and also to General Scott, who, it is understood, will shortly repair to Charleston, for the purpose of superintending the safety of the posts of the United States in that vicinity.

I am, sir, very respectfully,

Your obedient servant,

LOUIS McLANE,

*Secretary of the Treasury.*

ROBERT B. GILCHRIST, Esq.

*District Attorney U. S., Charleston.*

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No. 13.

### GOVERNOR HAYNE'S PROCLAMATION.

Whereas the President of the United States hath issued his proclamation concerning an "ordinance of the people of South Carolina to nullify certain acts of the Congress of the United States," laying "duties and imposts for the protection of domestic manufactures:"

And whereas the Legislature of South Carolina, now in session, taking into consideration the matters contained in the said proclamation of the President, have adopted a preamble and resolution to the following effect, viz.

"Whereas, the President of the United States has issued his proclamation, denouncing the proceedings of this State, calling upon the citizens thereof to renounce their primary allegiance, and threatening them with military coercion, unwarranted by the Constitution, and utterly inconsistent with the existence of a free State: Be it, therefore,

*Resolved*, That his Excellency the Governor be requested, forthwith, to issue his proclamation, warning the good people of this State against the attempt of the President of the United States to seduce them from their allegiance, exhorting them to disregard his vain menaces, and to be prepared to sustain the dignity, and protect the liberty of the State against the arbitrary measures proposed by the President."

Now, I, Robert Y. Hayne, Governor of South Carolina, in obedience to the said resolution, do hereby issue this my proclamation, solemnly warning the good people of this State against the dangerous and pernicious doctrine promulgated in the said proclamation of the President, as calculated to mislead their judgments as to the true character of the Government under which they live, and the paramount obligation which they owe to the State, and manifestly intended to seduce them from their allegiance, and, by drawing them to the support of the violent and unlawful measures contemplated by the President, to involve them in the guilt of REBELLION. I would earnestly admonish them to beware of the specious, but false doctrines, by which it is now attempted to be shown that the several States have not retained their entire sovereignty; that "the allegiance of their citizens was transferred, in the first instance, to the Government of the

United States;" that "a State cannot be said to be sovereign and independent, whose citizens owe obedience to laws not made by it;" that, "even under the royal Government, we had no separate character;" that the Constitution has created "a National Government," which is not "a compact between sovereign States;" "that a State has NO RIGHT TO SECEDE:" in a word, that ours is a NATIONAL GOVERNMENT, in which the people of all the States are represented, and by which we are constituted "ONE PEOPLE;" and "that our representatives in Congress are all representatives of the United States, and not of the particular States from which they come"—doctrines which uproot the very foundation of our political system; annihilate the rights of the States, and utterly destroy the liberties of the citizen.

It requires no reasoning to show what the bare statement of these propositions demonstrate, that such a Government as is here described has not a single feature of a confederated republic. It is, in truth, an accurate delineation, drawn with a bold hand, of a great consolidated empire—"one and indivisible;" and, under whatever specious form its powers may be masked, it is, in fact, the worst of all despotisms, in which the spirit of an arbitrary Government is suffered to pervade institutions professing to be free. Such was not the Government for which our fathers fought and bled, and offered up their lives and fortunes as a willing sacrifice. Such was not the Government which the great and patriotic men who called the Union into being, in the plenitude of their wisdoms, framed. Such was not the Government which the fathers of the republican faith, led on by the apostle of American liberty, promulgated, and successfully maintained in 1798, and by which they produced the great political revolution effected at that auspicious era. To a Government based on such principles, South Carolina has not been a voluntary party, and to such a Government she never will give her assent.

The records of our history do, indeed, afford the prototype of these sentiments, which is to be found in the recorded opinion of those, who, when the Constitution was framed, were in favor of a "firm National Government," in which the States should stand in the same relation to the Union that the colonies did towards the mother country. The journals of the Convention, and the secret history of the debates, will show that this party did propose to secure to the Federal Government an absolute supremacy over the States, by giving them a negative upon their laws; but the same history also teaches us that all these propositions were rejected, and a Federal Government was finally established, recognizing the sovereignty of the States, and leaving the constitutional compact on the footing of all other compacts, between "parties having no common superior."

