REPORT

Of the Select Committee, of the Senate, made by Mr. SEABROOK, on the 3d day of December, 1830.

A BILL CONCERNING CONVENTION.

WHEREAS, in the opinion of this Legislature, the Congress of the United States, on divers occasions, and on several important subjects, hath assumed, and exercised powers not granted in the Constitution of the United States, either directly or by any rational implication, by enacting laws both in relation to appropriations for roads and canals, and in relation to imposts, and duties on foreign importations, for the purpose of encouraging and protecting domestic or American manufactures; which laws, the Legislature of South Carolina hath more than once, pronounced to be unauthorised by the Constitution of the United States, and a direct infringement of those rights of self-government, which legitimately belong to the said Legislature, and which it alone should exercise; and hath also, on more occasions than one, attempted the exercise of other powers, equally dangerous to the well being of the said state,

And whereas, It is the opinion of this Legislature, that in such exigencies, the people of the state peaceably assembled in Convention, are the sole constitutional judge, as well of the nature and extent of the evil, as of the mode and measure of redress; therefore,

Be it enacted by the Honorable the Senate, and House of Representatives, now met and sitting in General Assembly, and by the authority of the same, (two thirds of both branches of the whole Representation, concurring in favor thereof,) That a Convention of the People of the State of South Carolina, by their Delegates, to be elected as hereinafter provided, be called; and that the said Convention shall assemble, at Columbia, on the

Be it further enacted, That the Governor, within , shall cause writs of election to be issued, authorising and requiring the managers of elections, in the several districts and parishes, after giving public notice, as in cases of other elections, to open and hold a poll on the and the day following, in next, for the election of delegates to the said Convention; and all persons who are qualified, and entitled by the constitution and laws of this state to vote for members of the Legislature, shall be qualified and entitled to vote for said delegates; and the said election for delegates to the Convention, shall be held at the same places, and be conducted in all respects, in the same manner, and according to the same regulations as are prescribed concerning the general elections for members of the Legislature.

Be it further enacted, That any person shall be eligible to be elected, and to sit in the said convention, as a delegate, who may possess the qualifications necessary to a seat in the House of Representatives of the state

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legislature, provided that the holding of an office of honor, profit, or trust, under or from the government of the state of South Carolina, shall not be a disqualification for a seat in the said convention; and that any person who, at the time of the election, shall hold an office of profit or emolument, under or from the government of the United States, shall not be eligible, except Senators and Representatives in Congress, who shall be eligible; and provided, also, that ministers of the Gospel shall be likewise eligible.

And be it further enacted, That each district and parish throughout the state, shall be entitled to elect and send to the convention as many delegates as it is now entitled, by the constitution and laws of the state, to send Senators and Representatives to the state legislature.

And be it further enacted, That the said convention, when assembled, shall take into consideration such acts and laws of the government of the United States as this legislature hath, from time to time, declared and pronounced to be unauthorised by the constitution of the United States; and against which it hath protested as an infringement of rights, which, by the said constitution, are reserved to the states, and can be legitimately exercised by them only: and such other acts and laws of the general government as the said convention may decree unconstitutional in their enactment, and dangerous in their tendency: and that the said convention shall adopt such mode and measure of redress for the evils arising from the unconstitutional legislation of Congress, as it may deem necessary and proper to protect the rights of the state of South Carolina; to preserve the federal constitution, and to cement the union of the states.

And be it further enacted, That the delegates elected to the said convention, before they take their seats, in addition to the oath required to be taken by members of the legislature, shall take the following oath:—"I swear (or affirm) that I will not, in the discharge of my duty as a member of this convention, take into consideration any other matters, or engage in the discussion of any other propositions than such as relate to the unconstitutional legislation of the Congress of the United States: and that I will not concur in the adoption of any other measures than such as may be intended to provide a remedy for the evils arising therefrom."

The Bill concerning Convention being under consideration, Mr. SEABROOK rose and addressed the Committee of the Whole, Mr. POX in the Chair, as follows:

MR. CHAIRMAN—I am not aware that I ever attempted to address you with feelings like those which now influence me. The momentous character of the controversy between this state and the federal government, the consequences likely to grow out of it, added to the high responsibility devolving upon us all, are well calculated to fill the mind with deep and serious impressions.

There was a time, and it has but recently passed, when liberty with its manifold blessings, was practically enjoyed by every citizen of these United States. *Then*, the promotion of sectional interests, or the indulgence in sectional prejudices, had not been engrafted on the stock of Congressional improvidence. *Then*, the principles involved in our revolutionary struggle, constituted the polar star of legislative action. Every class successfully pursued its vocation. Joy and activity resounded through the land, and the star spangled banner adorned every sea and every port. How altered is our condition!. How changed the political scene on which the eye of patriotism could fondly rest! The sweet and general calm which once prevailed, has been broken and interrupted. The kind and brotherly feelings which at one time animated every bosom, have been transformed into individual distrust, jealousy, and dislike. Professions and pursuits are arrayed in opposition—nay, members of the same calling withhold from each other the right hand of fellowship. State is in opposition to State, and frightful disorder stalks exultingly abroad. Whence this alarming ebullition of the public mind? The answer is not heard. The sanctuary of the constitution has been invaded and the will of our fathers sacrilegiously filched; and the deed has been committed too, by the very sentinels to whom a generous and a confiding people had entrusted the precious relic. Power, unchecked and irresponsible, now reigns, and the *beacon light* of '98 is about to be extinguished, perhaps forever. Whilst the standard of political fanaticism points to the division of the spoils of property, the banner of false philanthropy is raised on high as if inviting to acts of horror and of darkness. The immediate cause then of the general commotion is, the violation of the federal compact. This is the box of Pandora from which have issued the appalling ills under which the south now labours. The constitution of the United States is our safeguard —it is the shield of our protection—it is, in fine, the sacred bequest of the patriots of the revolution. Deface it—rob it of a single line, and it were well had the Union never existed. On what condition did South Carolina subscribe to the confederacy? Whatever it was, her honor, which has never been sullied, if not her interest, commands her to abide by it. In the ratification of South Carolina, dated the 23d of May, 1788, this emphatic language is used: "This Convention doth also declare, that no section or paragraph of the said constitution, warrants a construction that the states do not retain every power not expressly relinquished by them, and vested in the general government of the Union." Is it within the compass of language to convey a more definite meaning, or to express a less ambiguous phrase? At that time, South Carolina was not only a wealthy and highly prosperous state, but the character of the population, as now, was peculiar. Satisfied that her pecuniary ability, the happiness of her people, or the security of their property, could not be augmented by an association with the several states; whatever were the eminent advantages she had reason to anticipate from the Union, it became her imperative duty to exact every security which parchment could afford. In this feeling other states participated. The object of each was to prevent, if possible, the assumption of undelegated trusts, by the central authority. They wisely judged that, as Congress was to be authorised, not only to promote the general welfare, but to make all laws which should be necessary and proper for carrying into execution their

enumerated powers, that body, incited by avarice or ambition, might transcend its constitutional limits. To the condition prescribed by South Carolina, Massachusetts, and New Hampshire, the first Congress, at its first session, assented; and in the caption to the amendments to the constitution, proposed for the ratification of the states, it was declared that, "The Conventions of a number of the states having at the time of their adopting the constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added; and as extending the ground of public confidence in the government, will best insure the benificent ends of its institution." Resolved, among other amendments, "That the powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people." This is the compact which Rutledge, and Butler, and the Pinckneys subscribed in behalf of the then free, sovereign and independent state of South Carolina. Here is the bond which has been so insultingly mutilated by the grasping rapacity of an interested majority. I will now ask you, Mr. Chairman, nay, I will propound the interrogatory even to him who lives and moves in the very atmosphere of consolidation, to point out a line or word in that compact to which South Carolina has not religiously adhered. In times of difficulty and peril, she has never stopped to inquire whether her co-partners needed her assistance; whether her resources could legally be demanded, or whether the arm of government was pressing heavily upon her. No; I thank God, that on her altars sacrifices for the good of our common country have never ceased to be offered freely, if not with avidity. With the devoted feeling of Rome, in the days of her pride and glory, she has ever viewed an injury to one state, as an injury to the whole national community. Shall I now pourtray the character of our adversary? Shall I tell you, Mr. Chairman, of our wrongs and of a freeman's duty? No. With the history of our wrongs every tyro in politics is conversant. The poisonous grasp of usurpation all have felt. In relation to myself, however, I am constrained to declare, that if the colonies were justifiable in resisting the parliamentary aggressions of Great Britain, the states are now called on by the sacred charter which connects them with the Union, as well as by the imperishable dictates of self-preservation, to arrest the career of usurpation which has disgraced the American Congress, and converted it into a loathsome despotism. What then are the federal edicts of which South Carolina has so long and so justly complained? The two most prominent are the prohibitory policy and the system of internal improvement. On these subjects of fruitful controversy, I shall say but little. Every parish in the state, not once, but repeatedly, has declared its opinion of their unconstitutionality and oppressiveness. The Legislature has on three occasions, and with an unanimity rarely equalled on questions of high political import, responded to the voice of the people. It would therefore be an unprofitable consumption of time, and an unwarrantable trespass on the patience of the Committee, to meet a conceded point. Moreover, it is of but little moment to inquire to what extent South Carolina is taxed by the tariff—whether the average of duties on imports be 45 per cent. or whether, by the system of internal improvement, she be a sufferer to the amount of $10,000,000, or $1,000,000 only. This is not the true question at issue. Our complaints are based not so much on the unjust exercise of pow-

er, as on the arbitrary assumption of power. The ground on which this state now proudly stands is, not that millions are annually wrested from her, and then distributed among those whose interest it is to receive her tribute, but it is that her *sovereignty is invaded.* She denies the right to Congress to assail the sanctuary of private interest, to force labor and capital from their natural channels, or to do any other act not particularly stated in the compact. The contest therefore, in which South Carolina is now engaged, is not a struggle for dollars and cents, but the nobler contest for the preservation of the constitution itself. It is, in short, *principle* for which she combats. On the result depends state independence, and with it life, liberty, and property. In this view, a more momentous question was never agitated by a deliberative body. Let us approach it, sir, with a conscious rectitude of our intentions. Let us remember, that in the presence of Him, from whom no secrets are hid, we have sworn to protect and defend the constitution of this State and that of the United States.

The first attempt at assumption by Great Britain, in relation to her American colonies, was the famous stamp act of 1765. How was the arbitrary statute received? By "a peremptory denial, that the inhabitants of the colonies were bound to yield obedience to any law or ordinance whatever, designed to impose any tax whatever upon them, other than the laws or ordinances of their general assemblies." To enforce this declaration, emanating from, and for a while sustained alone by Virginia, the most determined measures were resorted to. "If," said the patriots of that day, "Parliament have a right to levy the stamp duties, they may, by the same authority, lay on us imposts, excises, and other taxes, without end, till their rapacity is satisfied, or our abilities are exhausted. We cannot, at future elections, displace these men who so lavishly grant away our property.—Their seats and their power are independent of us, and will rest with their generosity, where to stop, in transferring the expenses of government from their own to our shoulders." Here is a faithful expose of the situation of the southern states at this time. They cannot eject from office the men who have been instrumental in creating the grievance of which we complain. "Their seats and their power are independent of us." Shall we appeal to public opinion? That has been done, and public opinion is against us. Shall we, by argument, by remonstrance, or by protest, endeavor to satisfy our opponents of the necessity of a change of policy?—Each expedient has been tried, and each has signally failed. Our ancestors, be it remembered, were the subjects of a consolidated government.—The colonies were integral parts of the British empire; yet, a nominal tax created the revolution. How stands our relation to the federal government, and that of South Carolina to the same power? We, the citizens of this state, owe no substantive, inherent allegiance to the government of the United States. Our allegiance is consequent on the membership of South Carolina to the confederacy, created by compact, and to which independent sovereignties alone are parties. Need I say, that the world has sanctioned the justness of our colonial veto—and shall the principles for which the southern states are now contending, be deemed less worthy of a timely and efficient support? Having thus endeavored, briefly, to show the true character of our controversy with the general government, several questions of grave import present themselves. Has South Carolina a constitutional right to arrest any law of Congress which she might con-

sider as a violation of the compact? Ought she, in reference to the tariff, now to attempt the exercise of that right without the certainty of the co-operation of the southern states? What is "the mode and measure of redress," to which it would be expedient to resort? Avoiding for the present the discussion of the point embraced in the first interrogatory, as unnecessary to a correct decision on the bill under consideration, I proceed to an examination of the position, that South Carolina, alone and unaided, cannot successfully stay the encroachments of the federal government. A preliminary observation, however, it is necessary I should offer. There are many politicians avowedly in favor of sustaining, at every peril, the sovereignty of the states, but whose principles, when pushed to their legitimate extent, are in direct repugnance to their declaration. I am, says one, for South Carolina, right or wrong; but mark the qualification, it would be madness in her to resist alone. Prudence advises the seeking of aid, and when obtained, forward to move, and leave the consequences to God. The inference deducible from this proposition is, that our aim should be to intimidate the authorities at Washington, by an imposing exhibition of physical power; but, in the event of disappointment on this head, to be able to oppose force to force. On whom then should rest the charge of disunion, civil war, and blood? Let the tongue proclaim it at the solemn bar of conscience. In our contest for principle, we need no other arms than the arms of invincible truth and justice. Now, South Carolina either can, or cannot constitutionally exercise her veto upon an unwarrantable congressional mandate. If she can, the federal government cannot legitimately interpose its authority. If she cannot, will the concurrence of the whole south make that right, which was wrong in reference to South Carolina alone? Can numbers change the character of a principle?—Numbers may affect the expediency of a measure, but can never alter a fundamental truth. In 1828, the Legislature of this state adopted the following resolution, viz;—"That the measures to be pursued consequent on the perseverance in this system, (the tariff) are purely questions of expediency and not of allegiance; and that for the purpose of ascertaining the opinion and inviting the co-operation of other states, a copy of these and the resolutions heretofore adopted by this Legislature, be transmitted to the Governors of the several states, with a request that they be laid before the several Legislatures, to determine on such ulterior measures as they may think the occasion demands." Can words be more explicit?—Is it desired that we should again urge upon our neighbors the necessity of a combined effort? Do they not understand their rights? Are they willing to bow submissively at the bidding of consolidation? Shall we send missionaries to preach political homilies to them? No, sir! South Carolina must assume a nobler and a more dignified stand. She must write her cause on the broad concave of heaven, and with the constitution for her guide, and the spirit of '76 to aid her, let her fearlessly do her duty.

To the invitation of South Carolina, the states of Virginia, Georgia, Alabama, and Mississippi, have responded. They concur, as to the unconstitutionality and gross injustice of the prohibitory policy. They distinctly affirm, in the language of the Virginia report, that "the proceedings of the Legislature of South Carolina announce and sustain their opinions; opinions, which rest on truth and reason; which they can discern no cause

to relinquish; but which they are ready to defend and sustain, as involving the most essential interests of their commonwealths."* These states, be it remembered, sir, are allied to us by the strong and imperishable ties of interest, policy, and feeling; as well as by the endearing cement of not only laboring in the same vocation, but owning the same peculiar property. Hence, in any contingency involving the safety of South Carolina, there could be no neutrality on the part of the plantation states. Whence arise the evils which so unceasingly assail us and them? Is there any natural affinity between the northern and southern sections of this vast empire? A moral and political relation exists between them. The federal compact created it, and that only, administered in its purity, can preserve it. There is no disguising the truth, that the interests of South-Carolina and Georgia, are not the interests of Connecticut and Rhode-Island. It is the policy of the south, as well as the dictate of an elevated philosophy, that the industry of our citizens should be like the air which they breathe, free and unshackled. On the contrary, the principles of Say, Smith and Ricardo, are discarded as political heresies, whenever a loom is erected, or a manufactory rears its imposing front. With France, Great Britain and Germany, the plantation states profitably exchange the productions of their labor. The manufactures of one, are repaid by the raw materials of the other. The tariff portion of our national community, on the other hand, raises nothing of which those European powers are in want. The agricultural productions of both parties are, in general, the same. Each seeks the same markets, and each pursues the same line of industry. Every consideration, therefore, that can address itself to the well-being and perpetuity of our domestic institutions, prompts the whole south to exist as an unit—as one great sovereignty, indivisable and unchangeable.