It is the natural and necessary consequence of the principles thus authoritatively announced by the President, as constituting the very basis of our political system, that the Federal Government is unlimited and supreme—being the exclusive judge of the extent of its own powers, the laws of Congress, sanctioned by the Executive and the judiciary, whether passed in direct violation of the Constitution and rights of the States, or not, are "the supreme law of the land." Hence it is, that the President obviously considers the words "made in pursuance of the Constitution," as mere surplusage; and, therefore, when he professes to recite the provision of the Constitution on this subject, he states that our "SOCIAL COMPACT, in express terms, declares that the *laws of the United States*, its Constitution, and the treaties made under it, are the supreme law of the land," and speaks,



throughout, of "the explicit supremacy given to the laws of the Union over those of the States"—as if a law of Congress was, of itself, supreme, while it was necessary to the validity of a treaty that it should be made in pursuance of the Constitution. Such, however, is not the provision of the Constitution. That instrument expressly provides that "the Constitution and laws of the United States, *which shall be made in pursuance thereof*, shall be the supreme law of the land, any thing in the Constitution or laws of any State to the contrary notwithstanding."

Here it will be seen that a law of Congress, as such, can have no validity unless made "in pursuance of the Constitution." An unconstitutional act is, therefore, null and void; and the only point that can arise in this case is, whether, to the Federal Government, or any department thereof, has been exclusively reserved the right to decide authoritatively *for the States* this question of constitutionality. If this be so, to which of the departments, it may be asked, is this right of final judgment given? If it be to Congress, then is Congress not only elevated above the other departments of the Federal Government, but it is put above the Constitution itself. This, however, the President himself has publicly and solemnly denied, claiming and exercising—as is known to all the world—the right to refuse to execute acts of Congress and solemn treaties, even after they had received the sanction of every department of the Federal Government.

That the Executive possesses this right of deciding finally and exclusively as to the validity of acts of Congress, will hardly be pretended; and that it belongs to the judiciary, except so far as may be necessary to the decision of questions which may incidentally come before them, in "cases of law and equity," has been denied by none more strongly than the President himself, who, on a memorable occasion, refused to acknowledge the binding authority of the Federal Court, and claimed for himself, and has exercised the right of enforcing the laws, not according to their judgment, but "his own understanding of them." And yet, when it serves the purpose of bringing odium upon South Carolina, "his native State," the President has no hesitation in regarding the attempt of a State to release herself from the control of the federal judiciary, in a matter affecting her sovereign rights, as a violation of the Constitution.

It is unnecessary to enter into an elaborate examination of the subject. It surely cannot admit of a doubt, that, by the declaration of independence, the several colonies became "free, sovereign, and independent States;" and our political history will abundantly show that, at every subsequent change in their condition, up to the formation of our present Constitution, the States preserved their sovereignty. The discovery of this new feature in our system, that the States exist only as members of the Union; that, before the declaration of independence, we were known only as "United Colonies;" and that, even under the articles of confederation, the States were considered as forming, "collectively, ONE NATION"—without any right of refusing to submit to "any decision of Congress"—was reserved to the President and his *immediate predecessor*. To the latter "belongs the *invention*, and, upon the former, will unfortunately fall the evils of reducing it to practice."

South Carolina holds the principles now promulgated by the President—as they must always be held by all who claim to be supporters of the rights of the States—"as contradicted by the letter of the Constitution; unauthorized by its spirit; inconsistent with every principle on which it was found-

ed; destructive of all the objects for which it was framed;" utterly incompatible with the very existence of the States, and absolutely fatal to the rights and liberties of the people. South Carolina has so solemnly, and repeatedly expressed to Congress, and the world, the principles which she believes to constitute the very pillars of the Constitution, that it is deemed unnecessary to do more, at this time, than barely to present a summary of those great fundamental truths, which she believes can never be subverted without the inevitable destruction of the liberties of the people, and of the Union itself. South Carolina has never claimed—as is asserted by the President—the right of “repealing, at pleasure, all the *revenue laws* of the Union,” much less the right of “repealing the Constitution itself, and laws passed to give it effect, which have *never been alleged to be unconstitutional*.” She claims only the right to judge of infractions of the constitutional compact, in violation of the reserved rights of the State, and of arresting the progress of usurpation within her own limits, and when, as in the tariffs of 1828 and 1832, revenue and protection, constitutional and unconstitutional objects, have been so mixed up together that it is found impossible to draw the line of discrimination—she has no alternative but to consider the whole as a system unconstitutional in its character, and to leave it to those who have “woven the web, to unravel the threads.” South Carolina insists, and she appeals to the whole political history of our country, in support of her position, “that the Constitution of the United States is a compact between sovereign States; that it creates a confederated republic, not having a single feature of nationality in its foundation; that the people of the several States, as distinct, political communities, ratified the Constitution, each State acting for itself, and binding its own citizens, and not those of any other State, the act of ratification declaring it to be binding on the States so ratifying: the States are its authors, their power created it; their voice clothed it with authority; the Government, which it formed, is composed of their agents; and the Union, of which it is the bond, is a Union of States, and not of individuals; that, as regards the foundation and extent of its power, the Government of the United States is strictly what its name implies, a Federal Government; that the States are as sovereign now as they were prior to the entering into the compact; that the Federal Constitution is a confederation in the nature of a treaty, or an alliance, by which so many sovereign States agreed to exercise their sovereign powers *conjointly* upon certain objects of external concern, in which they are equally interested, such as WAR, PEACE, COMMERCE, foreign negotiation, and Indian trade; and, upon all other subjects of civil government, they were to exercise their sovereignty *separately*.”

For the convenient conjoint exercise of the sovereignty of the States, there must, of necessity, be some common agency or functionary. This *agency* is the Federal Government. It represents the confederated States, and executes their joint will, as expressed in the compact. The powers of this Government are wholly *derivative*. It possesses no more inherent sovereignty than an incorporated town, or any other great corporate body. It is a political corporation, and, like all corporations, it looks for its powers to an exterior source—that source is the States.

South Carolina claims that, by the declaration of independence, she became, and has ever since continued, a free, sovereign, and independent State.

“That, as a sovereign State, she has the *inherent* power to do all those act

which, by the law of nations, any prince or potentate may of right do. That, like all independent States, she neither has, nor ought she to suffer any other restraint upon her sovereign will and pleasure, than those high moral obligations, under which all princes and States are bound, before God and man, to perform their solemn pledges. The inevitable conclusion, from what has been said, therefore, is, that, as in all cases of compact between independent sovereigns, where, from the very nature of things, there can be no common judge or umpire, each sovereign has a right "to judge, as well of infractions as of the mode and measure of redress," so, in the present controversy between South Carolina and the Federal Government, it belongs solely to her, by her delegates in solemn Convention assembled, to decide whether the federal compact be violated, and what remedy the State ought to pursue. South Carolina, therefore, cannot, and will not, yield to any department of the Federal Government a right which enters into the essence of all sovereignty, and, without which it would become a bauble and a name."

Such are the doctrines which South Carolina has, through her Convention, solemnly promulgated to the world, and, by them, she will stand or fall. Such were the principles promulgated by Virginia in '98, and which then received the sanction of those great men, whose recorded sentiments have come down to us as a light to our feet and a lamp to our path. It is Virginia, and not South Carolina who speaks, when it is said that she "*views the powers of the Federal Government, as resulting from the compact to which the States are parties*, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right, and are, in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the "authorities, rights, and liberties, appertaining to them."

It is Kentucky, who declared in '99, speaking in the explicit language of Thomas Jefferson, that the "principles and construction contended for by members of the State Legislatures [the very same now maintained by the President,] that the General Government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism; since the discretion of those who administer the Government, and not the Constitution, would be the measure of their powers: That the several States who formed the instrument, being sovereign and independent, have the unquestionable right to judge of the infraction, and THAT A NULLIFICATION, BY THOSE SOVEREIGNTIES, OF ALL UNAUTHORIZED ACTS DONE UNDER COLOR OF THAT INSTRUMENT, IS THE RIGHTFUL REMEDY."

It is the great apostle of American liberty himself who has consecrated these principles, and left them as a legacy to the American people, recorded by his own hand. It is by him that we are instructed\*—that to the Constitutional compact "each State acceded as a State, and is an integral party—its co-States forming as to itself the other party;" that "they alone, being parties to the compact, are solely authorized *to judge, in the last resort*, of the powers exercised under it—Congress being not a party, but merely

\* See original draught of the Kentucky Resolutions, in the handwriting of Mr. Jefferson, lately published by his grandson.

the creature of the compact;" that it becomes a sovereign State to submit to undelegated, and, consequently, unlimited power, in no man or body of men upon earth; that where powers are assumed, which have not been delegated, [the very case now before us] a nullification of the act is the rightful remedy; that every State has a natural right, in cases not within the compact, [*casus non fœderis*] to nullify, of their own authority, all assumption of power by others within their limits; and that, without this right, they would be under the dominion, absolute and unlimited, of whosoever might exercise the right of judgment for them;" and that, in case of acts being passed by Congress "so palpably against the Constitution, as to amount to an undisguised declaration that the compact is not meant to be the measure of the powers of the General Government, but that it will proceed to exercise over the States all powers whatsoever, it would be the duty of the States to declare the acts *void*, and of no *force*, and that *each should take measures of its own* for providing that neither such acts, nor any other of the General Government, not plainly and intentionally authorized by the Constitution, shall be exercised within their respective territories."

It is on these great and essential truths that South Carolina has now acted. Judging for herself as a sovereign State, she has pronounced the protecting system, in all its branches, to be a "gross, deliberate, and palpable violation of the constitutional compact;" and, having exhausted every other means of redress, she has, in the exercise of her sovereign rights, as one of the parties to that compact, and in the performance of a high and sacred duty, interposed for arresting the evil of usurpation, within her own limits, by declaring these acts to be "null, void, and no law, and taking measures of her own, that they shall not be enforced within her limits."