Permit me now, Mr. Chairmain, to reply briefly to the prominent objections which are known to exist against any movement of South-Carolina at this time. And, first, it is said, that a change is gradually taking place in the public mind favorable to the cause we advocate. The following powerful agents have been assiduously engaged for at least two years in practically demonstrating the baneful tendency of the "American system," yet, to us, hope is as distant as though it had never existed. First, the extensive and distressing failures of the manufacturers. Secondly, the loss incurred by the farmers in the middle states, who were deluded into a belief, that the tariff act of 1828, would open new and endless avenues to wealth. Thirdly, the serious injury inflicted on commerce and navigation. Fourthly, but of a different and less effective character, one or two ably edited periodicals, and a few well conducted newspapers. Lastly, the declaration and protests of five states, that the prohibitory policy is destructive to their labor and capital, and not warranted by the federal compact. The concentrated energies of these various agents operating directly or negatively in behalf of the free trade system, have, it would now seem, produced no other effect, than a more unyielding determination in the majority, to rivet their chains on the patient and unresisting slave-holder. If it be inquired, what causes have brought about this afflicting state of things? I answer, first, the constant,

* See Note A in the Appendix.

unremitted and zealous exertions of the press.* Secondly, when an impetus is given to industry in any pursuit whereby a larger profit than usual is confidently to be anticipated, capital will seek that channel—speculations will commence, and that enviable virtue, prudence, will for a season be neglected. Hence the true cause of the failures in 1828. To profit immediately by the bounty which it was the design of the law of that year to dispense, business was done with unusual precipitancy; and at an expense, too, which no calculations had reached. Men distinguished for caution and circumspection, invested their entire capital in buildings and machinery; and although ruin was ultimately their fate, yet others were thereby enabled advantageously to embark in the new enterprise. Establishments that cost from 50 or 100,000 dollars, have recently been purchased at much less than one half of their original value. They are now owned by individuals of limited fortunes, and I speak advisedly, when I assert, that there is not one under the operation of a solid capital, that does not realize from 10 to 25 per cent. The current opinion, therefore, that the manufacturers are engaged in an unprofitable business, is a fallacy. It is opposed to existing facts, to recent history, and to common sense. The tariff states never were in a more prosperous condition; and that their prosperity is mainly to be ascribed to the tribute which they annually receive from the southern yeoman, needs no metaphysical reasoning to substantiate. Thirdly, the opinion of the president of the United States, openly expressed on more than one occasion, of the constitutionality of the tariff laws. I shall not speak of the influence of the federal executive. It is well known. It has been felt on every occasion where its exercise was attempted. In truth, it is inseperable from the organic structure of the confederacy. The tariff states, with, I believe, two exceptions, are now clamorous for his re-election; and that his sentiments on the prohibitory policy is the true ground of their favoritism, recent events abundantly testify. Fourthly, successfully to prosecute their pseudo-philanthropic schemes, the followers of Wilberforce in this country have lately added their moral and numerical power to the tariff and internal improvement parties. The avowed design of the reformers is emancipation. At their head stands the Chief Justice of the United States, aided by the talents and prudence of Charles Fenton Mercer, of Virginia, and other late distinguished converts to the Clay system of exclusion. Fifthly, the apathy of the southern states, and the failure of South-Carolina in 1828, to discharge the solemn obligation she owed to herself as a sovereign and high spirited community. If at the onset of our difficulties, the example of Virginia in 1765, or of Virginia and Kentucky in 1798 and '99, had been followed, the political horizon would soon have exhibited its usual calmness and serenity. But, unfortunately, perhaps, for the cause of liberty, the sentinel on the watch-tower slept, and the monster consolidation planted his foot on the threshold of our sacred political edifice. One encroachment followed another in such rapid succession that, ere the mind could bring its powers to bear on the topics of inquiry, the deed was consummated; and the usurper, firmly seated on the throne, now smiles triumphantly at the pigmy doings of its supposed imbecile opponents. In 1828, the eyes of the union were instinctively turned towards us. We had spoken

*Every newspaper, north of Washington City, save nine, is hostile to the free trade policy.

much and often; and our people were then in a state of unparalleled excitement. A strong and magnanimous effort was made; but divided in her councils, South-Carolina could only hope for better and more auspicious times. I then thought the question of resistance was forever yielded, and so thought our adversaries. At this very moment they erect their security on our weakness; and it remains for us to determine whether they have built their house on a rock or on a sandy foundation. Lastly, from physical, as well as moral causes, it is succeptible of proof, that the restrictive system never will be voluntarily abandoned. Comparatively, the soil of the northern section of the confederacy is poor and incapable of producing any very valuable commodities. From this consideration, added to the density of their population, the industry of the people is wonderfully exerted, and capital is perpetually seeking new channels for investment. Of the many millions lent to the general government from its first organization by citizens of the United States, perhaps three-fourths have been advanced by the tariff states: and for the most obvious reason—the certainty of a larger return than could be realized from agriculture or commerce. The wealth of these communities is relative, not positive. All of them, including the great state of New-York, are measurably dependent on southern industry for their prosperity. Of the whole amount of national exports, their contributions are about one-third. A few of them do not export enough of domestic products to defray the expenses of their civil list.* In fine, it may almost be said, that the anomalous spectacle is exhibited of a government based on the purest principles ever devised by the wisdom and foresight of political reformers, supporting a large portion of its population by annual drafts on the public treasury; or in other words, that a grand pauper system exists, differing in this only from the legitimate rule, that the disbursements are allowed not to needy individuals, but to sovereign and chivalrous commonwealths. The federal government, influenced, doubtless, by prudential considerations, have ever looked with tenderness on that section of the union. The laws concerning navigation, commerce, the fisheries, manufactures, internal improvements, &c. &c. put this matter beyond dispute. Even the embargo and non-intercourse acts, and finally the war owed their origin to the necessity of protecting the fruits of eastern labor. From what source was drawn the funds to accomplish these important and patriotic objects? The answer in part may be found in the statistical fact, that South-Carolina alone exports more of native commodities than the whole of New-England; yet, strange as it may appear, Massachusetts imports more than South-Carolina. To make amends for the sterility of their soil, and an unfavorable geographical location, it would appear, as if those states are determined so to extend the doctrine of implication as to enable their party in Congress to rule steadily and triumphantly. They well know that every exercise of constructive power, under their plastic management, relatively augments their political strength. An essential item in their new fangled system of philosophy is to diminish the power of the south; either positively, by such means as the tariff and colonization society; or, negatively, by refusing their assent to any measure or project calculated to enlarge the sphere of our authority. For this reason, and not from its unconstitu-

* There are but seventeen states that export domestic products.

tionality, they resisted the purchase of Louisiana. For a like motive they are now opposed to the acquisition of Texas. Against their will, except to us on a degrading condition, Missouri was admitted into the Union. They denied to Georgia the right of jurisdiction over her own territory. To the principles involved in Foot's resolutions, as illustrated by southern statesmen, they could not subscribe. The scheme of distributing the surplus revenue among the members of the confederacy, meets their decided approbation. They encourage and sustain the establishment of colonization and abolition societies. Why all this? Let avarice and ambition answer. Although the states are deeply interested in the preservation of the union, yet all are not equally so. From the confederacy arise the rapidly increasing wealth and general prosperity of the tariff states. To augment and perpetuate both, depends as much on the assumption of undelegated powers by Congress, as on the existence of the federal compact. Let the doctrine of implication, as practically enforced by the general government be annulled, and the elysian fields on which they have been wont to riot, will, as if by the wand of an enchantress, be converted into barren heaths. The hand of covetousness may still continue to grasp instinctively the fruits of southern industry, but where substance was, "airy nothing" will be found. The reasons here assigned, why the tariff states favor the augmentation of power by Congress will ever exercise an operative ageney; so long as the admonitions of nature are heeded.

We are told, however, Mr. Chairman, to pause in our endeavors to bring back the government to its original design—to wait awhile and all will be well. How long shall we wait?—One, two, or twenty years? I have never heard an answer to this question. The idea of waiting must be based on the belief of a change in public sentiment favorable to the cause of state sovereignty. This, I have endeavored to shew, is a miserable fallacy. During the late war high duties on imports were imposed to raise a revenue commensurate with the exigencies of the country. In the attainment of this end, manufacturies were incidentally established and supported. On the restoration of peace, it was conceded that the duties should be diminished; and the majority, influenced by the most exalted motives, determined that it should be done gradually. In this feeling, South-Carolina participated. The act was worthy of her magnanimity, but fatal, perhaps, to her peace. When the period arrived, prescribed by the act of 1816, for a further modification of the tariff, grant us another boon—wait a little longer—constituted an appeal from the interests of the manufacturer to the sympathy of the nation. In 1820, from the vast amount invested in manufacturing establishments, to be traced of course to the great profits of that branch of industry; from the accession to the numerical force of the tariff party; and from other causes already adverted to, the manufacturers demanded as a right, what before they had asked as a kindness. Could this have happened, if the south had not been swerved from its line of duty by the syren song of wait awhile. In 1824, $40,000,000 were added to the capital devoted to the furtherance of the "American system." Then, instead of companies, or even sections of large communities, embarking in the new enterprise, so rich was the prize which the legislation of Congress had created, that entire states, in utter dereliction of their most sacred immunities, suddenly presented themselves as champions. A kind of delirium seized the public mind, and the desolating bill

of that year passed the national councils by a majority of three votes. The excitement among the tariffites steadily increased, until in the consummation of its wildness and extravagance, it gave birth to that child of many fathers, the bill of abominations as it has been happily styled. A majority of sixteen proclaimed the triumph of our opponents. Since that memorable epoch, the indignation of the southern states has been strong and decided. There exists not a Carolinian who denies the existence of our grievances, and the imperitive necessity of redressing them; still that appalling sound—that infantile cry which pierces and harrows the very soul as if in mockery of our complaints, still lingers on the ear with its timid and unconsoling accents. To conclude this afflictive summary, it is now notorious, that on every question of principle there is an unyielding majority in Congress against the free trade party of at least thirty votes.

Again: the president's *veto* on the Maysville road bill, will, eventually, it is gravely urged, restore the harmony of the Union. I freely admit the important benefits that must flow from this decisive and independent act of the federal executive. For a while he has checked the passion for appropriating the national funds for sectional purposes. That during his administration too, an economical disbursement of the public treasure may be relied on, is true; but that it will be competent for him to limit the annual appropriations to the express wants of the country is not susceptible of proof. If, in the language of Mr. Clay, the efforts of Congress should be directed by one act to collect the public revenue, and by another to distribute it, will it be a difficult matter to suggest an hundred subjects inviting the aid of the national treasury? At the late session of Congress the sum appropriated for internal improvements was inconsiderable; yet, the whole revenue of the government was pledged for some object or other. There are, therefore, strong reasons for believing, that although the president's timely interposition has arrested for a season one exercise of lawless power; still, the nation will not be a gainer in a pecuniary view. But apart from this consideration. If the recommendation accompanying General Jackson's *veto* message be adopted by Congress, it needs not the spirit of prophecy to predict the infliction of a heavier curse on the union than the one which now assails it. That this scheme is likely to form a part of the Congressional code, the public voice gives fearful forebodings. What will be its practical operation? The concentration of all power in the hands of the federal government. Annually participating in the *largess* of Congres, will soon beget a feeling adverse, if not ruinous, to the independence and sovereignty of the elementary portions of this confederacy. The states, as a few of them now do, will refuse to tax their own citizens; and if the amount they may respectively receive be insufficient for their purposes, they may and will combine to enlarge their income.—In what mode? By the imposition of higher duties on imported articles. It is in fine, the most effectual devise which the inventive faculty of man can offer, to perpetuate the tariff policy. Shall I speak of its corrupting moral influence? Of first mulcting the honest yeoman to bribe him afterwards by returning a pittance of his own money? Or, if scattering with a lavish prodigality the gold of one state among the avaricious paupers of another? Look too at its obvious injustice and incompatibility with the bond of union. South Carolina, that exports more of native products than the states of Hartford Convention memory, will receive nine parts, and

those states fifty-four parts. Ohio, that exported in 1828 not one cent's value of domestic commodities will receive fourteen parts, and Louisiana whose exports in that year equalled the sum of $10,163,342, only three parts. The seven southern states, whose united wealth, as estimated by their average annual shipments of the produce of their soil, is two thirds of that of the Union, will receive fifty-eight parts, and the other members of this mighty league, to the number of seventeen, will have a right to demand one hundred and fifty-five parts. If we dare ask by what authority this splendid scheme of robbery is to be accomplished, the cold and repulsive answer is returned, that the power is incidental to an authorized trust; or in other words, that Congress has a right to promote the general welfare. I solemnly declare, that as ruinous as are the systems of the tariff and internal improvement, I would rather that South Carolina should submit to their operation, than to this accursed project, which, if put into practice, will sap the very foundation on which the superstructure of our government is erected.

Another objection to immediate action on the part of this state, results from the belief founded on what transpired at the last session of Congress, that the prohibitory policy may be successfully attacked in detail. 'Tis true, that by that policy, the duties on certain articles were considerably reduced. It is also probable that by perseverance in that line of management the tax on other articles may be diminished; but is there the slightest ground on which to build a hope, that the tariff will be at all modified in relation to those articles for which the southern states exchange their staple commodities? The duties on molasses, salt and teas affected seriously the eastern states. It was a part of the American system which bore heavily upon them. By these modifications, their situation has been meliorated. It has hence lessened their hostility to the system itself.—Over the south, on the contrary, the sword of Damocles still hangs by a hair. So far too from the modifications alluded to bringing us friends, they have increased the number of our opponents abroad, and *operated as a sedative on a few of our friends at home.* The duties of which we chiefly complain are those on cotton and woollen goods and hardware; as for these, we exchange our cotton, rice and tobacco. Repeal the tax on every article, save on those just enumerated, and the tariff will still constitute a power, of sufficient force to sweep the land with the besom of destruction. On the other hand, let the protection on those commodities be withdrawn, and the system will then be more properly American; for comparatively, it will press with equal force on every part of the union: and this consideration alone by destroying the inequality on which the policy is supported, will of itself, without any extraordinary effort on the part of its assailants, consign it to oblivion. It must be apparent, that if the Tariff had borne equally heavy on the states, it would long since have been repealed. It would be repugnant to every principle of reason and common sense to infer the continuance of any legislative measure, which, in its operation, was universally injurious. It is therefore the uncontested fact, that it does contribute to augment the prosperity of the larger portion of the confederacy, that the restrictive system is sustained, in despite of the protest and solemn warnings of the southern community. To keep South Carolina in a state of delusion, attempts may be made at the ensuing session of Congress, to mitigate the severity of the act of 1828. For

as long as the tax on a single article can be reduced, prudence, it is said, should admonish us to forbear. Let this mode of attack on the out-posts be carried on for a few years, and if the citadel be not then reached, I venture to prophesy, that interest will force South Carolina into the ranks of Mr. Clay. It would be easy at this time for Congress to allow a drawback on cotton bagging, and the next year, to repeal the duties on nutmegs and other spices. In the mean time, the capital of our citizens from sheer necessity, would be diverted from the cotton culture to the establishment of looms and workshops. Thus, while the strength of our opponents would in no wise be diminished, that of this state would be materially impaired.

Again: the extinguishment of the public debt is much relied on as a panacea for our wrongs. Should no unforseen contingency occur, it is believed, that event will take place in four years: Then, no cogent reason will exist for a perseverence in the high duty system. The avowed object of the acts of 1824 and '28 was, the encouragement of domestic industry, without the slightest reference to the payment of the national debt. On the contrary the most decided advocates of the tariff policy are the most lukewarm in relation to this interesting subject. I verily believe, when the period arrives at which the federal government shall have discharged its pecuniary obligations, that the people will demand a reduction of taxes: but the character of those taxes, as well as the extent to which they might be diminished, will depend on the majority—on that majority whose deeds are visible in the desolation around us; and whose interest it will be to expunge from the statute book only those parts, which, in their enforcement, are known to be injurious to themselves, or unnecessary for their wants.

At the late session of Congress, Mr. Benton submitted a project by which the nation was to be relieved of $12,000,000. It bore an imposing aspect, and was well calculated to mislead the judgment of the unskilful politician. To us its enactment would have been inexcusable mockery. The Missouri statesman knew, that for the south essentially to be benefitted, the duties on those articles for which we exchange our staple commodities, must be greatly reduced. To effect this, however, he was aware, would be to plant a poignard in the bosom of the tariff itself; for, without those specific duties it could not endure for a day. It is not improbable that on some future occasion, a bill in substance like that of Mr. Benton's may become the law of the land; and, although as consumers we should participate in the benefits arising therefrom; yet, in relation to the true tendency of the entire American system our grievances would be unredressed. The momentous interrogatory now presents itself, if the effects of the prohibitory policy be as pernicious as I have represented them—if an interested and corrupt faction have practically nullified the sacred character of our liberties, what course is it meet that South Carolina should pursue? As a preliminary step, let the whole subject of our unfortunate collision with the general government be referred to our citizens in convention. *They* created the constitution of this state, and aided to establish that of the United States. The people of South Carolina, therefore, so far as they are concerned, are the proper judge to determine whether the federal compact has been violated or not. The 1st clause of the 11th article of our state constitution is in the following words, viz—

"No convention of the people shall be called, unless by the concurrence of two thirds of both branches of the whole representation." It is apparent on the very face of this article, that the framers of the Constitution deemed it impolitic to consult the people, except on extraordinary occasions; and, as confirmatory of their will, that those occasions should be indicated by the most decided and unequivocal sense of the body politic. From this position results a peculiarly important inference, that whatever may be the decision of such a tribunal, it would emphatically be the voice of the state; and, as such, would be respected at home and abroad. "All power is originally vested in the people; and all free governments are founded on their authority, and are instituted for their peace, safety and happiness."* If, therefore, we, the deputed guardians of the "peace, safety and happiness" of our constituents, believe that danger is at hand, and that it cannot be averted by legislative enactments; we would be traitors to our trust not instantly and openly to proclaim it. Are we afraid to trust our masters? If, in convention, they were to adopt the supposed hazardous measure of nullification, would it not be the act of a body, armed with power by the highest human authority? To whom would that body be amenable? The sovereignty of a stranger? The mandate of a foreign tribunal? No! despotism, in its wildest aberrations, would not venture to hazard that assertion. Mr. Chairman, let gentlemen urge what plea they may—let them put the subject in every light human ingenuity can devise, it is *fear*, in all its nakedness and deformity, which compels many of our politicians so strenuously to resist the call of a convention. In effect, they declare, that on the absorbing subject of our federal relations, the knowledge of the citizens of South Carolina is vague and indefinite, and their judgments weak and unsound. Impelled by this consideration, and influenced too by the finest feelings of the human heart, they would prevent the contemplated elemental meeting of the people; believing, that they may cut their own throats. Thus, if these are our opinions, do we aim a blow at the foundation principle of the government. With but few exceptions, conventions have been held in every state in the union, not once, but repeatedly. In no instance have they ever exhibited a revolutionary feeling, or a disposition to moot questions not embraced in the sphere of their delegated trusts. They were designed to check the wanderings of power, to prevent the collision of variant interests, and to keep the political machine in steady and harmonious action. In fine, they constitute the very essence of the conservative principle of our institutions. They are therefore extraprdinary but peaceful assemblages; and, as must ever be the case, have been composed of the learning, patriotism, and weight of personal character in our commonwealth. Hence, the federal and state governments wisely provide for the call of conventions.

There are many forcible reasons why this constitutional provision of South Carolina should now be carried into effect. The opinion has obtained abroad, that this state cannot be goaded into further resistance; and that the excitement which prevails among her citizens is limited to a slender minority. This readily accounts for the taunts, jeers and insults which have been so lavishly bestowed on our public men, as well as for the contemptuous manner in which our remonstrances have been received.—

* 9th article of the Constitution of the state of South Carolina.

Let however a convention meet, and other and more discreet feelings will soon be indulged. Conventions, our opponents are aware, were not designed for ordinary purposes; and should one assemble after the bloody scenes which have been depicted to our affrighted imaginations, they will then know and be able to appreciate the acuteness and universality of our political disease. Now, our complaints constitute the theme of merriment —our resolution for unceasing resistance, treated as the vaunting of madmen. And is there not reason for their faith? Have not a few of our own presses grossly misrepresented the views of the dominant party in this state? Have they not deceived the people of the United States as regards the force and extent of the public sentiment of South Carolina on federal usurpations? Are not letter writers at this time secretly engaged in the treacherous task of poisoning the mind of the president, in relation to our cause and its advocates? Although I would not assemble the people in their highest sovereign capacity solely to elicit a more faithful exponent of the public will, yet, that that result would ensue from a convention, is indisputable. Another consideration forcibly suggests itself. It has been generally conceded, though I do not myself admit the correctness of the position, that the Legislature has gone as far as it can constitutionally go. It has petitioned, remonstrated and protested against the existence and maintenance of the restrictive system; and further, it has solicited the co-operation of the anti-tariff states, with a view to such "ulterior measures" as the exigency of the crisis imperiously demands. Shall South Carolina now be silent? Shall she patiently await the decision of time, or by some unequivocal testimonial, shew the undivided and steadfast determination of a sovereign and high-minded people. A convention would be a forward movement—it would remove a serious impediment in the way of a practical exposition of our principles.

All acknowledge the great insecurity of our property. The value of our estates no one knows. This results solely from the distracted state of the public mind. It is vitally important, therefore, if the welfare of South Carolina be consulted, that the matter at issue should be speedily adjusted. Hitherto, it is believed, the subject of our differences with the federal government, has been *coram non judice*. After our citizens in their primary assemblies shall have settled the question of constitutionality, then, our courts of justice would be competent to afford them ample and entire protection. Should, however, those tribunals be inadequate to the attainment of that end, it will be for the Legislature to determine on "the mode and measure of redress." The expediency of this course, it is said, is admitted and would be conclusive, if gentlemen were satisfied, that the deliberations of a convention could be confined to certain specific, definite points. The novel question therefore arises. Is a convention illimitable? The government under which we live is, in many respects, essentially different from that of any political association ever instituted. It is emphatically a representative democracy; that is, the people do by delegation what, in a simple republic, they would do in person. Let it be remembered too that lawful government is an emanation of the fundamental law, by which the people restrain themselves from any direct agency in the administration of their own affairs. A convention therefore is no more the people than the Legislature. The latter is charged with certain general duties to be fulfilled pursuant to the original writ-

ten compact of the society by which it is expressly limited—the former is an extraordinary meeting of the community by representation, to accomplish a specific purpose. As the Legislature calls it into being, in obedience to a constitutional provision, it is obviously a creature of the constitution itself, and can in no sense be paramount to that instrument.—Again, suppose these high authorities to be in existence at the same time. Has the one, from its peculiar political attributes, the right to modify or destroy the privileges and immunities of the other? No! Because the people at the establishment of the government invested the Legislature with the sole power of altering their constitutional charter.* An attempt by any other tribunal to effect that object would be revolutionary; and when the fever of revolution pervades the body politic, the interposition of a convention is not necessary to inflame it to madness. One parish might secede, and if others obeyed the same impulse, the reign of terror would succeed the administration of law. But such a disruption of our political ties would betray the existence of feelings, in which God in his mercy hath not yet permitted us to indulge. A convention to form a constitution is obviously and necessarily illimitable; but the instant the transfer of sovereignty is consummated, it becomes, by its own act, a responsible tribunal. It may change its will, but that must be done in the mode prescribed by the original compact. If, therefore, in relation to the immediate topic of inquiry, the people do meet in their primary assemblies, they will *meet under the constitution.* May they not refuse to send delegates? True. And may they not refuse to be represented on this floor? As the Legislature then are alone competent to originate a legitimate convention, can they not specify the time of its meeting and the purpose for which it is called. Must they not go further, and designate the number and qualifications of the members? These specifications are essential to the organization and efficiency of a convention; but are they not *restrictions* of a positive character? Where then shall the restrictions end? I answer, precisely at the point where limitations would be unnecessary. To invest a convention consequently with its commission, is the peculiar duty of the legislative department of the government. These views are confirmed by the historical fact, that every convention that has hitherto assembled in the states was called for a special object and under express limitations.† It is therefore an untenable position, so far as experience testifies, that the moment a convention is called "society is resolved into its original elements." It is practically and theoretically false. The convention and Legislature of Virginia were in session at the same time. The members of one were, in many instances, members of the other. The Governor, Judges, of whom one ‡ was of the Supreme Court of the U. S., and several of the representatives to Congress, held seats in the former. At that time was the complex machinery of the government for a moment arrested or even deranged? When the state conventions assembled to ratify the federal constitution, did it occur to any political empiric that the state governments were *ipso facto* dissolved? That the people of the union were in a state of civil society, and not bound by any human tribunal. If this be true, the federal constitution is not constitu-

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* See the second clause of the 11th article of the constitution of South Carolina.
† See note B, in the appendix. ‡ Chief Justice Marshall.

tionally amendable. With such a construction, the article in that instrument, as well as the one in our state constitution, concerning convention, is a deceptive and dangerous provision, and should never be enforced, as a dissolution of the union would be inevitable. Moreover, the 5th article of the constitution of the United States provides, "that no amendment (proposed by a convention) which may be made prior to the year 1808, shall in any manner affect the first and fourth clauses in the 9th section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate." These are *positive restrictions* on a federal convention. I am, therefore, Mr. Chairman, led to conclude, that the theory and practice of our institutions favor decidedly the position I have advanced,—that a contrary belief would prevent the amending of the constitution of the United States, and hence crush forever the hope of any melioration of our condition. Suppose Congress were to submit the constitutionality of the tariff act of 1828 to a federal convention. Would South Carolina refuse to send delegates, and urge as a plea the illimitable powers of such an assembly. In that event, the most favorable opportunity which ardent patriotism could desire, to relieve our citizens from the bane of unjust legislation, would be lost; for fear a mightier evil may be ript up from the womb of a diseased body, that no one has seen or knows to exist.

But, sir, if all I have said be erroneous, there is still one guarantee against the improvident and suicidal deliberations of a convention, which the sanctity of parchment could never offer. I mean the intelligence of a high minded people, and their unbending devotion to the sacred cause of their country. Under the guardianship of these elevated sureties, the rights of every section of the state are as secure as the existence of the people themselves.

I have thus, Mr. Chairman, discharged a painful but necessary duty. The sober dictates of my judgment, I have unfolded. The indignation of my feelings have not been concealed. The crisis, sir, is portentous. On the Legislature depends primarily the safety of South-Carolina. In their hands is her honor—her character—her liberty. Pause, and I fear it will be the pause of death. I say, then, in the language of him whose breath has long been hushed by the mandate of death, "catch the favorable moment, seize it with avidity and firmness; for it may be lost never to be regained." Is it not a truly humiliating spectacle to see the citizens of a sovereign state begging for their rights?—humbly entreating their self-constitu ted masters to be merciful in their exactions? Good God! Is it come to this! that the mere agent of the states, should dare to assume the imperious prerogative of not merely waiving over them the banner of its supremacy, but of laughing to scorn even the exercise of the right to speak of their liberties? Sir, the veriest menial on earth—the humblest thing that moves in the shape of man, can entreat his Lord to spare him the earnings of his industry. Yet, this poor privilege, enjoyed by the degraded vassals of the most tyrannical governments, has been denied to the people of South-Carolina. At the last session of Congress, Mr. M'Duffie, in obedience to the expressed wish of the Legislature of this state, submitted a proposition, sanctioned by the decision of a standing committee of the house of representatives, which looked merely to a prospective modification of the restrictive system. How was it met? In a spirit of friend-

ship and conciliation? No. Even the clemency of the British parliament on a similar occasion, was withheld. The gag law silenced all complaints. At a subsequent period, to effect his purpose, your representative was obliged to resort to an expedient, which shews experimentally the slender tenure by which our rights are held. Yes, it is indeed true! to such a height have your wrongs been carried—so remorseless are your oppressors, that to be heard at all, on the subject of your grievances, the uprightness of the statesman must bend to the wiles of the tactician. From the federal Legislature then, do you still expect justice? Is this the source from which you hope to draw the consolation of some future good. Dispel the illusion! The vulture that preys on your vitals will never relax its grasp until its appetite is appeased, or there is nothing more on which it can feed.

Unfortunate Carolina!—Unhappy and divided state! Where, sir, are her enemies? Look to the west, and there you will see them—Go to the east, and there you will find them—Ask for them at the north, and thousands will respond, here, there, every where! Can the sick mind always find relief at home? Is it universally true, that in our own domicils—at our own fire-sides, the heart can freely disclose its sorrows? No, sir! it dare not. If it speak above the low whispers of the solitary anchorite, it is suspected. If but a patriotic feeling escape it, treason and blood unfurl their dark and sombre standards. Among the foes of our state there is no contrariety of opinion. With them a concentrated movement necessarily results from congeniality of thought and of disposition. Would to Heaven this could be said of the friends of Carolina: then would the palmetto send forth new shoots of gladness—then indeed would the sun of our prosperity again shine with meridian lustre. Mr. Chairman, every effort hitherto made in this state to maintain our constitutional rights, or to expose the true principles of the federal compact, has been branded with some opprobrious epithet. Suggest what measures you please, if there but a squinting towards a fixed determination to uphold them, your motives are impugned and your attestations derided. This exhibits a spirit unlike that which animated the bosoms of our fathers. In its every feature the impress of consolidation is visibly stamped. If the states cannot protect themselves—if they cannot for a season arrest the career of usurpation, I should be glad to learn what state rights mean. A right without the means to preserve it, is no right at all; and it is wanton mockery so to style it. At that dark and gloomy period when Virginia stood alone and received undismayed the assaults of the satellites of power, she was accused, as South Carolina now is, of a design to subvert the union. Did experience justify the allegation? Let her history—let the elevated rank she proudly occupies in the confederacy—above all, let the political principles she has invariably inculcated and sustained, bear to the world her answer.

Mr. Chairman, the situation of the country at this time is distressingly ominous. It cannot long continue so. On one side we behold a majority of states bent on the prosecution of measures, which they deem essential to their prosperity. On the other, many states alarmed at the existence of a power, with as much authority, but with infinitely less sympathy than ever swayed the bosom of any tyrant of antiquity. On the one side, we see poverty aiming at political aggrandizement—on the other, wealth without the ability to enjoy it. There, is ambition, incited by avarice—

here, ambition too, but it is the ambition to preserve, unimpaired, the fruits of honest industry. There, is self-interest, directed by false philanthropy—here, a laudable jealousy, striving to check the wanderings of enthusiasm. With one, might constitutes right—with the other, the letter of the constitution is the standard of obedience. These elements are too dissimilar ever long to move in the same sphere. God grant, sir! that the hopes of our afflicted people may be realized—that the prayers of the righteous for the safety of our beloved country, may not ascend to Heaven in vain.

APPENDIX.

NOTE A.—The following is the conclusion of the report of the select Committee of the Legislature of Virginia on the resolutions of Georgia and South Carolina.—"Acting under the influence of these reflections, your committee have contemplated with the deepest interest the situation of the general assembly, and the duties which devolve upon that body. They cannot suppress their solemn conviction, that the principles of the constitution have been disregarded, and the just proportions of our political system disturbed and violated by the general government. The inviolable preservation of our political institutions is entrusted to the general assembly of Virginia, in common with the Legislatures of the several states—and the sacred duty devolves upon them, of preserving these institutions unimpaired. Yet, an anxious care for the harmony of the states, and an earnest solicitude for the tranquility of the union, have determined your committee to recommend to the general assembly to make another solemn appeal to those with whom we unhappily differ; and that the feelings of Virginia may be again distinctly announced, they recommend the adoption of the following resolutions.

1. *Resolved*, as the opinion of this committee, 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 the right to construe the compact for itself.

2. *Resolved*, That in giving such construction, in the opinion of this committee, each state should be guided, as Virginia has ever been, by a sense of forbearance and respect for the opinion of the other states, and by community of attachment to the union, so far as the same may be consistent with self preservation, and a determined purpose, to preserve the purity of our republican institutions.

3. *Resolved*, That this general assembly, actuated by the desire of guarding the constitution from all violation, anxious to preserve and perpetuate the union, and to execute with fidelity the trust reposed in it by the people, as one of the high contracting parties, feels itself bound to declare its deliberate conviction, that the acts of Congress, usually denominated the tariff laws, passed avowedly for the protection of domestic manufactures, are not authorised by the plain construction, true intent and meaning of the constitution; that they are impolitic and oppressive to a large portion of the people, and ought to be repealed." The preamble and resolutions were adopted by very large majorities.

PROTEST OF GEORGIA.

"From a painful conviction that a manifestation of the public sentiment, in the most impressive form, is called for by the present agitated state of the southern section of the union, the general assembly of the state of Georgia have deemed it their duty to adopt the novel expedient of addressing, in the name of the state, the senate of the Congress of the United States.

In her sovereign capacity, the state of Georgia protests against the act of the last session of Congress, entitled 'an Act in alteration of the several acts imposing duties on imports,' as deceptive in its title, fraudulent in its pretexts, oppressive in its exactions, partial and unjust in its operations, unconstitutional in its well known objects, ruinous to commerce and agriculture, to secure a hateful monopoly to a combination of importunate manufacturers.

Demanding the repeal of an act which has already disturbed the union, and endangered the public tranquility, weakened the confidence of whole states in the federal government, and diminished the affection of large masses of the people to the union itself, and the abandonment of the degrading system which considers the people to be incapable of wisely directing their own enterprise: which sets up the servants of the people in Congress as the exclusive judges of what pursuits are most advantageous and suitable for those by whom they were elected, the state of Georgia expects that, in perpetual testimony thereof, the deliberate and solemn expression of her opinion will be carefully preserved among the archives of the senate, and in justification of her character to the present generation, and to posterity, if, unfortunately, Congress, disregarding the protest, and continuing to pervert powers granted for clearly defined and well understood purposes, effectuate objects never intended by the great parties by whom the constitution was framed, to be intrusted to the controlling guardianship of the federal government, should render necessary measures of a decisive character, for the protection of the people of the state, and the vindication of the constitution of the United States."

PROTEST OF ALABAMA.

Resolved, by the senate and house of representatives of the state of Alabama, in general assembly convened, That the tariff of 1828 is, in its operation, impolitic and unjust, producing the most unhappy effects on the interests of the great body of our citizens, by its exclusive bearings on them; prostrating agriculture, commerce and navigation, while it cherishes and elevates manufactures; and which is an exercise on the part of the general government of a power not delegated by the constitution under which we live, and too well calculated to disturb the harmony of the union.

Resolved, That all duties imposed by Congress on imports, not for revenue, but to control the industry of the country, are contrary to the spirit of the constitution.

Resolved, That when the general government transcends the powers delegated to it by the constitution, the legitimate mode of opposition, becoming the dignity of a sovereign state is, by respectful remonstrance, until argument and entreaty are exhausted; and then open and unqualified resistance, should be the last and desperate alternative between submission on the one hand, and the liberty of the people on the other.

Resolved, That our senators in Congress be instructed, in the name of the state of Alabama, to record on the journals of that body a *solemn protest* against the tariff act of 1828, as unconstitutional, unjust, unequal, and oppressive in its operation." The above resolutions were prefaced by an explanatory report.

RESOLUTIONS OF LOUISIANA.

Resolved, by the senate and house of representatives of Louisiana, That the general assembly of this state do not concur in the views and sentiments expressed by the *resolutions of the Legislature of the state of Mississippi*, relative to the tariff of 1828; and that the Legislature of this state does not perceive any unconstitutionality in adopting such measures.

Resolved, That we highly approve of the resolutions of Vermont, by which they have declared the law of 1828, on the tariff, to be constitutional, expedient and harmless.

The first of the above resolutions shew, that the opinion of Mississippi is in accordance with that of South-Carolina, Georgia, Virginia, and Alabama.

Although South-Carolina since 1824 has been greatly excited by the establishment of the tariff policy, yet it is no less true, that the various resolutions adopted by her, are at least as mild and dignified, as those passed by any of the southern states. The following is the conclusion of the protest of South-Carolina adopted in 1828. This, with the subjoined resolutions, is the *strongest* expression of her sentiments upon the restrictive system in the archives of the state. "Deeply impressed with these considerations, the representatives of the good people of this commonwealth, anxiously desiring to live in peace with their fellow-citizens, and to do all that in them lies to preserve and perpetuate the union of the states, and the liberties of which it is the surest pledge—but feeling it to be their bounden duty to expose and to resist all encroachments upon the true spirit of the constitution, lest an apparent acquiescence in the system of protecting duties should be drawn into precedent, do, in the name of the commonwealth of South-Carolina, claim to enter on the journals of the senate their protest against it, as unconstitutional, oppressive, and unjust."

RESOLUTIONS FOR 1828.

"*Resolved*, That the opinion of this Legislature on the subject of the assumed right of Congress, to regulate duties on imports, for the purpose of encouraging domestic industry, as heretofore expressed in the various resolutions adopted in the years 1825 and 1827, is unchanged; and after the further aggression by the passage of the tariff act of 1828, this Legislature is 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 will effect the abandonment of a system, partial in its nature, unjust in its operation, and not within the powers delegated to Congress."