South Carolina has not "assumed" what could be considered as at all doubtful, when she asserts "that the acts in question were in reality intended for the protection of manufactures;" that their "operation is unequal;" that "the amount received by them is greater than is required by the wants of the Government;" and, finally, "that the proceeds are to be applied to objects unauthorized by the Constitution." These facts are notorious—these objects openly avowed. The President, without instituting any inquiry into motives, has himself discovered and publicly denounced them; and his officer of finance is, even now, devising measures intended, as we are told, to correct these acknowledged abuses.

It is a vain and idle dispute about words, to ask whether this right of State interposition may be most properly styled a constitutional, a sovereign, or a reserved right. In calling this right constitutional, it could never have been intended to claim it as a right granted by, or derived from, the Constitution, but it is claimed as consistent with its genius, its letter, and its spirit; it being not only distinctly understood, at the time of ratifying the Constitution, but expressly provided for in the instrument itself, that all sovereign rights, not agreed to be exercised conjointly, should be exerted separately by the States. Virginia declared, in reference to the right asserted in the resolutions of '98, above quoted, even after having fully and accurately re-examined and re-considered these resolutions, "that she found it to be her indispensable duty to adhere to the same, as founded in truth, as *consonant with the Constitution*, and as conducive to its welfare," and Mr. Madison himself asserted them to be perfectly "constitutional and conclusive."

It is wholly immaterial, however, by what name this right may be called,



for if the Constitution be “a compact to which the States are parties,” if “acts of the Federal Government are no further valid than they are authorized by the grants enumerated in that compact;” then we have the authority of Mr. Madison himself for the inevitable conclusion that it is “a plain principle, illustrated by common practice, and essential to the nature of compacts, that when resort can be had to no tribunal superior to the authority of the parties, the parties themselves must be the rightful judge in the last resort, whether the bargain made has been pursued or violated.” The Constitution, continues Mr. Madison, “*was formed* by the sanction of the *States, given by each* in its sovereign capacity: the States then being parties to the constitutional compact, and in their sovereign capacity, it follows, of necessity, that there can be no tribunal above their authority, to decide, in the last resort, whether the compact made by them be violated; and, consequently, that, as the parties to it, they must themselves decide in the last resort such questions as may be of sufficient magnitude to require their interposition.”

If this right does not exist in the several States, then it is clear that the discretion of Congress, and not the Constitution, would be the measure of their powers, and this, says Mr. Jefferson, would amount to the “seizing the rights of the States, and consolidating them in the hands of the General Government, with a power assumed to bind the States, not only in cases made federal. but in all cases whatsoever; which would be to surrender the form of government we have chosen, to live under one deriving its power from its own will.”

We hold it to be impossible to resist the argument, that the several States, as sovereign parties to the compact, must possess the power, in cases of “gross, deliberate, and palpable violation of the Constitution, to judge, *each for itself*, as well of the infraction, as of the mode and measure of redress,” or ours is a CONSOLIDATED GOVERNMENT, “without limitation of powers;” a submission to which Mr. Jefferson has solemnly pronounced to be a greater evil than disunion itself. If, to borrow the language of Madison’s report, “the deliberate exercise of dangerous powers, palpably withheld by the Constitution, could not justify the parties to it *in interposing*, even so far as to *arrest the progress of the evil*, and thereby to PRESERVE THE CONSTITUTION ITSELF, as well as to provide for the safety of the parties to it, there would be an end to all relief from usurped power, and a direct subversion of the rights specified or recognized under all the State Constitutions, as well as a plain denial of the fundamental principle on which our independence itself was declared.”

The only plausible objection that can be urged against this right, so indispensable to the safety of the States, is, that it may be abused. But this danger is believed to be altogether imaginary. So long as our Union is felt as a blessing—and this will be just so long as the Federal Government shall confine its operation within the acknowledged limits of the charter—there will be no temptation for any State to interfere with the harmonious operation of the system. There will exist the strongest motives to induce forbearance, and none to prompt to aggression on either side, so soon as it shall come to be universally felt and acknowledged that the States do not stand to the Union in the relation of degraded and dependant colonies, but that our bond of union is formed by mutual sympathies and common interests. The true answer to this objection has been given by Mr. Madison, when he says—

"It does not follow, however, that because the States, as sovereign parties to the constitutional compact, must ultimately decide whether it has been violated, that such a decision ought to be interposed either in a hasty manner, or on doubtful and inferior occasions. Even in the case of ordinary conventions between different nations, it is always laid down, that the breach must be both wilful and material to justify an application of the rule. But in the case of an intimate and constitutional union, like that of the United States, it is evident that the interposition of the parties, in their sovereign capacity, can be called for by occasions only, deeply and essentially affecting the vital principles of their political system."