"That the measures to be pursued consequent on the perseverance in this system, are purely questions of expediency and not of allegiance; and that for the purpose of ascertaining the opinion and inviting the co-operation of other states, a copy of these, and the resolutions heretofore adopted by this Legislature, be transmitted to the Governors of the several states, with a request that they be laid before the several Legislatures, to determine on such ulterior measures as they may think the occasion demands."

NOTE B.

The committee to whom his excellency the Governor's message of the 9th instant, accompanied with the proceedings of the federal convention, was referred—

Report, That having given it all the consideration which the importance of the subject required, are of opinion, that the house should adopt the following resolutions, viz:

Resolved, That the proceedings of the federal convention be submitted to a convention of the people of this state, for their full and free investigation and decision.

Resolved, That it be recommended to such of the inhabitants of this state as are entitled to vote for members in the general assembly, to meet on Thursday and Friday the twenty-first and twenty-second days of February next, in their respective parishes and districts, at the several places appointed for holding the last elections for members of the general assembly, to choose as many persons as they have members in the senate and house of representatives, to serve in the state convention, for the purpose of taking into consideration the proposed plan of government for the United States; and that the said elections shall be conducted agreeably to the mode, and conformably with the rules and regulations of elections for members of the general assembly.

Resolved, That the delegates to be elected to serve in the state convention shall have been citizens of the state at the time of the ratification of the definitive treaty of peace between the United States of America and Great Britain, and were eligible to a seat in the house of representatives.

Resolved, That the Legislature do give immediate notice, by advertisements, to the people, in their several parishes and districts, of the time, place, and purpose of the elections aforesaid, and do transmit printed copies of these resolutions to the persons who have been appointed to conduct the said elections.

Resolved, That the persons so elected to serve in the said convention do assemble on Monday, the third day of March next, at the state house, in the city of Charleston, and may adjourn from day to day, until a majority shall be assembled, when they shall take into consideration the aforesaid constitution; and if approved of by them, or a majority of them, finally to ratify the same in behalf of this state, and make report thereof to the United States in Congress assembled.

Resolved, That the delegates who shall be elected to serve in the state convention, shall have the same allowance for their attendance as shall be given to the members of the present general assembly.

The above is extracted from the journals of the senate of South-Carolina, of January 17th, 1788. It will be perceived, that the convention was *restricted* as to the subject—"the time, place, and purpose of the elections"—the qualifications and pay of the members—and as to the number necessary to ratify the constitution. They were, moreover, specially instructed to "adjourn from day to day, until a majority should assemble," and to "make a report to the United States in Congress assembled."

Could that primary assemblage of the people have annulled the constitution of the state? and, if "society was resolved into its original elements," on the meeting of the convention, whence arise the powers now exercised by the various departments of the government? They were not restored by the convention of 1788. The people of South-Carolina are therefore in a state of civil society, and every act of the Legislature is a palpable usurpation.

J. L. HUNTER'S SPEECH.

Mr. CHAIRMAN—Being favorable to the passing of the bill on your table, but differing in my views on the nature and probable result of a convention of the people of this state, I feel it my duty to trespass on the time and indulgence of the committee.

I agree cheerfully with the preamble of the bill, and the remarks of the honorable member from St. John's, upon the subject of the usurpations of the general government.

We all are disposed to admit that the general government has gone out of her legitimate sphere of action, threatening, yea, doing violence to the rights of the state and the liberty of its citizens. The internal improvement system, as carried on by the general government, is an extravagant and wasteful expenditure of public money for sectional purposes and benefits, and not for the general welfare of the union, and is unconstitutional and obnoxious to the people of this country. It is true sir, that so glaring was the iniquity of this system, as to rouse the noble feelings and the high sense of justice and duty of our distinguished chief magistrate to suspend its operation; but sir, have we any assurance that it will not be revived? besides sir, do the rights of the community rest upon the voice of a single individual, or upon the law and constitution of the country.

The tariff of protection to our domestic manufactures divested of disguise, is an ingenious subtle and dangerous violation of the constitution.—The constitution declares that Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States, but all duties, imposts and excises shall be uniform throughout the United States. Again sir, Congress shall have power to regulate commerce with foreign nations.

Again, no preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another.

Whereas it is manifest and almost as plain as demonstration, that the prohibitory or protecting system of duties, although uniform in their appearance, are sectional and partial in their operations, producing unequal taxation in one section of our country for the benefit and patronage of another; and instead of being intended to regulate commerce and raise revenue, is calculated to destroy commerce and revenue, and force upon the people of this country direct taxation for the support of the expenses of the general government.

It is true sir, from circumstances, beyond the control of Congress, this system has not produced as great benefits to its friends nor as great evils to its enemies as were expected to have been realised from it.

But sir, a perseverence in it may accomplish, to its full extent, the ends for which it was designed, which would justly rouse the people of this country to a spirit of hostility to the general government that would terminate in a dissolution of the compact.

To avert such dreadful consequences, is the earnest desire of every friend to his country.

Again sir, a violation of the constitution so flagrant, I cannot look upon without the most frightful apprehensions.

A submission on our part, without further exertions, to the unconstitutional legislation of Congress, will give them a precedent to authorise and sanction a future and further abuse of power.

The experience of mankind shews sir, that the rulers of government, in every age and nation, have been disposed to extend their powers, hence springs the necessity of written constitutions to bind them. But of what avail are such instruments, if the true spirit, meanings and intentions are disregarded and violated without redress? The federal government differs widely and happily from any institution of ancient or modern establishment, possessing national powers, and at the same same time limited by certain restrictions and reservations, that make it a mere confederation of other governments.

To a more perfect understanding of the relations in which the state and general government stand to each other as independent parties, they have established certain articles of agreement, called a Constitution.

This compact is equally obligatory on both parties, and a flagrant violation of it by one party releases the other party, from their obligation and duty of obedience. The question naturally arises, who are the judges of such a violation of the constitution? To that question, I reply, with the remarks of Mr. Jefferson, which are to my mind most satisfactory and conclusive. The government, says Mr. Jefferson, created by this compact, was not made the final conclusive judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers; but, as in all other cases of compact among parties having no common judges, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress. How far the state will, or ought to go, to right herself, and relieve her citizens, is a serious consideration, involving the most solemn questions of policy and expediency, which, if right, belongs, and ought to go to the people, in their sovereign capacity in convention.

A convention of this state established the federal constitution, and is therefore the proper competent tribunal to set in judgment upon a flagrant violation of that instrument, to put their construction upon it in the most solemn, deliberative and authoritative manner, and to determine upon the mode and measure of redress.

Your state constitution solemnly declares, that all power is originally vested in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness. The present dispute with the general government is a great national subject, in which the people consider their rights to be involved. They have urged the propriety of a convention. Considering it as consistent with the dictates of my conscience, and the republican principles of the government, I feel it my bounden duty to represent their sentiments, and comply with what I regard as their rightful demand.

Again, sir, a convention will allay the great excitement now prevailing—enlighten the public mind—settle, authoritatively, the doctrines upon the subject of state rights—produce harmony of sentiment and co-operation of measures. It is, sir, objected to the Legislature's setting in final judgment on this matter.

1st. Serious doubts are entertained, whether the Legislature is a competent tribunal to pronounce judgment upon an unconstitutional act of

Congress; and possessed of authority to enforce the execution of its judgment, as far as policy and expediency would or might dictate.

2d. The Legislature are elected more for local than national purposes, and are too busily engaged in the ordinary business of state legislation, to pay that solemn and exclusive attention which so important a matter deserves.

3d. The state would lose the valuable services of distinguished individuals, who are constitutionally disqualified from seats in your legislative assembly.

My fears on the danger of convention are put to rest, when I consider, and believe, sir, that assembly will be composed of citizens, distinguished for their wisdom, virtue, and patriotism, selected from every department in life, and every office in the state.

It is not for me, nor for this Legislature, to dictate what course that august body ought to pursue—it is sufficient for me, sir, that I believe all things will be done according to the will of the people, and they possess too high a reverence for their political institutions, and the memory of their ancestors who formed them—too high a regard for their own peace, safety and happiness, notwithstanding the evils and injustice of the prohibitory system, rashly and unadvisedly to dissolve the political ties that unite this state to the union.

No, sir, I believe they will bear the evils longer, and until they become more intolerable and dangerous than the dissolution of the government itself. I am, sir, devotedly attached to the union. I revere, most sacredly, the principles on which it is established. God grant, the blessings derived from them, may descend from generation to generation. But, sir, it is the settled conviction of my mind, that if the abuses of the general government are not corrected—the original purity of the constitution preserved—the rights of the individual states respected, such is the diversity of interest, and the peculiar domestic policy of each state, in our wide extended republic, we can not—will not continue many years, a happy and united people.

W. I. GRAYSON'S SPEECH.

Mr. Grayson said, That he approached the subject under discussion with extreme reluctance. It was one of vital importance to the state—to the United States. It involved the prosperity, perhaps the existence of the whole republic. He had seen it producing a difference of opinion among men, who merited the entire confidence of the people—men of the best talents, the purest virtue, the deepest learning in our constitutions and laws. It might well become him, then, to attempt, with distrust and hesitation, to occupy the attention of the senate. And yet it was one of those important turns in the condition of a state, in which it became the duty of every man to think with independence, and to express his opinions temperately, but frankly and decidedly. Let him but be assured that

he is urged by no improper motive—no lurking ambition—no mean thirst for office, either here or elsewhere, and he may make the sacrifice of his personal exertions at the shrine of his country's welfare with perfect confidence that the offering will be acceptable, however humble.

It may indeed be proudly said, for South Carolina—it must constitute no unsound reason for confidence in her future fortunes, that however divided at present, there is but one wish expressed by all parties in the state—the wish to do their duty. What is that duty, is the subject of every man's enquiry. What ought to be the object of our deliberations? What do the people require at our hands? For what have they sent us here?

Is it to discuss the unconstitutionality of the tariff? To measure the extent of the usurpation of which we complain—to weigh the mass of oppression by which we are degraded—to ascertain by drachms and scruples how far we can yet bear the load of unjust and tyrannical exactions,—whether we may not by some small change of posture render the chain less galling? Or shall we taunt the people of South Carolina with the kind reflection that something of their embarrassed and pitiable condition, may be the result of their own imprudence, or the want of cautious foresight in their own rulers. I have heard the gentleman from Darlington with pleasure. He cannot speak on this subject or any other without conveying information; but he will pardon me if I continue to believe that we have not been sent here to talk about the constitutionality of the tariff. On this subject there is no difference of opinion. But one voice of indignant conviction is heard from the sea coast to the mountains. All admit the existence of the evil--it is the remedy that the people demand. And will they be satisfied with a cool debate on political economy? With an ingenious calculation of how much they are injured, or how much they may be benefited by an invasion of their rights? It is the duty of this Legislature to devise a mode by which those rights shall be vindicated. What is that mode? What is the preliminary measure by which a law, deemed unconstitutional, may be resisted consistently with the nature of our government. Is it not to submit the law to the tribunal competent to judge? If we believe with Mr. Webster that the court at Washington is adequate to decide on the reserved rights of the states, should we not immediately carry the case into that court—make up an issue, and call on the federal judges to determine? But we deny the supreme court to be a tribunal competent to decide on the rights of a sovereign state.—This is the opinion of the state—it is that of the republican party throughout the United States. What then is the proper tribunal? We reply, a convention of the people of South Carolina, by whose grant alone Congress exercises any power over this state. They are the sole judges, so far as South Carolina is concerned, of what powers they have yielded and what they have not.

If they are not the judges, they have granted to some other party the right to decide. The constitution must contain the grants. Let it be produced. Let the clause be pointed out which affirms that whenever a dispute shall arise between the general government and the state government, on the extent of their respective powers, the former shall be the exclusive judge. There is no such clause. No right then to be the sole judges of their own powers is conveyed to Congress. No such right can

be given. The people of the state not only have not granted this tremendous power, but they cannot grant it. It would be incompatible with their present form of government—a confederacy of states, holding reserved rights, and retaining their state governments. There can be no reserved rights where the very party is constituted the sole judge of their extent and nature, from whom they are professedly withheld. This would indeed be putting the lamb at nurse with the wolf. There can be no state government, if its powers depend on the opinion of the general government from which those powers have been expressly reserved. But if, in every dispute arising between the general and state government as to the extent of their respective powers, the people of this state should constitute the general government the exclusive judge, the opinion, the construction of that government would be the sole test of the right enjoyed or claimed by the state government. Its powers then would be held from Congress not from the people. They would virtually cease to exist, and our government would be in substance a national government with the forms only of a confederacy. Give to the general government the right to be the sole judge of its own powers, and you give it every thing—all reservations would be ridiculous. Suppose it manumit your slaves. It is no answer to tell us that this would unite the whole south. Upon what principle, by what right would we resist the law? If the general government be the sole judge of its own powers, and it determine that it holds this power, where would be our appeal or remedy? But yes, we are told there is a remedy—we have an appeal to the natural right of rebelling. This then is the sum total of state rights, the right to rebel—a creed soon learned and assuredly not requiring the labors of Jefferson's long life to be successfully taught. But is it not a solecism to predicate such a property of a sovereign state? The right to rebel!!! It is the right of the subject against his prince---of the slave against his master; not of a sovereign confederate state. It belongs to every county of England, every department of France, every portion of brutalized Turkey, every conquered and dependent kingdom of barbarian Russia (her serfs have the right of rebelling against the natural right of their masters) to crush rebellion by the chain and knout. And has South Carolina a sovereign confederate state no rights? Is she, for all practical and valuable purposes, in no other condition than the province of a great empire? Does she then, except in form, differ from one? Is not this government a consolidated government, and is not South-Carolina the petty province of a great nation with the rights only of every other province on earth, the right to petition, to resolve, and to rebel?

But it is replied, there is a difference. We have the right to secede. We may abandon the union, when we believe it too oppressive to be endured. And whence do we derive this right? Is there one word about it in the constitution of the United States, where, only, it seems to be the fashion of the day to look for state rights? If it exist, does it not rest on the same principle for which we are contending?—that the people of the state are the judges of the extent of the powers which they have granted to the general government. Suppose the time to have arrived, which, in our judgment, justifies secession—Are we quite sure, that we shall be permitted to secede? Will the majority in Congress, who have need of us, allow us to leave them? Will they not say to us then, as they do now,

we recognize no such right as that which you claim? The constitution says nothing about it. It declares, on the contrary, that the union shall be perpetual. It would be a dangerous innovation to allow one state to abandon the rest; it would expose the whole continent to injury, to foreign interference, to standing armies, and fortified posts. The general government is the sole judge of the powers vested in itself, and it decides that the secession of a state is incompatible with those powers. The union shall be preserved, would be their language. The right of secession, then, on which gentlemen rely, is the naked right of rebellion; and, according to their doctrine, the rights of the states are narrowed down to the bare right of revolt.

But what is the substance of the objection against a sovereign state's deciding for herself what powers she has granted, and what she has not? These objections are drawn from the inconvenience resulting, or supposed to result from such a power to judge. It would embarrass the majority—it would throw obstacles in their way—it would compel them to consult, not their own interest, merely, but the interest of every state in the union. We admit it. We admit that the right which every state retains to determine for itself, whether the power asserted over it by Congress be granted or assumed or intended with inconvenience to the majority. We rejoice that it is so—that if twenty-three states combine to plunder the twenty-fourth, there is a feature in our form of government which serves as a wall of adamant between the victim and the oppressor. It is true, that this grand conservative principle of the confederacy may be resorted to by a state, capriciously and unreasonably. But does it therefore follow, that the right does not exist? Are we gravely to be told, that we have no rights, because we may abuse them. Will it be believed, that the people of this state cannot interpose and determine a law of Congress to be unconstitutional, because they might exercise that right from whim or caprice, improperly and unreasonably? Does any such danger exist? Look to the past. We have for years been complaining of a law which all parties deem partial, unjust, oppressive, and unconstitutional. What has been done?—Nothing. What will be done?—Absolutely nothing. Where, then, is this mighty danger which is supposed so imminent and monstrous as to be absolutely inconsistent with good government? It exists in the imagination only, of the opponents of state rights. No state will, or can interpose to protect itself from the usurpations of Congress, but in an extreme case.

All such objections, indeed, are objections to our form of government. If they prove any thing at all, they prove that a confederacy of states continuing to be sovereign, is not a desirable government—that to avoid the dangers of collision and disunion, you must abolish the state sovereignties. This is the doctrine, the language of General Hamilton in the convention. He thought he saw evils resulting from the power, which he was too sharp sighted not to perceive, must remain with a sovereign state, to judge of her own rights. He therefore expressly and repeatedly declared, that the state sovereignties must be abolished. There could otherwise be no good government established. No modification of the confederacy would do. The states must be annihilated. I hold his speech in my hand, in the shape of an appendix, to that of a distinguished gentleman of this place, delivered some years since. The speech of General Hamilton perpetually

repeats the injunction to abolish the state sovereignties. Delenda est Carthago. He is a very Cato in perseverance. The convention nevertheless rejected the proposition. And shall we permit the general government virtually to adopt it? If that government be the sole judge of its own powers, the state sovereignties substantially cease to exist.

The people, then, of South-Carolina, have the right to judge for themselves what powers they have granted, because they have never conceded that right—because they could not concede it. The abandonment of the right to the general government, would involve necessarily the abolition of all reserved powers—of all state governments; and would leave to the states nothing but the naked, natural right of revolution. It would reduce them to the condition of subjects, of the mere province of an empire, from the character of which they essentially differ. But such a conclusion would be absurd, and the reasoning must, therefore, be erroneous which seeks to establish it.

What, then, it is finally asked, if the people of South-Carolina determine that the tariff is unconstitutional, what follows next? If a tribunal competent to try the question, decide that the law is contrary to the constitution, what becomes the duty of the government against whose act the judgment is given? Is it not to submit to the decision? But the general government will not yield. It will maintain its usurpation by force—It will put down the judgment of the people of South-Carolina with the same contempt with which it treats the protests of its Legislature. If it come to this—if the people of this state be compelled to decide whether they will submit to open, palpable, undisguised tyranny.—If they believe such submission consistent with the honor, and ultimate prosperity and peace of South-Carolina—with the glorious examples of those noble spirits to whom the little finger of oppression was a weight too grievous to be borne, one of whom yet lives, and even now invokes—commands you to resist—be it so. We will at least have done all that the forms of our government permit, and enjoins us to do, and our rights will fall the sacrifice, not of our feeble acquiescence, but of involuntary submission to brute force.

HOUSE OF REPRESENTATIVES.

DECEMBER, 1830.

Resolutions reported by the Committee on Federal Relations.

1. *Resolved*, That the Legislature of the state of South Carolina, doth unequivocally express a firm resolution to maintain and defend the constitution of the United States and the constitution of this state, against every aggression, either foreign or domestic, and that they will support the government of the United States in all the measures warranted by the former.—*Madison.*

2. *Resolved*, That this Legislature most solemnly declares a warm attachment to the union of these states, to maintain which it pledges all its powers; and that for this end it is their duty to watch over and oppose every infraction of those principles which constitute the only basis of that union: because a faithful observance of them can alone secure its existence, and the public happiness.—*Madison.*

3. *Resolved*, That this Legislature doth explicitly and peremptorily declare, that it 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; and in case of a deliberate and 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.—*Madison.*

4. *Resolved*, That the several states, comprising the United States of America, are not united on the principle of unlimited submission to their general government; but by compact, under the style and title of a constitution of the United States, and of amendments thereto, they constituted a 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 that whensoever the general government assumes undelegated powers, its acts are unauthoritative, void and of no force. That to this compact each state acceded as a state, and is an integral party. That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion and not the constitution, the measure of its powers; but that, as in all other cases of compact between parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.—*Jefferson.*

5. *Resolved*, That this Legislature doth also express its deep regret that a spirit has in sundry instances been manifested by the federal government, to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases, (which having been copied from the very limited grant of powers in the former articles of confederation were the less liable to be misconstrued) so as to destroy the meaning and effect of the particular enumeration which necessarily explains and limits the general phrases; and so to consolidate the states by degrees into one sovereignty; the obvious tendency and inevitable result of which would be to transform the present republican system of the United States into an absolute government, without any limitation of power.—*Madison.*

6. *Resolved*, That the several acts of the Congress of the United States imposing duties on imposts, for the protection of domestic manufactures, have been and are, highly dangerous and oppressive violations of the constitutional compact, and that whenever the states which are suffering under this 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 act.

7. *Resolved*, That this state having long submitted to the evil, in the hope of redress from the wisdom and justice of the federal government, doth no longer perceive any ground to entertain such hope, and therefore that it is necessary and expedient that a convention of the people of this state be assembled, to meet after the adjournment of the ensuing session of the Congress of the United States for the purpose of taking into consideration the said violations of the constitutional compact, and devising the mode and measure of redress.

D. E. HUGER'S SPEECH.

The above Resolutions having been read, and the three first approved by the Committee of the whole, Mr. HUGER rose, and said—

ALTHOUGH abstract propositions are inadmissible in sound legislation, he did not object to the resolutions of Mr. Madison, as they had been disabused of all uncertainty by the able exposition of their distinguished author, and had been regarded, at the time they were adoped by the Virginia Legislature, as only referring to the constitutional remedies of "remonstance," "protest," "application to their members of Congress, to procure from that body the recommendation of such an amendment to the constitution as would prevent a recurrrence of the evils complained of," and "an invitation to the other states to apply to Congress for a convention of the people of the United States." These are the only constitutional remedies for unconstitutional legislation by Congress, independent of the federal judiciary. And to these the Legislatures of the different states are as adequate as conventions. To the two last, indeed, a convention is inadequate, as the constitution limits the first of these to the federal, and the last to the state Legislatures.

Mr. H. observed, that, as he understood the 4th resolution, it was perfectly harmless; but as it had not been explained by its reputed author, (Mr. Jefferson) and we have no means of ascertaining the intentions of the Kentucky Legislature which adopted it, he was unwilling to risk the consequences of borrowing from another state language so uncertain and so liable to perversion. He would, therefore, move to amend the report of the committee on federal relations, by leaving out the fourth resolution, and indeed all that follow it, for the purpose of inserting the following resolutions:—

1. *Resolved*, That this Legislature doth not recognize as constitutional, the right of an individual state to nullify or arrest an act passed by the United States in Congress assembled.

2. *Resolved*, That the right of the people to alter or abolish old, and constitute new governments, is unalienable in its nature, and paramount to all constitutions, but should only be resorted to in cases of great oppression, or palpable and dangerous usurpations.

3. *Resolved*, That any system of protecting duties, which shall destroy or essentially impair the commerce of the country, must be oppressive in its operation, and

destructive of one of the principle ends for which the federal constitution was adopted. But the people of this state, conscious of their own attachment to the union, will be slow to believe that the federal government will persevere in such a system, and thus force upon them the conviction that the great ends of the constitution are not to be accomplished.

4. *Resolved*, That this Legislature perceives in the enlightened and patriotic conduct of the present administration, sufficient grounds to hope that measures will be speedily adopted by the federal government, to restore harmony to the union, and purity to the constitution.

5. *Resolved, therefore*, That it is inexpedient at this time, to call a convention of the people, or adopt any other measures to embarrass the proceedings of the present administration.

6. *Resolved*, That this state entertains the hope that her sister states will co-operate with her in such measures as may be necessary and proper to maintain, unimpaired, the rights and powers reserved to the states respectively, or to the people.

These resolutions indicate the opinions he entertained on the subject referred to the committee. To the consideration of this subject he would proceed, oppressed by its importance; and enfeebled by indisposition; so feeble was he that he felt more disposed to seek rest and quiet, than to encounter the exhausting labor of a protracted debate; but said he, what the interest of my country demands, must be attempted; if I sink in the effort, I shall at least have the consolation to reflect, that I have done all that it was in my power to perform.

He observed, that the crisis was imposing, that on the proceedings of that committee, rested, in anxious solicitude, the eyes of the civilized world. Our ancestors had taught that man might be free, and was capable of self-government. He trusted that it had not been reserved for that committee, or this generation, to prove the lessons of our fathers delusive; that freedom was but a phantom, and that now, as formerly—here, as elsewhere, liberty must degenerate into licentiousness, and that to preserve the peace and order of society, more power was necessary than we had hitherto fondly supposed. He begged, that on such an occasion the committee would not permit their minds to be influenced by any other considerations than such as would justify their decision to the world and posterity. That to their judgments, and not their passions, the people of this state had appealed; that as far as he could, he had examined this subject dispassionately; that his only object was the happiness of the state, and if in the means of attaining that happiness, he had been mistaken, he would be grateful to any gentleman who would undeceive him: He trusted, with like disposition, all would proceed to the consideration of the report referred.

The questions to which he would beg leave then to call their attention, were—

1st. Are the tariff laws of 1824 and 1828 unconstitutional?

2d. Are they oppressive? and

3d. If oppressive and unconstitutional, what is the remedy?

It is said that these laws are unconstitutional. That the people of this state have so declared them in their primary assemblies; that the Legislature of this state has again and again decided they were unconstitutional, and that the only fit subject of inquiry on the present occasion, is the remedy. I cannot concur in this opinion; the authority of former Legislatures, and the people in their primary assemblies, is entitled to great respect, but is not conclusive. I should not satisfy my own conscience on so im-

portant an occasion, if I did not examine for myself the grounds on which these laws have been declared unconstitutional. I hope a majority at least of this committee, will not regard themselves precluded from this inquiry. Every one in this country has a right to an opinion; it would not be extravagant to assert that it is the duty of every citizen to examine and to judge for himself: but of this I feel confident, that it is the duty of every member of this committee to preserve, protect, and defend the constitution of the United States. This cannot be done until he has ascertained what that constitution is, and then decide every question arising under it, to the best of his ability. This is a subject on which no instructions can be given by the constituent to the representative. What the constitution means—what it permits, must be made to appear from the instrument itself, and that can be only done by individual judgment. To permit the constitution to be construed, as popular whim or party interests might require, would at once defeat its ends, and substitute therefor, the will of every accidental majority, the very evil of which we now complain. Let us then do what we require of others. Ascertain what the constitution permits, and abide the consequences.

Congress, it is admitted, has the power to lay and collect duties to any extent, for the purposes of revenue. So far then as the tariff acts are for the purposes of revenue, they are constitutional. But it is said, that although these acts are entitled "acts for raising revenue," they are in fact intended for the encouragement of manufactures. It is admitted that a court would not be authorized to look beyond the acts for their intention, and would therefore be obliged to regard them as constitutional; but if it be dangerous to permit courts to look beyond the acts for their intention, will any gentleman of this committee be so good as to say, why it would not be equally dangerous and inadmissible to permit a Legislative body, when exercising judicial powers, to do so? Courts are as well organized for the purpose, and more accustomed to the examination of witnesses and the sifting of evidence, than a Legislative body can be. The rules by which the courts are governed have been proved by the experience of ages to be the best and safest. The best and safest should be adopted by Legislative bodies as well as courts. If this be so, this Legislature will be obliged to declare those acts constitutional.

But admit that these acts are intended for the encouragement of manufactures as well as for revenue, are they therefore unconstitutional?—The power of encouraging manufactures has certainly not been expressly given to Congress; but powers have been expressly given, which if exercised must incidentally and necessarily encourage manufactures. At the date of the constitution, (and at this time) all civilized nations encourage manufactures, by regulations of commerce and protecting duties. In giving therefore to Congress the power of regulating commerce and laying duties, the encouragement of manufactures must have been intended. If the power to encourage manufactures had been expressly given, Congress must still have encouraged them by regulations of commerce and protecting duties. It may be doubted if Congress could encourage manufactures by pecuniary bounties, the power not having been expressly given; but this of all modes of encouraging manufactures, has been the least resorted to, and may therefore be safely supposed the least approved. It would have been idle to give Congress the substantive power of encouraging

manufactures, when experience had proved pecuniary bounties ineligible, and the incidental encouragement arising from the regulations of commerce most efficient and best. It was for this reason the proposition to give such power expressly, was negatived in the convention. It cannot be forgotten that the writers of the Federalist, when recommending the adoption of the constitution to the people, affirmed this power. That the second act passed by Congress after the organization of the government under the constitution, was entitled an act to raise revenue and *encourage manufactures*. That Mr. Madison, one of the most efficient members of the convention, and one of the writers of the Federalist, introduced this act into Congress. That General Washington, who had been President of the Convention, approved it, and that no opposition was made to the act on the ground that Congress had no such power. Mr. Jefferson, when President, had no doubt that Congress had this power, and in one of his messages pushed protection to prohibition. Mr. Madison, as well as Mr. Monroe, again and again called the attention of Congress to the encouragement of manufactures, not doubting their power to protect them by regulations of commerce and increased duties. An argument has been deduced from the 2d clause of the 10th section of the first article of the constitution, against the constitutional power of Congress to encourage manufactures. The words of the clause are, "No state shall, without the consent of Congress, lay any imposts or duties on exports or imports, except what may be absolutely necessary for exercising its inspection laws and the net produce," &c. From these words it has been supposed that it was the intention of the convention, to leave to each state the power, with the consent of Congress, to encourage her own manufactures by laying such protecting duties as she might deem necessary and proper, and consequently that it was not intended to give the power to encourage manufactures to Congress. It would not, however, follow, because any one state, in advance of the others, should be permitted to protect her manufactures at her own cost, that it was not in the power of Congress to extend protection to all as soon as they were ready for such a system.—Under this article, as understood by the argument, a state may have protected her manufactures; but under the power of regulating commerce and laying duties, Congress would still have the power to encourage manufactures throughout the states. But unfortunately for the argument, the 5th clause of the 9th section of the first article declares, "that no vessel bound to or from one state, shall be obliged to enter, clear or pay duties in another." If, therefore, a state should obtain permission from Congress to lay heavy duties on articles imported from abroad, with a view to her manufactures, her object would be defeated by the introduction of the very articles taxed by her, through other states, duty free. If Georgia, for example, should procure the permission of Congress to lay an additional duty on woollens, woollens would be imported into Charleston, for that state, and would, under the last recited clause, be conveyed from Charleston to Savannah, duty free—and thus would be defeated, not only the immediate object of their policy, but their commercial prosperity.—But the object of the 2d clause of the 10th section of the first article is very apparent, not only from the practice of the states immediately preceding the adoption of the constitution, but from the use which has been made of it since. Massachusetts, Rhode Island, Maryland, North Caroli-

na, South Carolina and Georgia, (and perhaps others) have, in succession, applied to Congress for permission, under this clause, to *lay duties* for other purposes, such as opening harbours, building hospitals, &c. &c.—(Acts of Congress.)

It will not escape the attention of the committee, that the intention of leaving to the states the encouragement of manufactures is here deduced, from the power given to lay duties, (with the permission of Congress,) and yet the power of encouraging manufactures is denied to Congress, although they confessedly have the power to lay duties to any extent and without control.

Had the tariff acts of 1824 and 1828, been entitled "acts to raise revenue and regulate commerce," it would seem that most of the objections already adverted to, would have been removed. It will not, I presume, be contended before this committee, that the omission of the words "to regulate commerce" in the titles of these acts, renders them unconstitutional. If Congress have the power to pass an act, it cannot be necessary to its constitutionality, that the clause giving the power should be recited in the preamble or title of the act. It has never been denied, that such powers as are given to Congress are supreme, and may be used to any extent, not inconsistent with the great ends of the constitution. There is no other limit to the war power; the power of borrowing money is unlimited, and so is the power of regulating commerce. It may not be improper to inquire what was intended by the power to "regulate commerce."—Prior to the last war, Great Britain supplied our markets with woollen and cotton fabrics, and yet would not receive in return our bread stuffs. Her corn laws have been, from the treaty of peace, cause of complaint to our people. As soon as it was discovered that her settled policy would exclude from her ports our corn, it became the policy of our government, to exclude as much as possible from our ports, her manufactures. At no moment, for forty years past, would our government have refused to her a "free trade." Had she received our corn (bread stuffs) on reasonable terms, we should never have engaged in manufactures. It was to counteract this selfish policy, not peculiar to Great Britain, but common to all nations, that the regulation of commerce was given to Congress.—The states did not separately, and perhaps could not, protect themselves. It may be here asked, if Great Britain would not receive our corn, ought we to take her manufactures? As she treats us, so I think, we shall all say, she ought to be treated by us. The lower the duties imposed by each on the exchangeable productions of the other, the more beneficial to us, and I believe to her. But of this we are not the exclusive judges; other nations must be permitted to manage their own affairs in their own way, and we must accommodate our policy to theirs. That the "power to regulate commerce" will be, and has been abused, cannot be doubted; our government is administered by men, not angels; and by men too, peculiarly exposed to the influence of sectional interests and party feelings. In our diversified country, the majority of Congress and a majority of the people will be frequently induced to adopt measures beneficial to the majority, and distressing to the minority. But this is the price of our free institutions. It is not now discovered for the first time, that a majority may be wrong; but it must, I think, be admitted, that the majority are much less apt to be wrong than the minority: if this be not so, repub-

licanism must be a dangerous fallacy, and the sooner we return to the "divine rights" of kings and princes, the better. If the encouragement of manufactures is a necessary result of the powers to lay duties and regulate commerce; if the convention so intended; if the people so understood it when they adopted the constitution; if from the adoption of the constitution to the present time, all entrusted with the administration of the government, have so thought, and so acted; if the states and people have for more than forty years acquiesced in this construction, this committee will be forced to the conclusion, that Congress have the power to encourage manufactures. However true this may be, Mr. Chairman, I can never be reconciled to the American system—by which, I understand, the prohibition of all articles from abroad which can be produced or manufactured in the United States. I do not know how much farther its eloquent but ambitious sponsor is disposed to extend it—perhaps, sir, he may not be satisfied with clothes from American looms, unless he is permitted to regulate the colour of the fingers by which the threads are spun—But of him and his unconstitutional project, I have no fears—the American people are too wise to be deluded by his genius, and if they should not resist his dazzling schemes, Carolina, if true to herself, can and will preserve her own peculiar policy.

As far as the American system is calculated to impair or destroy the commerce of the country, it may be unconstitutional—as one of the principal ends of the constitution was to protect and extend commerce, and as far as the tariff acts of '24 and '28 are a part of the American system, they have an unconstitutional tendency; but to what extent I must leave to this committee to decide. If Congress have perverted the power of "regulating commerce" to its destruction, they may have been guilty, in the language of the "exposition," of "a violation by perversion."

I have another, and I think, a more tangible objection to the unconstitutional tendency of this system. The constitution begins with this declaration, that, "We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America."

I would, sir, ask if one of these objects can be attained by the adoption of any system which is obnoxious to several states? To the manufacturing system near one third of the states are opposed, and strongly opposed. Can dissatisfaction lead to "a more perfect union?" Can a system, unequal in its burthens, be regarded as just? Will it promote domestic tranquility? Will it provide for common defence? Above all, does it promote the general welfare? Sir, I do not understand what is meant by the "general welfare," if some fifteen or sixteen states are to be gratified at the expence of seven or eight. The welfare of all the states, not a part of them, was intended to be promoted; and that system which enriches a majority at the expence of a minority of the states, will not promote the general welfare. A measure which would injure no state, but might enrich a majority, or even one, *might* not be inconsistent with the general welfare; but one, which does injure one-third or one-fourth of the states, though it benefit the rest, cannot be within the meaning of the constitution. As well might it be said that a father had provided for the general welfare

of his family, who had given his whole estate to two-thirds of his children and left unprovided the remaining third. Sir, the constitution was the result of a compromise. If it be not administered in the same spirit it cannot be preserved. I hope, I yet hope, this spirit will revive. That Congress will retrace their steps, and consent so to administer the government, as will promote the great ends for which it was established. Let us, at least, set them the example. Let us not pronounce *that* a violation of the constitution which judges cannot see, and which your own committee will not venture to assert is "palpable." Let it be remembered that it was only in cases of a palpable violation of the constitution that Virginia recommended state action. Let it be remembered also, that the action she recommended was peaceable and constitutional. If this will not do, which heaven forbid, be assured that no alternative remains but to declare ourselves independent of our sister states. Enemies in war, and only in peace, friends.