Experience demonstrates that the danger is not that a State will resort to her sovereign rights too frequently, or on light and trivial occasions, but that she may shrink from asserting them as often as may be necessary.

It is maintained by South Carolina, that, according to the true spirit of the Constitution, it becomes Congress, in all emergencies like the present, either to remove the evil by legislation, or to solicit of the States the call of a Convention; and that on a failure to obtain, by the consent of three-fourths of all the States, an amendment giving the disputed power, it must be regarded as never having been intended to be given. These principles have been distinctly recognized by the President himself in his message to Congress at the commencement of the present session, and they seem only to be impracticable absurdities when asserted by South Carolina, or made applicable to her existing controversy with the Federal Government.

But it seems that South Carolina receives from the President no credit for her sincerity, when it is declared, through her Chief Magistrate, that "she sincerely and anxiously seeks and desires" the submission of her grievances to a Convention of all the States. "The only alternative (says the President) which she presents, is the *repeal of all the acts for raising revenue*; leaving the Government without the means of support, or an acquiescence in the *dissolution of our Union*." South Carolina has presented no such alternatives. If the President had read the documents which the Convention caused to be forwarded to him for the express purpose of making known her wishes and her views, he would have found that South Carolina asks no more than that the tariff should be reduced to the *revenue standard*; and has distinctly expressed her willingness, that "an amount of duties substantially uniform, should be levied upon protected, as well as unprotected articles, sufficient to raise the *revenue* necessary to meet the demands of the Government for constitutional purposes." He would have found in the exposition put forth by the Convention itself, a distinct appeal to our sister States for the call of a Convention, and the expression of an entire willingness, on the part of South Carolina, to submit the controversy to that tribunal. Even at the very moment when he was indulging in these unjust and injurious imputations upon the people of South Carolina, and their late highly respected Chief Magistrate, a resolution had actually been passed through both branches of our Legislature, demanding a call of that very Convention to which he declares that she had no desire that an appeal should be made.

It does not become the dignity of a sovereign State to notice, in the spirit which might be considered as belonging to the occasion, the unwarrantable imputations in which the President has thought proper to indulge in relation to South Carolina, the proceedings of her citizens and constituted authorities. He has noticed, only to give it countenance, that miserable slan-

er which imputes the noble stand that our people have taken in defence of their rights and liberties, to a faction instigated by the efforts of a few ambitious leaders who have got up an excitement for their own personal aggrandizement. The motives and characters of those who have been subjected to these unfounded imputations, are beyond the reach of the President of the United States. The sacrifices they have made, and difficulties and trials through which they may have yet to pass, will leave no doubt as to the disinterested motives and noble impulses of patriotism and honor by which they are actuated. Could they have been induced to separate their own personal interests from those of the people of South Carolina, and have consented to abandon their duty to the State, no one knows better than the President himself that they might have been honored with the highest manifestations of public regard; and perhaps, instead of being the objects of vituperation, might even now have been basking in the sunshine of Executive favor. This topic is alluded to, merely for the purpose of guarding the people of our sister States against the fatal delusion that South Carolina has assumed her present position under the influence of a temporary excitement; and to warn them that it has been the result of the slow but steady progress of public opinion for the last ten years: that it is the act of the people themselves, taken in conformity with the spirit of resolutions repeatedly adopted in their primary assemblies, and the solemn determination of the Legislature, publicly announced more than two years ago. Let them not so far deceive themselves on this subject, as to persevere in a course which must in the end inevitably produce a dissolution of the Union, under the vain expectation that the great body of the people of South Carolina, listening to the councils of the President, will acknowledge their error or retrace their steps, and still less that they will be driven from the vindication of their rights by the intimation of the danger of domestic discord, and threats of lawless violence. The brave men who have thrown themselves into the breach, in defence of the rights and liberties of their country, are not to be driven from their holy purpose by such means. Even unmerited obloquy, and death itself, have no terrors for him who feels and knows that he is engaged in the performance of a sacred duty. The people of South Carolina are well aware that, however passion and prejudice may obtain, for a season, the mastery of the public mind, reason and justice must sooner or later re-assert their empire: and that whatever may be the event of this contest, posterity will do justice to their motives, and to the spotless purity and devoted patriotism with which they have entered into an arduous and most unequal conflict, and the unfaltering courage with which, by the blessing of Heaven, they will maintain it.

The whole argument, so far as it is designed at this time to enter into it, is now disposed of; and it is necessary to advert to some passages in the proclamation which cannot be passed over in silence. The President distinctly intimates that it is his determination to exert the right of putting down the opposition of South Carolina to the tariff, *by force of arms*. He believes himself invested with power to do this under that provision of the Constitution which directs him "to take care that the laws be faithfully executed." Now, if by this it was only meant to be asserted that, under the laws of Congress now of force, the President would feel himself bound to aid the civil tribunals in the manner therein prescribed, supposing such laws to be constitutional, no just exception could be taken to this assertion of Executive duty. But if, as is manifestly intended, the President sets up the claim to

judge for himself in what manner the laws are to be enforced, and feels himself at liberty to call forth the militia, and even the military and naval forces of the Union against the State of South Carolina, her constituted authorities and citizens, then it is clear that he assumes a power not only not conferred on the Executive by the Constitution, but which belongs to no despot upon earth exercising a less unlimited authority than the Autocrat of all the Russias: an authority which, if submitted to, would at once reduce the free people of these United States to a state of the most abject and degraded slavery. But the President has no power whatsoever to execute the laws except in the mode and manner prescribed by the laws themselves. On looking into these laws, it will be seen that he has no shadow or semblance of authority to execute any of the threats which he has thrown out against the good people of South Carolina. The act of 28th February, 1795, gives the President authority to call forth the militia in case of invasion "by a foreign nation or Indian tribe." By the 2d section of that act, it is provided that "whenever the laws of the United States shall be opposed, or the execution thereof obstructed in any State, by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations, and to cause the laws to be duly executed."

The words here used, though they might be supposed to be very comprehensive in their import, are restrained by those which follow. By the next section it is declared that "whenever it may be necessary, in the judgment of the President, to use the military force hereby directed to be called forth, the President shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective abodes within a limited time." On reading these two sections together, it is manifest that they relate entirely to combinations of individuals acting of themselves without any lawful authority. The constituted authorities acting under the laws of the State, and its citizens yielding obedience to its commands, cannot possibly be considered as a mere mob forming combinations against the authority and laws of the Union, to be dispersed by an Executive proclamation; and any attempt so to treat them would be a gross and palpable violation of the sovereign authority of the State, and an offence punishable criminally in her own courts. Whether the late proclamation of the President was intended as a compliance with the provisions of this act, does not very clearly appear. But if so, it can only be considered as directed against the State, since the laws of the United States have certainly not been forcibly obstructed by combinations of any sort, and it is certainly worthy of observation that the command extended to the people is not that they should *disperse*, but that they should *re-assemble* in Convention, and repeal the obnoxious ordinance.

The power of the President, so far as this subject is embraced, in relation to the army and navy, is exactly co-extensive with that over the militia. By the 1st section of act, of 3d March, 1807, it is expressly provided, that, in all cases of "obstruction to the laws of the United States, or of any individual State, where it is lawful for the President to call forth the militia for the purpose of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purpose, such part of the land or naval force of the United States as may be necessary, having first observed all the pre-requisites of the law in that respect." Here, then, it is seen, that unless



the President is resolved to disregard all constitutional obligations, and to trample the laws of his country under his feet, he has no authority whatever to use force against the State of South Carolina; and, should he attempt to do so, the patriotic citizens of this State know too well their own rights, and have too sacred a regard to their duties, to hesitate one moment in repelling invasion, come from what quarter it may. Could they be deterred by the threats of lawless violence, or any apprehension of consequences, from the faithful performance of their duty, they would feel that they were the unworthy descendants of the "Pinckneys, Sumters, and Rutledges, and a thousand other names which adorn the pages of our revolutionary history," some of whom have just gone from among us, and been gathered to their fathers, leaving as a legacy their solemn injunction that we should never abandon this contest until we shall have obtained "*a fresh understanding of the bargain,*" and restored the liberties for which they fought and bled. Others still linger among us, animating us by their example, and exhorting us to maintain that "solemn ordinance and declaration" which they have subscribed with their own names, and in support of which they have "pledged their lives, their fortunes, and their sacred honor."

The annals which record the struggles of freedom, show us that rulers in every age and every country, jealous of their power, have resorted to the very same means to extinguish in the bosom of man that noble instinct of liberty which prompts him to resist oppression. The system by which tyrants in every age have attempted to obliterate this sentiment, and to crush the spirit of the people, consists in the skilful employment of promises and threats, in alternate efforts to encourage their hopes and excite their fears—to show that existing evils are exaggerated, the danger of resistance great—and the difficulties in the way of success insuperable; and, finally, to sow dissensions among the people by creating jealousies, and exciting a distrust of those whose counsels and example may be supposed to have an important bearing on the success of their cause.