I hope, sir, no gentleman of this committee is prepared to say, that if the tariff acts were not oppressive, he would yet be disposed to arrest them as violations of the constitution. A violation of the constitution, *per se*, though palpable, can never justify unconstitutional resistance.—The sedition and alien laws, though palpable violations of the constitution, in the opinion of the Virginia Legislature of '98, were not regarded by her as sufficient grounds to sustain an appeal to the sovereignty of the state. The bank charter, the embargo laws, the system of internal improvements, and last but not least, the purchase of Louisiana and its subsequent adoption into the union, were thought unconstitutional. And yet no state has ever seceded from the union. Nor would South-Carolina be now agitated, if she did not believe the tariff laws oppressive. It would, sir, to me, be a matter of indifference whether a system pursued by Congress were constitutional or not, if it were ruinous to this state. I would alter and amend or change the government, if it did not answer the ends for which it was formed. It is then of the last importance to ascertain with precision the amount and character of the injuries of which we complain. If it be great and dangerous, we would be justified in the opinions of mankind in any resisance we might make. If it be small or only perceptible, it would be rashness to adopt any course of action, which might risk the union.

And what, sir, is the oppression we feel? As far as I can judge, we are more prosperous and happy than any other nation on earth. We are at peace with all the world. Our commerce, we are told by our own governor, is increasing; "that old channels have been widened and new ones opened to our trade." The planter procures for his cotton the Liverpool prices, after deducting costs and charges. Our great staples are as high as they were prior to the tariff of 1824. The most deluded do not pretend that the Liverpool market has been affected by our tariff. It is not then of any direct injurious effect of the system that we complain.

Let us then inquire what are the indirect effects of the system. Certain goods imported from abroad are taxed very high, and consequently these and similar articles manufactured at home, sell at an advanced price; if, indeed, the protection already afforded, and the consequent competition among the home manufacturers, has not reduced these articles below the price at which the foreign manufacturer could afford to

sell them in our market. The coarser cotton fabrics, it is believed, are reduced below this price; the most intelligent merchants are understood to be of this opinion; and the report of the Secretary of the Treasury in December 29, sustains them. He reports near two millions of dollars' worth of the coarser cottons shipped to South America, which would not have been exported, if the American had not been able to compete with the British manufacturer in that market. Both pay the same duties there, and encounter the same difficulties in every respect. If under the same difficulties, the American manufacturer can compete with the British, he must be able to undersell him in our own markets, where British goods pay revenue duties and other charges, incident to all foreign markets, and where the American manufacturer has to pay no duties, and enjoys the advantages of a home market. The object of the tariff is to encourage the manufacturer of coarse, rather than fine cottons. It was thought, and no doubt correctly, that in the infancy of manufactures, only the coarser fabrics should be attempted; as for these, less skill and less labor are necessary. If this be correct, it follows, that the coarser cottons sell, not only lower than they ever did before, but lower than they would have sold if the tariff of protection had never passed.

The coarser woollens, it is believed, sell higher than they would do, if the protecting duty were repealed, but not much higher; they now sell much lower than they ever did; they would probably have fallen from 5 to 10 cents a yard, if the protecting duty had never been imposed. But these are consumed to a much greater extent in the manufacturing, than in the staple states. They are necessarily more used in northern, than in southern latitudes. Of these, then, we have but little more cause to complain than the people in the northern states. It is not improbable that the farmers of the northern states receive, in a neighborhood market, for their produce, some equivalent for the higher prices they pay for their woollens. So far, the manufacturing system operates more to our injury than to theirs. But this, though objectionable, is not such an injury as would justify any measure which would risk the union—and this injury will lessen, as the skill of the woollen manufacturer increases. Woollens must fall, and at no distant period, will probably be afforded by our manufacturers as cheap as they could be imported. It may also be observed, that the high price of woollens is kept up in some measure by the duty on wool, and wool is common to all the states. So far as the price of woollens is increased by the duty on wool, it ought not to be attributed to the manufacturing system. It was imposed, not for the encouragement of the manufacturer, but the farmer.

Iron, too, has been taxed highly; but iron is also common to all the states. The north, as well as the south, is affected by this duty; but perhaps in unequal proportions. It is believed the consumption of this article is much greater in the northern, than in the southern states; and greater there than in proportion to our respective productions.

It is said, however, that all duties are paid by the exporters of our staples, and not by the consumers of the imports. If so, the southern states pay far more than their proper proportion or the expenses of the government; and the manufacturing system is principally, if not exclusively, supported at their expense. It becomes necessary then, to examine this position—the authority to which it is traced commands the highest respect.

It is, however, a novel doctrine, and must be confessed to be at variance with long established opinions. I will attempt an analysis of the operation. A planter sends or carries one hundred bales of cotton to Charleston—he there sells to the agent of a Manchester factory, for the Liverpool prices, after deducting costs and charges, say three thousand dollars—the cotton is shipped to Liverpool, and thence transported to the factory, where it is manufactured into cloth, which is in turn carried to Liverpool, where it is purchased by an American merchant of the New-York market; it is there entered and the duty paid, and afterwards sold. The purchaser or consumer pays the Liverpool price, adding thereto the cost and charges and the duty. If he does this, the duty is not paid by the planter—If he does not, the merchant must, for he entered them at the custom-house; but the merchant would not often do this, without incurring the consequences of bankruptcy; but in no case could it fall on the planter, unless he in turn becomes the purchaser or consumer of imported goods; if he purchases, he unquestionably pays the duty on what he purchases, but no more. If, indeed, a planter always expended the full amount of his crop in the purchase of such articles as pay duties, he certainly would pay as much as he would do if his cotton was charged with an export duty; but this never happens. No planter expends the full amount of his crop in the purchase of imported articles, and if he did, he would pay for consumption, not for exportation. It is true, if the planter should think proper to risk his $3000 in the purchase of hats in Liverpool, and ship them to Philadelphia, he would probably have to pay the duty, as hats are manufactured there as cheap as they are in Liverpool; but this would not be done by a merchant who is not acquainted with his business; he would take care to purchase nothing for the American market, which in that market would not sell for a sufficient sum to cover costs, charges and duties. If the planters do not expend the amount of their crops in the purchase of such articles as pay duties, and the whole of their crops go to Liverpool, and the amount returned to America in manufactures, it must follow, that what is not consumed by the planters, is consumed by others, and they pay the duties on as much as they consume. How much of his crop is generally expended by the planter, in the purchase of articles paying duties, it is difficult to ascertain; in most cases but little, in no case probably more than a fourth. If the planters should, on an average, expend one fourth of their incomes in the purchase of such articles, it would follow, that on every hundred bales they would pay six and a quarter for the encouragement of manufactures, and as much more to the support of government. This calculation is made on the assumption, that imported articles pay, on an average, fifty per cent. duty, one half of which is for the protection of manufactures, and the other for the support of government. It does not appear, however, from the annual reports of the Secretary of the Treasury, that much more revenue has been received than is sufficient for the purposes of government, although fifty per cent. are paid on imported articles. It may be that as much or more may have been received had the duty been twenty-five per cent. less. But this is conjectural, too uncertain by far to induce us to decide that more revenue has been collected, than was required for the legitimate purposes of the government. If no more has been collected than was proper, how can it be assumed that duties have been laid for other purposes than revenue? It will not be

denied that Congress have the power to discriminate the duties, to tax certain articles higher than others, and thus to protect incidentally manufactures.

If, sir, I have not been mistaken in the views I have presented of the incidental effects of the tariff acts, we have not sufficient cause to sanction any extra constitutional measures. We do not consume as much as our fellow-citizens beyond the Potomac, and the consumers pay the duty; the manufacturer is encouraged at the common expense of all the consumers in the United States; and such of the consumers as live south of the Potomac, have only cause to complain, because they have not a neighborhood market. I do not deny, I cannot be blind to the probable effects of this hated system on our commerce; if persevered in, and extended, our direct trade with the purchasers of our great staples, must be materially embarrassed, if not entirely destroyed; it is to this effect I look with most apprehension, but this is a remote and uncertain consequence. Congress may not persevere—I hope they will not—our apprehensions may be groundless—the mercantile spirit of our people is enterprising—new channels for commerce may be discovered. At all events, it will be time enough when experience shall have confirmed our fears, when commerce shall be seen to languish, to interpose the sovereignty of the state, to risk that government which has hitherto been regarded as a source of blessings to us all, and has received the applause and admiration of the civilized world.

Even when in the hands of southern men, our sectional interests were yielded to the general good. The valley of the Mississippi was acquired at the common expense for the general good, and yet to this we owe the depreciation of our lands, and the reduced price of our cotton. To this measure we not only submitted, but were its most zealous supporters, and were it to do again, we should approve the measure, from its military and political importance to the west; and it is to southern—to Carolina statesmen, we owe the exhausting system of internal improvements. But when, or where, did Carolina ever shrink from unequal burthens, for the general good? When has she ever asked one favor in return? Her soil bears no impress of the nation's hand—her shores know no guard but her own Palmetto; millions have been squandered on the ways of others, and yet our Charleston knows not, feels not, the benefits of a "common defence." It has been the pride of this state, to be generous and national, her representatives have never calculated the profits of office; they have been the devotees of honor, at the altar of patriotism. And shall we now alter our course? Shall we plan a new voyage, and calculate the profit and loss of being honorable, generous, and national? Sir, I know the world is becoming more and more mercantile; I am aware, it is thought, that the march of mind will stop nothing short of mathematical precision; but I must be permitted yet to doubt the propriety of regulating the honor of South-Carolina by the rule of three, of exchanging Washington's legacy for a ledger, or of reducing patriotism into dollars and cents. I may be wrong, sir, very wrong, in the estimation of such as have no country, who are floating in the political hemispheres, as stars deprived of their centripetal force; but, sir, can you—can the members of this committee—can the sons of those heroic men, who, side by side, with Washington and Greene, fought and conquered in the cause of America—can they calculate the benefits

of this union? Can they calculate the blood which their fathers shed at Brandywine and Princeton—the glory acquired at Yorktown and Trenton? Can they weigh this, all this, against four cents a yard on woollens? If they can, we have lost the most valuable part of our inheritance.

It is to be regretted, that human wisdom cannot equalize the burthens of society; that government cannot be so administered as to confer equal benefit upon all. From its commencement, the tendency of the administration of this government has been less beneficial to us than to others; but administered as it has been, our government has afforded us more happiness, more prosperity, than any other people enjoy, much more than we shall probably enjoy under any other government which the ingenuity of man can devise. This nation, sir, arose under peculiar circumstances; the wisdom and virtue which were elicited and matured by our revolutionary struggles, have never been equalled in any other age or nation. It is to this extraordinary combination of virtue and wisdom, that our present constitution owes its being. It may not be perfect, but let us take care how we change it—another revolution may produce other men; a Washington we have had—a Cromwell we may have.

But, sir, admit that the constitution has been violated—that the tariff imposes unequal burthens; are we therefore to call a convention of the people? What remedy could a convention afford? Some appear to regard a convention as empirics do their panaceas—a perfect cure for all evils, great and small. But, sir, can you, can this committee, countenance such quackery? Can it be thought by the honorable members of this committee, that a convention will embrace more talents, more wisdom, more virtue, than now exist in the state? Of the people of the state the convention must be formed; and what talent and wisdom have we, that have not been already put in requisition? This committee is as adequate to decide what a convention can do, as any convention that could be assembled. It has been supposed by some, that the constitution is a treaty to which the states are contracting parties, each of which, when acting in convention, is therefore authorized to declare any act of Congress unconstitutional, null and void, and to arrest its progress. That the states were sovereigns prior to the adoption of the constitution, is not denied. As such it was in their power to relinquish any and all the attributes of sovereignty. Scotland was once sovereign and independent; so was Ireland; but they are no longer so; they have blended their sovereignty with that of England, forming one nation, Great Britain. They had a right to do so, and their individuality is gone.

The question is, how far have the states relinquished their sovereignty? That they have not relinquished all they possessed, must be admitted; but that they have relinquished the greater part, I cannot doubt. No one can regret more than I do; the extent of the relinquishment. It would have been better for South-Carolina to have been more alone; but our wishes cannot give construction to the constitution. It in no respect resembles a treaty. The contracting parties are *the People*. It exhibits all the forms of a government. It provides a legislature, an executive and a judiciary for the government of the people. The laws passed by Congress are declared the supreme law of the whole country: they operate immediately upon the people, and not through the legislatures or governments of the different states. Congress has a right to declare war, &c. and no

state has a right to withdraw itself from the contest, or to make peace.—To adhere to, to give aid and comfort to such as Congress shall declare enemies, is treason. The judges, not only of the federal government, but of the several states, are sworn to support that constitution; "any thing in the constitutions and laws of the several states, to the contrary notwithstanding." The people in convention adopted it, and not their legislatures or governments. One branch of Congress is elected by the people of the United States, and although the Legislatures of the different states now prescribe the times, places, and manner of holding elections for this branch, yet "Congress may at any time, by law, make or alter such regulations." In short, the house of representatives is rendered as independent of the government of the several states, as they are of the government of Great Britain. These are not the features of a treaty, they belong to government; and the constitution of the United States is to all intents and purposes as much a government, as the constitution of any state. If the house of representatives is national in its character, the senate appears to be entirely federative. It represents the states in their distinct sovereign capacities; each state has not only an equal representation in that body, but the members are appointed by the respective Legislatures, independent of congressional legislation. The executive department of the government partakes of both characters, national and federative. The electoral colleges are composed of as many members as each state has representatives and senators; and should not the colleges give a majority to any one candidate, the president is elected by the house of representatives, voting by states. With these features, the federal must be regarded as a mixed government, neither national or federative, but partaking of both. The 9th and 10th articles of the amendments to the constitution recognise this character. "The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the *people*." "The powers not delegated to the United *States* by this constitution, nor prohibited by it to the states, are reserved to the *States* respectively, or to the *people*." If this be a correct exposition of the constitution, no state can by virtue of its sovereignty, interfere, but through its senators, with the legislation of Congress, unless it be by protest, remonstrance, &c.

Should Congress exercise powers not granted in the constitution, the federal judges can alone afford relief; they are constituted to decide all questions arising under the laws and constitution of the United States, as far at least as their peculiar organization will permit. In the case of Olmstead vs. Rittenhouse, the state of Pennsylvania thought herself aggrieved by the federal courts; the Legislature interfered; the governor ordered out the militia to prevent the execution of the process of the court; the marshal however prevailed; the execution was enforced; in consequence of which that state passed a "state right resolution," and called upon the other states to unite with her in supporting an amendment to the constitution, providing a tribunal to decide all questions of conflicting rights between the federal government and the states. It is believed that no state in the union seconded the amendment. Virginia, the champion of state rights, replied fully to the invitation, and insisted that such a tribunal was already established, (the supreme court) competent and eligible for the purposes contemplated by Pennsylvania. If this be so,

that state has abandoned that portion of her sovereignty, which would, if retained, have rendered an appeal to her sovereignty more plausible, and perhaps more efficient.

It is, however, contended, that under the constitution a state may arrest a law of Congress, and prevent its operation within her limits, until three-fourths of the states declare the act of Congress constitutional. This power is certainly not expressly given, and it is probable if such had been the intention of the convention, it would have been clearly expressed, for no feature of that constitution, for strength and character, is equal to this. It would have silenced the anti-federal opposition to the constitution, it would have satisfied Mr. Jefferson himself that the rights of the states had not been compromitted. General Hamilton and Mr. Madison, two of the most distinguished and active members of the convention, appear to have been totally ignorant of this great power. But it certainly does not follow as a matter of course that what they could not, or did not discover, does not exist. But if such a power does exist, it must be deduced by a more attenuated rule of construction than has ever yet been applied to the constitution. It is not expressly given; it is not expressly reserved; nor does it appear to be a part of the residum of sovereignty not granted to Congress. If it exist at all, it must be an implied or resulting power. It cannot be implied from the power given to two-thirds of the states to demand of Congress a convention of the people, for this is in no sense a call by the state for a convention; it may, if established, be the cause of frequent calls for a convention, but it is not in itself such a call; nor can it be implied from the clause which requires three-fourths of the states to concur in any amendment proposed by Congress, for Congress has proposed no amendment. It would be more analogous to infer, that until three fourths of the states had approved the veto, it was not constitutional. It was evidently the intention of the convention to prevent frequent alterations of the constitution, but two modes were therefore provided; each is much embarrassed, and that most which could effect the greatest changes. Two thirds of Congress may propose specific amendments to the constitution, which, when ratified by three fourths of the states, shall become a part of the constitution—the other mode opens a wider door to innovation, and is therefore more embarrassed. Congress, on application of the Legislatures of two thirds of the states, shall call a convention for proposing amendments, but these amendments become no part of the constitution until ratified by three fourths of the states.

If the veto, or right to nullify, cannot be inferred from any of the clauses of the constitution, so neither does it result from any power given. The states gave up much, but received little. There are, I believe, but two other powers granted to the states, the first is that of electing senators, and prescribing the mode of electing representatives, until Congress shall interfere—4th section of the 1st article; the other enables them to appoint electors of president and vice president—2d clause of the 1st section of the 2d article. From neither of these, I presume, will the veto or right of nullification be supposed to result. Had the veto or right of nullification been deduced from the mass of residuary power left with the states, it would have been more plausible; but this, I understand has not been pretended; but it is pretended, that as sovereign parties, the states possess the power to construe the constitution as they please, and to

interpose their power to arrest or prevent every infraction of it by Congress. This right is not deduced from the constitution, but is claimed under the law of nature and of nations. I am disposed to think, that in practice, it would make but little difference whether a state arrested the execution of an act of Congress, under the law of nations, or by virtue of the right of revolution. In both cases the appeal is to the sword. If either of the contracting parties to a treaty refuse to comply with any part, the whole must be abandoned, as the different articles must be regarded as dependant covenants. If, therefore, the constitution be a treaty, as soon as a state shall interfere to arrest the execution of an act of Congress, the whole constitution, or treaty, must be abandoned, and the parties must be left to the exercise of their natural rights, independent of all covenants; no more would happen if we resorted to the right of revolution; and this is the only remedy that a convention can afford, to which this Legislature is not competent. If the incidental effects of the tariff have not been oppressive, they may notwithstanding be dangerous, and it is, I admit, our duty to look to consequences. It is said, and apparently with earnestness, that if Congress have the power to construe the constitution as they please, and the states have no power to restrain them, the federal government is one of unlimited powers, and therefore dangerous —Congress, however, is responsible to the states and to the people.

The house of representatives is elected every two years, and the senators every six years. If they pursue a course disapproved by the people, the house of representatives will be changed by the people; if they act at variance with the wishes of the states, the senate will be changed by the Legislatures of the states. No bill can become a law, which has not the sanction of a majority of both houses, and is approved by the president, who in turn, must answer to the states and the people for his conduct, every four years. This, in fact, as well as theory, renders our governors amenable to the governed, and should a majority of the people, and a majority of the states, concur in approving an unconstitutional law, the judges of the supreme court have the power, and it is their duty, to declare it null and void. We have here the same security for a constitutional administration of the government, that we have in the states. This Legislature may pass an unconstitutional act, and if not arrested by our judges, would be enforced until repealed by a subsequent Legislature.—If a majority of the people, and a majority of the states, and a majority of the judges, regard an act as constitutional, the presumption must be that it is so. Can a reason be assigned for supposing the judges of the supreme court less able, less honest, or less independent than our own? We know that our judges have not scrupled to declare the acts of this body unconstitutional, when they thought them so. If the federal government can promote their judges, so can this state our judges. If in any other way the federal judges can be influenced, so can ours. It appears to me, Mr. Chairman, that what the wisdom of South Carolina has thought a sufficient protection against the usurpations of this Legislature, may be regarded as sufficient to protect the people and states against the usurpations of Congress. If, however, all this will not satisfy our jealousies, what will? Will it be pretended that one state ought to be able to control the rest of the states, and nineteen-twentieths of the people of the United States? Sir, I might be induced to believe that such a power, if confided

to South Carolina alone, might not prove injurious; but I would not myself be disposed to give this power to any other state in the union; and we could not very well recommend to our sister states to repose a trust in us, which we would be unwilling to repose in them. But if we were disposed so far to confide in other states, as to give to each a veto upon the proceedings of Congress, in what would the government then differ from the old confederation? The great evils which were then experienced, would again recur; the constitution and laws of the union would present as many different aspects as there are states. We should not only revert to our former feebleness at home, but to our former difficulties abroad; we should be neither prosperous nor respected. But the question is not what the constitution ought to be, but what it is; no such power is possessed by a state, and, I for one rejoice that it never was given. I abhor aristocracy; from infancy I have been taught to love the government of a majority; and nothing would reconcile me to a government which should give to a fraction of an unit a power over all.

Sir, I am aware of the distinction which has been taken between the affirmative power of making, and the negative power of preventing the execution of a law. This distinction would disappear in practice. Nullify or obliterate from the records of our country all that has been done by Congress, and what would be the situation of affairs?—Worse than could be apprehended from a monarchy. To no government, a despotism may be preferred. It is a part of the history of our government, that prior to the adoption of the constitution, so inadequate was Congress to effect any good, from the nullifying powers of the states, that many regretted the success of the revolution, and more were looking to monarchy, as the only cure for the total prostration of society.

Having discussed the various questions involved in the consideration of the tariff, I must solicit the indulgence of the committee, while I recapitulate briefly the conclusions to which I have been conducted.

That Congress possess the power to encourage manufactures, I have no doubt. That they may use this power to an extent which may defeat the great ends of the constitution, I believe. That the majority of the people, in pursuit of their supposed interest, have been regardless of the minority, I fear, must be admitted. That the agriculturists north and west of the Potomac, share with us the burden of supporting this system, appears to me evident. That they are compensated in a greater degree than ourselves for the duties paid, is not improbable; but that the southern states are oppressed beyond bearing, is neither supported by the conduct of neighboring states, or by our own consciousness. That the southern states are to receive no compensation from the system, for the burthen it imposes, I must deny. It is desirable that we should be independent of Great Britain in fact, as well as in law. It was the glory of our fathers to have dissolved all political dependance on Britain—It will not be inconsistent with the feelings and honor of their sons, to dissolve all commercial dependance. I have endeavored to show, that a state, cannot nullify or arrest the execution of an act of Congress, either under the law of nations, or the constitution of the United States, without risking the consequences of a national or civil war. That a convention of the people of this state, could constitutionally do no more than this Legislature, and indeed, not so much. That a convention may dissolve, but cannot preserve this union.

This brings me to the precipice, on the brink of which we stand; one step forward, and we are lost—lost forever to this union. And are we prepared for this. Can there be a heart in this assembly, which does not swell with anguish at the thought of immolating on the altar of discord, the recollections of the revolution, the glory of our fathers, and the hope of civilized man? Are our oppressions so great as to induce us to expatriate ourselves from the country of Hancock and Washington? To fly off from that constellation, which has hitherto lighted our steps to prosperity, and animated our bosoms to gladness? Is it true, sir, that our situation is so desperate that we must despoil our children of that inheritance, which we received from our fathers, coupled with a solemn injunction to transmit it to posterity? It may be so, but if it is so, Mr. Chairman, our fathers were the last of American patriots.

I know, sir, that the high minded and honorable men, to whom I am opposed, fear no consequences, apprehend no dangers, and even hope to preserve the union, by threatening it. I would trust much to such men, but when the honor and happiness of my country are at stake, I must calculate and understand the consequences of every measure, by whomsoever recommended, before I can be induced to move. As far as I am permitted to see—as far as I can penetrate the future, a convention must endanger this union, or wound the honor of my country. If the convention shall move forward—if it shall assume an attitude hostile to the government, and Congress shall recede, what, sir, must be the effect on this union? We shall have dishonored our own government. We shall have started the strands of that cord by which the states are bound together; we shall have fulfilled the prediction of its enemies; we shall have proved that the union is but little more than a rope of sand. If Congress should not recede, if satisfied that a state has no right to arrest their acts, they should proceed to enforce them, where then will Carolina be? In arms; aye, sir, in arms, one and all; no son of hers will stop to ask the cause, if at her bosom a blow be aimed—And can we look to such a catastrophe without horror? Can we proceed in a course which may lead to such consequences, without a perfect conviction that our honor and the happiness of the state demand it? Recollect, sir, this will be no contest between American and Briton; but between Americans, fellow-citizens, children of the same family, legatees of one political father, Washington the great.

Terrible to me as is this picture, I would, nevertheless, raise my voice, even for such a war, if demanded by the honor of the state. But let us take care, that we do not fall down and worship some false God. The honor of Carolina is not that of the duellist—it is not offended to blood, if her skirts are but touched—No, sir, her honor is of a more rational, more serious character—it demands nothing rash, it sets down naught in malice, it commands us to do no wrong, and is satisfied only when we do what is approved by reason, judgment and prudence. Sir, I know, that we, who are opposed to what we believe to be rash, unconstitutional measures, have been called submission men. I accept the appellation for myself. It has been the pride of my life, to submit to the laws of my country. To her will, even without the obligation of a law, I have always submitted, and I hope to persevere in so doing, to the end of my last days. Sir, I have no interest, no expectations out of this state. Here I was born, and have lived, and here were born my ancestors unto the third and

fourth generations. Their blood has enriched, their ashes have sanctioned unto me, this soil. Here live my children, and their allegiance, I trust, will never be changed. The recollections of the past, entwined with the hopes of the future, bind me to Carolina. How much I have loved her—how much I have honored her, I will not, I cannot calculate. To her partiality I owe all that I am; she encouraged me in youth, she confided to me in maturity; and now, when about to seek in her bosom, the everlasting resting place of my fathers, I can have no motive, no object but her welfare. When I left the high and honorable position in which she had placed me, to re-enter these walls, I abandoned all hopes of future preferment. It was only the completeness of the sacrifice which would satisfy my devotion. I may be wrong in the course which I have recommended, but I cannot be wrong in the motives by which I have been influenced. Should a convention be called—should Carolina be torn from her sisters, I will abide her fate—she has been all to me, and for her I would sacrifice my all.

[*In consequence of* Mr. Wm. R. Hill's *Speech (being next in order of debate) not coming to hand in season, the Publisher has been compelled to follow on with the next in order.*]

J. P. RICHARDSON'S SPEECH.

Mr. Richardson said, That on a subject so important, and on an occasion, to him, so *novel*, he could not but rise, under feelings of embarrassment, almost overpowering him. But that a higher sense of duty than even these difficulties could control—an obligation which none but a traitor dare disregard: his constituents, his conscience, and his country, demanded this sacrifice of feeling from him, as unworthy as it was; but certainly the most painful and unpleasant, that he could be required to make. He had accorded with the proposition which had been made, to take the question on the subject without debate; because, as the instructed agents of the people, the opinions of members were neither susceptible of change or impressions. He asked, if coming as they did, from amidst the bosom of their constituents, with their understandings enlightened by all that reason and argument and eloquence could elaborate,—with their decisions matured by the frequent occasions of discussion, produced by the conflict of opinions, and with the sentiments of the people impressed upon their convictions, in the most solemn and imperitive manner—was it within the influence of a discussion, however able or animated, to pervert or efface determinations so deliberately formed? But, if the committee must engage in a discussion so elaborate, he hoped that it would assume a spirit and character, comporting with the dignity and importance of a question, which, in the conception of at least one half of the citizens of the state, periled their peace and their liberties, and which nothing but their voluntary approbation could justify, and nothing but an unanimous impulse could render successful. Before, however, he proceeded to enter more

fully into the discussion of the subject, he must protest against the influence of an impression, which he believed was the predominant motive of the advocates of nullification, but which he could assure them, was as fallacious as it was dangerous.

He said, that gentlemen, in the course which they proposed, seem actuated rather to preserve consistency for the character of South-Carolina, than to obtain redress for her wrongs.—That they urged with a sensibility that seemed only to regard her consistency—that the honor of the state was committed by the resolutions—the remonstrances—the protests and expositions, by which, the assumed powers of the federal government had been denounced, not only to sustain, but to advance in the controversy.—That she was pledged, not only to preserve an attitude of moral resistance, but by the exercise of power and violence to correct the abuses of the constitution.

He believed, that on this ground, there existed a broad and obvious distinction between the state rights party of 1825, and the nullifiers of 1830. The objects of the former, were the reformation of political abuses—the ends of the latter would be revolution and civil war. He contended, that in a conflict of opinions between parties appealing to the constitution, that principles could be vindicated without violence and sustained without warfare. But if, as it has been said, a progressive course of resistance was the only consistency with the previous attitude of the state; should it not startle at the terrific precipice, when it interposed to arrest that progress? or should it leap down to certain destruction for the sake of consistency? He said, there was no justice in reproaching South-Carolina for startling at dangers, to encounter which, was not patriotism, but sacrifice.—And least of all, would it be befitting in this Legislature to rebuke the confidence of a people, who, in the guilelessness of their hearts, and in the warmth of their affections, had followed its banner in the contest with federal power, from resolutions to remonstrances—from protests to expositions; and had never even paused or faltered, until another step must plunge them into civil war. And now that their awakened senses revolted at the discovery of dangers, into which their confidence in our wisdom had beguiled them—would we reproach them for the very confidence which lead them thus far? He asked, if we could now be told with propriety, that we have proceeded too far to recede, or even to pause with honor; if we may not in the farther progress of resistance be told with greater truth, that we have advanced *too far* to retreat with safety. If the suggestion was potent now to impel us in an onward course, would its efficacy be lost when we approached to the brink of disunion?

Mr. R. said, that the character of South-Carolina could be successfully vindicated from a charge of inconsistency, in not following up her principles with violence and force. That her attitude towards the general government since 1825, had been one of moral resistance to violations of the constitution, contemplating neither hostility nor violence. That her conduct and opinions had settled upon principles, to maintain which was safety and honor; but to deviate from which, on either side, whether urged by the madness or the timidity of her statesmen, was destruction or disgrace. To rest upon the moral basis which she has thus assumed, with a spirit which is neither to be bribed by its spoils nor its plunder, to sanction violations of the constitution; and yet to forbear from a revolutionary

violence, even while writhing under an oppression that reaches the circumstances of every man, shews that our struggle is not for profit, but for principle. Whether that high moral eminence was to be maintained, was to be decided by this question—on which we stand as the defenders of her rights, with reason and patriotism as our allies; or from which we must be dragged by the violence of our opponents, to mingle in a revolutionary strife, and contend for our country or our state, as the prize or the victim. He acquitted, he said, gentlemen who were advocating the measures to which he was opposed, of being actuated by such motives; but that it was the inevitable consequences of those measures, if pursued, he thought as certain as the existence of the republic. Innocent as a convention may abstractedly seem—he asked, if it was not to lead to state interposition, by which its advocates meant the extermination of the American system from the domains of South-Carolina, at the peril of her peace, her liberties, and of civil war? Was it not intended as another act in the series of causes, by which (if the general government should not be frightened from its position) they would approximate to consequences so awful? In remonstrating, have they not been called on to express indignation at their unheeded complaints? And in threatening, would it not be demanded of their consistency to execute their vaunting, until a conflict of opposing interests, arising in the purest republic in the world, becoming a strife for mercenary objects, will finally engender a war for principle, and embitter passions, that can only be appeased by extermination on the one side, or extinction on the other. And this he said, on a subject on which there certainly existed an *honest* difference of opinion. On an infraction of the constitution, certainly *apparent* to us, who felt its baleful effects, but not to those who were benefitted by its operation. Neither so gross, so palpable, nor so deliberate, but that it escaped the sagacity of a Calhoun and the comprehensive intellect of a Lowndes in 1816, and the acute discrimination of a Madison in 1828. With all the lights of experience, and all the aids of contemporaneous exposition—with a hand practised in forming, and a mind familiar with all the elements of the government—with the ability to expound and administer it; this is the gross, *palpable*, dangerous, and deliberate infraction of the constitution, which escaped the observation of such a man, and which we are called upon to resist with the most tremendous engines of state power. He did not wish to be understood as according any thing to the constitutionality of the system of protecting duties; he considered it as a flagrant and a wanton abuse of the constitution. Nor did he wish to be considered as implicitly subscribing his opinions to Mr. Madison's, or any other man's. He was accustomed to judge of the constitution, neither by commentaries, expositions, nor other men's opinions. He judged of it by its letter and its context, with a spirit, neither to add to, nor abstract from its powers. But to those who, on former occasions, so liberally quoted Mr. Madison as authority for this doctrine of state interposition, and as a competent tribunal to decide constitutional questions, he could now triumphantly reply, that Mr. Madison was the best expositor of his own meaning; and now that his opinions were explicitly declared on the side of the question he advocated, it should be no less potent with those who had attached so much importance to their supposed conformity with their views.

Mr. R. said, that the gentleman from York, (Mr. Hill,) who had just pre-

ceded him, had entertained the committee with a history and description of parties, whose contentions have agitated the government, from the foundation of the constitution to the present period. As little versed as he was in the chronicles of party warfare, he had nothing to object to the history given by the gentleman. Nor did he feel it necessary to vindicate any party, to which, by the nature of his opinions, he might be supposed to be attached. He would rather seek for his justification in the character of the times and age in which they lived; and of which, in imitation of the example of the gentleman, he would attempt a description. He said, they lived indeed in an age which the founders of the republic, in their worst apprehensions, could never have anticipated, and which their spirits, if they could descend upon the earth, would not recognize, as the emanations of that form of government, which they had done so much to establish. We had lived, he said, to see our country agitated, and almost overwhelmed, by the contending billows of parties—we had lived to see our government tottering, like a ruined fabric upon its base—we have lived to see the tongues and arms of their descendants, employed to curse, and ready to tear up this monument of their fathers achievements from their graves, and contend over the fallen temple of liberty, not to preserve, but to destroy it. This powerful revulsion of feeling to an object once so cherished and esteemed, had certainly been produced by strong and aggravated causes. Impious frauds had been committed on the constitution—salutary principles had been violated—the lawless ambition of statesmen, and the reckless avarice of some states, have plundered our rights, and driven the government headlong and furious, into the most extravagant and iniquitous excesses. Human nature is impatient of injuries; and those who suffered, too indignant to awaken the justice of the people, and await the effects of public opinion, rushed at once to a desperate course, denouncing those who joined not in their anathemas against their country, as cowards and recreants, deriding patriotism as idolatry, and reprobating it as treason to love the country of Washington. He did not claim for himself, or those with whom he was associated, any greater pretensions to the character of patriots, than the rest of his fellow-citizens. But when they were called traitors for their devotion to their country and their attachment to the union, they were proud of the epithet, and felt like the descendants of the rebels of '76—that it was the deed that qualified the name, and that even a halter bestowed a glorious death, when associated with patriotism. And as to being cowards for deprecating the horrors of disunion and civil war, let it be remembered that the time had not yet arrived, to discriminate between the vaunters of prowess and of patriotism, and the achievers of deeds of heroism and of glory. And when that time does come, let gentlemen be assured, that they who are most earnest to prevent it, will not be found among the recreants from our father's glory, or fugitives from our fathers tombs. We can perish with them, if it needs must be so, amidst the flames of our dwellings, an offering and a sacrifice, to atone for the unavenged injuries of the ruthless invader, to an outraged country and a desolated home.