These, with animated appeals to the loyalty of the people, and an imposing array of military force, constitute the means by which the people have in every age been reduced to slavery. When we turn to the pages of our own history, we find that such were the measures resorted to at the commencement of our own glorious revolution, to keep our fathers in subjection to Great Britain; and such are the means now used to induce the people of Carolina to "*retrace their steps,*" and to remain forever degraded colonists, governed not in reference to their own interests, but the interests of others. Our fathers were told, as we now are, that their grievances were in a great measure imaginary. They were promised, as we have been, that those grievances should be redressed. They were told, as we now are, that the people were misled by a few designing men, whose object was a dissolution of the Union, and their own self aggrandizement. They were told, as we now are, of the *danger* that would be incurred by disobedience to the laws.—The power and resources of the mother country were then, as now, ostentatiously displayed in insulting contrast with the scattered population and feeble resources on which we could alone rely. And the punishment due to treason and rebellion were held out as the certain fate of all who should disregard the paternal efforts of their Royal Master to bring back his erring children to the arms of their indulgent mother. They were commanded, as we have been, to "*retrace their steps.*" But though divided among themselves to a greater extent than we are now, without an organized Go-

vernment, and destitute of arms and resources of every description, they bid defiance to the tyrant's power, and refused obedience to his commands. They incurred the legal guilt of rebellion, and braved the dangers, both of the scaffold and the field, in opposition to the colossal power of their acknowledged sovereign, rather than submit to the imposition of taxes light and inconsiderable in themselves, but *imposed, without their consent, for the benefit of others*. And what is our present condition? We have an organized Government, and a population three times as great as that which existed in '76. We are maintaining not only the rights and liberties of the people, but the sovereignty of our own State, against whose authority rebellion may be committed, but in obedience to whose commands no man can commit treason. We are struggling against unconstitutional and oppressive taxation imposed upon us, not only without our consent, but in defiance of our repeated remonstrances and solemn protests. In such a quarrel our duty to our country, ourselves, and our posterity, is too plain to be mistaken. We will stand upon the soil of Carolina, and maintain the sovereign authority of the State, or be buried beneath its ruins. As unhappy Poland fell before the power of the Autocrat, so may Carolina be crushed by the power of her enemies,—but Poland was not surrounded by free and independent States, interested, like herself, in preventing the establishment of the very tyranny which they are called upon to impose upon a sister State. If, in spite of our common kindred, and common interests, the glorious recollections of the past, and the proud hopes of the future, South Carolina should be coldly abandoned to her fate, and reduced to subjection by an unholy combination among her sister States—which is believed to be utterly impossible—and the doctrines promulgated by the President are to become the foundations of a new system cemented by the blood of our citizens, it matters not what may be our lot. Under such a Government, as there could be no liberty, so there could be no security either for our persons or our property.

But there is one consolation, of which, in the providence of God, no people can be deprived without their own consent,—the proud consciousness of having done their duty. If our country must be enslaved, let her not be dishonored by her own sons! Let them not “*forged the chains themselves by which their liberties are to be manacled.*”

The President has intimated in his proclamation that a “standing army” is about to be raised to carry secession into effect. South Carolina desires that her true position shall be clearly understood both at home and abroad. Her object is not “disunion”—she has raised no “standing army,” and if driven to repel invasion or resist aggression, she will do so by the strong arms and stout hearts of her citizens. South Carolina has solemnly proclaimed her purpose; that purpose is *the vindication of her rights*. She has professed a sincere attachment to the Union; and that, to the utmost of her power, she will endeavor to preserve it, “but believes that, for this end, it is her duty to watch over and oppose any infraction of those principles which constitute the only basis of that Union, because a faithful observance of them can alone secure its existence; that she venerates the Constitution, and will protect and defend it “against every aggression, either foreign or domestic;” but, above all, that she estimates, as beyond all price, her liberty, which she is unalterably determined never to surrender while she has the power to maintain it.”

The President denies, in the most positive terms, the right of a State, under any circumstances, to secede from the Union, and puts this denial on the ground "that, from the time the States parted with so many powers as to constitute jointly with the other States a single nation, they cannot, from that period, possess any right to secede." What then remains of those "rights of the States" for which the President professes so "high a reverence?" In what do they consist? And by what tenure are they held? The uncontrolled will of the Federal Government. Like any other petty corporation, the States may exert such powers, and such only, as may be permitted by their superiors. When they step beyond these limits, even a federal officer will set at nought their decrees, repeal their solemn ordinances, proclaim their citizens to be traitors, and reduce them to subjection by military force; and if driven to desperation, they should seek a refuge in secession, they are to be told that they have bound themselves to those who have perpetrated or permitted these enormities, in the iron bonds of a "perpetual Union."

If these principles could be established, then indeed would the days of our liberty be numbered, and the republic will have found a master. If South Carolina had not already taken her stand against the usurpation of the Federal Government, here would have been an occasion, when she must have felt herself impelled, by every impulse of patriotism and every sentiment of duty, to stand forth in open defiance of the arbitrary decrees of the Executive, when a sovereign State is denounced, her authority derided, the allegiance of her citizens denied, and she is threatened with military power to reduce her to obedience to the will of one of the functionaries of the Federal Government, by whom she is *commanded* to "tear from her archives" her most solemn decrees. Surely the time has come when it must be seen whether the people of the several States have indeed lost the spirit of the revolution, and whether they are to become the willing instruments of an unhallowed despotism. In such a sacred cause, South Carolina will feel that she is striking not for her own, but the liberties of the Union and the rights of man; and she confidently trusts that the issue of this contest will be an example to freemen and a lesson to rulers throughout the world.

Fellow citizens: In the name and behalf of the State of South Carolina, I do once more solemnly warn you against all attempts to seduce you from your primary allegiance to the State,—I charge you to be faithful to your duty as citizens of South Carolina, and earnestly exhort you to disregard those "vain menaces" of military force, which, if the President, in violation of all his constitutional obligations, and of your most sacred rights, should be tempted to employ, it would become your solemn duty, at all hazards, to resist. I require you to be fully prepared to sustain the dignity and protect the liberties of the State, if need be, with "your lives and fortunes." And may that great and good Being, who, as a "father careth for his children," inspire us with that holy zeal in a good cause, which is the best safeguard of our rights and liberties.

In testimony whereof, I have caused the seal of the State to be hereunto affixed, and have signed the same with my hand.  
 [L. S.] Done at Columbia, this 20th day of December, in the year of our Lord, 1832, and in the independence of the United States, the fifty-seventh.

ROBERT Y. HAYNE.

By the Governor:

SAMUEL HAMMOND, *Secretary of State.*

No. 14.

## GENERAL ORDERS.

HEAD QUARTERS, *Columbia, Dec. 20, 1832.*

The Legislature having, at their session which has just closed, passed an act authorizing the Governor to accept the services of volunteers who will hold themselves in readiness to take the field at a moment's warning, should it become necessary to call upon them to suppress insurrection, repel invasion, or support the civil authorities in the execution of the laws, public notice is hereby given to all the patriotic citizens of the State, that their services as volunteers will be accepted, either individually, or by companies, troops, battalions, divisions, or regiments, of artillery, cavalry, or riflemen. Where volunteer companies now existing, or hereafter to be raised, and consisting of not less than forty nor more than one hundred effective men, shall offer their services, they will be received as a whole, with their own officers. Any four companies that may choose to be joined together, will be organized as a battalion, under any field officer they may select from the regiment or brigade out of which such battalion may be formed; and any two battalions that may desire to be united, will, in like manner, be formed into a regiment. Volunteers will only be required to do duty in their respective volunteer companies, and are exonerated from all militia duty to which they may now be liable in their respective beats, or in the battalions or regiments to which they may now belong. Should the volunteers be called into actual service, arms will be furnished them, and sooner, should the means at the disposal of the Governor permit. Officers will be appointed in each brigade, who will afford all necessary information, and through whom reports and tenders of service may be made. In the mean time, all communications will be addressed to the Governor of the State, in Charleston.

In making this call in obedience to the direction of the Legislature, the commander-in-chief feels the most perfect confidence that it will be responded to with the promptness and spirit which has always distinguished the gallant sons of Carolina, and that, should their country need their services, they will be found at the post of honor and of duty, ready to lay down their lives in her defence. By order of the Governor and commander-in-chief.

JOHN B. EARLE, *Adj. Gen.*

## ATTENTION RIFLEMEN—COMPANY ORDERS.

COLUMBIA, *Dec. 31, 1832.*

The members of the Richland Volunteer Rifle Company are ordered to hold themselves in readiness to march, at a minute's warning, and without delay, to any point in the State which may be designated by the proper authority, to perform such military service, in defence of the State, as may be required. Each member will forthwith put his rifle and accoutrements in complete order, furnish himself with a sufficient quantity of powder and ball, a coarse homespun knapsack with a blanket, and the requisite change of clothing. Upon being notified, each man will promptly repair to the Town Hall, to be mustered into service at the minute designated. Upon the reception of marching orders, a field piece will be fired five times in succession as a signal for assembling. E. H. MAXCY, *Captain.*

N. B. The company will parade on *Saturday next, the 5th of January, 1833*, at 10 o'clock, A. M. for drill and target firing. And on the same day, at 9 A. M. a court martial will be held at the captain's office, for the trial of defaulters at all previous musters and the last regimental review.