But the gentleman from York, relies upon the efficacy of a state veto, or interposition to redress our wrongs, and considers it as both an effectual and peaceful remedy.

Whatever measures are attempted by South-Carolina, to resist the laws

or change the policy of the federal government, otherwise than by acting on public feeling, must be resolved into state interposition. And however we may presume upon the fears, or the weakness of the federal government, (and the whole theory of state interposition is founded upon that supposed imbecility); yet all modes of resistance, otherwise than by operating through popular opinion, on the responsible agents of the government, must terminate in an issue, between the power of a state to oppose, and the ability of the government to administer its laws. This must be the final issue of the question; and if this power of state interposition, mean any thing but the mere influence of its authority upon the public mind, it should be the exercise of a power derived (as the gentleman claims it) either as a perfect, or a constitutional right. If it were the first, it would be exclusive—could be exercised without injury to another, and could be subjected to no arbitrament whatever. Now, according to the nature of the compact, a part of the rights of each state, are merged in a common government, for common purposes, in which, the principle is conceded, that they are to be controled by the decision of three-fourths of the states, composing that government. We cannot, therefore, be said to enjoy a perfect right, which we have subjected to the control of a higher power; and if it be a constitutional right, it must be by a mode prescribed by the instrument itself, for arresting the evil. And where shall we find it?—Can we point to it? The gentleman derives it by implication; but while we so justly declaim against construction, let us not use or abuse it for our own convenience. The constitution gives supremacy to the government of its creation, and subjects its powers to no other limitations, than what its own provisions prescribe. That it is a revolutionary right, we all concur in admitting; and will unite too, I hope, in staying its mighty torrent, until the evils which are to be removed, shall become more intolerable, than the devastating effects to be produced.

In the untried and hazardous course, then, of a state interposing its reserved and sovereign rights to check the powers, or arrest the usurpations of the government, and as it were stepping within the circle of its tremendous wheel, to arrest its revolutions, or be crushed in its career, it becomes necessary to estimate the probability of success, and to understand the manner in which it is to be accomplished. That the government is to be frightened from its position, and to vacillate in its policy, according to the aspect of the times, we have no right to presume. Its measures are the results of fixed and deliberate determinations—they have been pursued amidst all the portents of the times—the dangers and the difficulties were before them, and they will be as permanent as the convictions, or delusions, under which they were established. They cannot, then, be removed by the ordinary means of state interposition; and if this state interposition be exercised with a determination to effectuate that object, all our present efforts are but intermediate steps to the contest, when the ascendency must be determined by the strength of the parties. If South-Carolina, therefore, interpose her sovereignty, to check the exercise of powers by the federal government, presumed to be unconstitutional, and she bases her opposition to the tariff, and other unconstitutional laws, upon the presumption of a sovereign right to do so, that opposition cannot stop short of any extremity to which the contest may carry it; nothing but the obstinacy or the weakness of the parties can decide it—nothing, in short,

but the sword; for the very principle contended for, would then become a question of sovereignty. And if, now, by this inflexible attitude, we are to establish the principle, that South-Carolina is either to arrest the course of the government, or progress by a series of acts to the extreme point of the controversy, what is to stay a conflict of strength, or prevent the impending combat? Would we demand of the stronger party, concessions to our threats, and the sacrifice of their principles to our opinions?—Would we require of twenty-three states to submit and crouch to the dictation of one? And yet such would necessarily be the issue, unless we suppose what is far more improbable—that South-Carolina herself would shrink in an hour of peril, which her own rashness invoked, or blench at the aspect of a danger which she had dared in her anticipations to encounter. No, sir! you could not carry the feelings, or the indignation of the people of this state, to such a point, and dare to persuade them to the disgraceful and discomfiting abandonment of a principle, which their honor would become engaged to defend, and their feelings enlisted to sustain. Be the issue what it may, South-Carolina would never make a mark of defiance which she dare not sustain—she would never take a stand upon principle to betray it at the first approach of danger—she would never vaunt of her rights and her prowess to desert the one, or fly from the trial of the other—she would never erect her standard to leave it, without a blow in the hands of her conquerors—she would end the contest as it began, on principle; and if she could not sustain principle, she would fall with honor, and perish with renown---she would draw the drop of blood and oceans would flow---she would strike the blow, and who should count the last.

This then is the practical illustration of a doctrine, which places a state in the attitude of a judicial tribunal construing the rights, and determining the powers of the federal government—and of course under all the accompanying obligations, (paradoxical they are,) of protecting the enjoyment of the one, and restraining the exercise of the other! This is a government without a name, and without a character of which it would form ours. Exercising a supremacy over its constituent parts, and yet under the control of every one of them—with the sword in one hand and the purse in the other, and yet under the subjection of a latent power in the states, to suspend the one in the midst of a battle, and close the other against the most imperious requirements of the faith and credit of the nation. And this is the doctrine, and this the state of things, which are said to be necessary to the rights of the states—to allay jealousies—produce harmony and confidence—and of which it is demanded of us to predicate our resistance to federal laws. And are jealousies to be allayed, and harmony and confidence produced, by attaching an imperial veto to twenty-four discordant parts and conflicting interests. Either those parts must become separated or disjoined by frequent collisions, or the greater must absorb and consume the minor interests—it must either be the distraction of a Polish diet—or necessity must justify the corruption which barters away public opinion. To suppose that harmony, concert, or union, can exist in a government of such a formation, is to presume upon the existence of a perfectability, utterly unattainable in morals as in politics, and of which our example is any thing but a practical demonstration, since discord is produced by the mere presumption of a right in the states, (claimed by some and denied by others,) to judge of constitutional infrac-

tions, and to become not only the arbiter of their own, but of the rights of other states. And while so claimed, is it forgotten, that a doctrine which seems so favorable to the authority of the states, by subjecting the operations of the federal government to its control, must terminate in the subjection of the states to each other? and sometimes of twenty-three states to the dictation of one? Is it forgotten, that the states have severally and jointly delegated in trust to the federal government, all powers necessary for defence and external communications—in short all powers necessary for peace or war; and that under the influence of a state veto or interposition, the exercise of the powers so delegated, can be arrested at any moment of time or in any emergency of the occasion? Have we forgotten that a Carolina convention, although originating from the purer and better motives of arresting federal usurpations, would yet be a good example and an approved authority, for the mercenary sensibilities of a New England convention—suspending the sword of an injured country, uplifted to protect her commerce and defend her rights, in the moment of battle and of victory? Yes, sir, this is the state interposition, which we cannot appropriate to ourselves, without also committing to the exercise and discretion of every other state in the union, which we might use now for purposes hallowed and proper—but which may be abused then for treason and crime. Let us not then, sir, for the convenience of present objects, open a breach in the sacred walls of the constitution, which the discordant hands of twenty-four zealous states can never repair—which must widen with the progress of time, and through which the spoiler and the usurper will follow, not as the imitators of our example to preserve and defend, but to devastate and destroy.

But I would ask, sir, if it be not intended by a convention to engage in the defence of a principle, for the maintenance of which, we are to be bound to every and any extremity? I would ask, if it be not contemplated through that convention, to test the efficacy of a state veto or interposition, to arrest the operations of the government? I ask, if we do not by the exercise of that interposition, assume an attitude, that as a single state, without the alliance or co-operation of any other, South Carolina can effect a change in the policy and measures of the federal government, and by its direct interference as a sovereign state control the acts of that government, ostensibly created for the benefit of all, and in the exercise of which she is entitled to no more than an equal participation? If these things be denied, I would ask, why then urge a resistance that means nothing or effects nothing; which would otherwise be intended to yield to obstinacy, and succumb to the first exhibition of defiance? And where now, sir, are the peaceful and effectual attributes as a measure of redress, which the gentleman has so confidently ascribed to state interposition?

But the gentleman says we have nothing to hope for from the cupidity of the majority, which has oppressed us with these onerous exactions. And while I concur with him in deprecating the corruption of the politicians, who constitute that majority, I cannot identify them with the majority of the people of the United States. I cannot believe in the voluntary debasement of the whole people, and entire population of the eastern and western states. I cannot believe that so many states and so many million of freemen, would willingly consent to the prostitution of their constitutional rights and the destruction of their chartered liberties. Such a be-

lief is discordant with the very idea of a republic. They may be in that state of delusion from which the wisest of statesmen or the best of patriots are not exempt. But if we cannot believe them as a people, capable of a voluntary abandonment of all their rights and privileges, we must believe that their ears are yet open to truth, their hearts to justice and their understandings. Such eloquence as has been employed to excite the feelings or confirm the convictions of our own citizens, would arouse *them* to defend the constitution, as much their charter and their hand as ours. The press, if we did not obstruct its circulation by a wanton abuse of those by whom we intend it to be read, would awaken them to a sense of their danger and our wrongs, and press the solemn conviction to their hearts. The practical effects of the tariff, if they are such as we anticipate, will dispel their delusion. It is our creed—it is our prediction—that commerce will stagnate under its baleful influence—that our flags will disappear from the ocean—that our population will become riotous and demoralized—and our country under the dominion of capitalists and speculators. Beholding these things, the countrymen of Hancock, the descendants of the puritans and of the champions of Lexington, would come with purer hands and better hearts to minister at the altar of their country.

But the gentleman has triumphantly pointed our hopes to a convention, as a remedy for every evil, a redress for every wrong, and a balm for every infliction. And while those who advocate this expedient, claim a peculiar orthodoxy for their opinions that proscribes its opponents as the adherents of federalism, let me ask, sir, how long since the state rights and convention parties have been identified? In 1825, when a distinguished member now upon this floor, advocated a reference of our difficulties with the general government to a convention, was there a responsive echo to the sentiment? Not one sir.

In 1828, when the subject was again agitated, how many converts had been obtained to the doctrine of the honorable member, who again with renewed efforts and increased abilities, advocated the propriety of an appeal to a convention of the state,—still few, sir, and among those few, scarcely any who had been clothed in the panoply of the state rights and radical party. If the convention and state right party are the same, then there is an essential difference between the state right party of this day and the radical party of 1825.

A convention is an elementary state of society---above all laws---superior to all constitutions---with the power to create and destroy all political associations acting on the people which it represents. For all state purposes its powers are ample and plenary: even to tear up our state constitution into shreds---to alter our system of representation---to do, or to effect any thing that the sovereign people, in their original capacity, can do. All these, convention *may* do---because, all these convention *can* do. I am sustained, sir, in this definition, by the authority of our late executive, (Stephen D. Miller,) whose opinions not only derive weight and importance from his station and experience; but from his reputation as one of the ablest constitutional lawyers of this state, accorded by universal consent. He says, emphatically, in his message---"that a convention is *paramount* to all constitutions." It is true, then, that a convention can abrogate all laws---annihilate all constitutions acting on the people it represents. It can secede from the union---separate from the states, and nullify the tariff law

in South-Carolina. These are its only effectual expedients; and in this elaborate discussion, I have heard no other suggested or proposed. With these, therefore, as its specific objects, it can be called for no other purposes, and those who advocate a convention, must approve the only expedients to which it can resort, and virtually instruct that convention to nullify or secede. If, then, the time has arrived, when South-Carolina must dissolve her connections with her sister states, let her retirement be graced and dignified by a consistent demeanor, and a candid exposition of her intentions. If she must depart, let her state in the spirit of candor and sincerity to her sister states, that the compact being onerous, its advantages unequal, and its burdens oppressive and unjust, that she will retreat from the political circle in which they had revolved together, and sway an undivided sovereignty over her own dominions. Assuming this right, she would dissolve the allegiance of her citizens to the federal government, and place them in an attitude to resist, without committing treason to their country; and if per chance they haplessly fell beneath the power of their foes, on the field of battle, they dare not reproach them as traitors, or write the unholy word upon their graves.

But could South-Carolina dissolve the allegiance of her citizens to the federal government, by nullifying its laws? Certainly not, sir. Nullification, as the gentleman's argument has demonstrated, is not the assertion of sovereignty, but resistance to a government, to which, while even in the act of hostility, she professes to belong. She would then stand in the attitude of a party, violating the conditions of a league, without dissolving the league itself, and deemed guilty of treason to the confederacy. If a convention could abrogate the tariff law, in every state, and in every part of the United States, then indeed it might be possible to oppose the law, without resisting the government, because an abrogated law could not be enforced. But a convention of the state could only be called to nullify the tariff law in South-Carolina. South-Carolina would not, by nullification, renounce her allegiance to the federal government---the gentleman from York, and its advocates, disclaim its tendency to do so; but she acknowledges, in the very act itself, her allegiance to a government, whose laws she defies and tramples on. If resistance upon the part of this state, could be extended exactly to the point, where force and coercion upon the part of the federal government commenced, then, indeed, there might be safety; but there would be disgrace in nullification. Could South-Carolina be capable of such conduct; or would gentlemen advocate such policy? No sir, never. And are we then to suppose, that we should be permitted as a peculiar and a favored people---a perfect Israel---to exempt ourselves from the operations of a law, which we declare to be so grievous and intolerable, while every other state in the union must endure its effects? No, sir; they would rise at once to imitate our example, or enforce our obedience. The first they would not attempt, for they disapprove it; force would then be the alternative---subjection or disunion, the consequence. And where, sir, are the southern states in this contest? Are we told that it is not South-Carolina alone, but the moral sentiment of all the other southern states, that is arrayed against the abuses of the constitution? In repelling and denouncing violations of the constitution, we are indeed supported and sustained by the moral reprobation, of all the other southern states. But we would place ourselves in the advance of

that sentiment---we would become the sole champions of southern rights---we would assume to ourselves the sword, the lance, the helmet, and the cuirass—and in this new order of political chilvalry enter the battle lists to vindicate and achieve a cause, not more peculiarly our own, than that of all the southern states. And why are they laggards in a cause, as much their own as ours? Why is the inexpressible honour of being foremost in the point of danger, and first in the van of peril, reserved to South Carolina. In a scramble for interests would it be so? Would our sympathising friends so generously reserve the first spoils for our hands, or so particularly await for the accomplishment of our purposes and the attainment of our objects. No sir. Let these reflections then speak an instructive language to us. If we must crusade for southern rights, let it not be with the *sympathies* only, but with the active co-operation of the southern states.

In this new and untried experiment, the shock of which is to shake our government to its very foundations—let us not be the blind agents of an inconsiderate or infatuated zeal. By reflection we may loiter on the way side, but it is easy by firmness and perseverance to recover our footsteps—we may speed by precipitation, but where there is neither safety nor retreat. The public prints have aroused the feelings of the people on this subject—our own expostulations have alarmed their fears, and awakened their apprehensions for the preservation of their liberties—we called upon them to think, to act, to resolve, and to instruct us, and amidst all that was spoken and written to infuriate and to madden them, their patriotic sensibilities revolted between the alternatives of violence done to their country, and injuries sustained by themselves. They are not with you, and you cannot act without them.

Even the spirit of a Madison is awakened by the excitement of the present, as it were from the tomb of former times—and as if in the trying difficulties of the moment, and in the warmest aspirations of our hearts, we had asked for the inspiration or the prophecy of such a man—and behold his voice has been heard among us, to warn and to instruct, like the appalling hand-writing upon the wall. He kindled the light to illumine—let us not convert it to a conflagration to burn and consume our liberties. To such authorities let us accord some deference—and if we must err, let it not be by a guilty precipitation.

[Col. PRESTON's *Speech should have been inserted next, but not being received, the publisher is constrained to leave it out of its proper place and go on with the next in order.*]

THOMAS R. ENGLISH'S SPEECH.

MR. CHAIRMAN: While gentlemen are meditating upon the nullifying state-right and very eloquent arguments of my friend from Richland, will the committee bear with me in making a few remarks upon this all-important and vitally interesting question. Until within a day or two past I had concluded not to trouble this committee with any remarks of mine.

I have been induced, however, to depart from that course by one circumstance, which I shall mention directly; meantime let me promise the committee, that I do not intend to occupy their time and attention longer than twenty or thirty minutes. I rise but for one single definite object, and that is, to give expression to what I honestly believe to be the feelings and wishes of my constituents.

My friend and colleague from Sumter, (Col. Richardson,) in his usual eloquent manner, has faithfully made known to this committee, the feelings and wishes of those whom he represents. As I represent another portion of the district of adverse politics, and as that portion which I represent will not suffer in comparison with Clarendon, or indeed any other portion of the state, in point of intelligence, patriotism, moral and intellectual worth, I deem it important that they too should be represented by an exposition of their political tenets. In justice to myself I must say that I took no notes from the eloquent arguments of my colleague. I will therefore briefly advert but to a single remark which came from him during the course of the debate. My friend argues that if we meet in convention, the moment we do so all law is superseded, and that consequently the constitution is endangered. Now sir, I am ready to admit that *eoinstanti*, a convention is got up, its powers as it were by magic rise parambunt to every thing else, because a convention is nothing more than the sovereign people met together, to whom rightfully belongs all power, and from whom it emanates whenever indeed it does emanate. But does that argue sir, that because the people have all power that they will exercise it to the destruction of my rights and privileges, that they will take from me my hard earned savings, sell me into slavery, or subject my wife and children to the galling yoke of tyranny? Does not the moral sense prevent it? Does not a sense of justice, propriety, and of those duties which we owe to one another all go against it. We are the same when met together in convention, governed by the same laws, and actuated by the same springs to action. But the fears of my friend in regard to the constitution appear to me to be also unnecessarily excited. Surely he must recollect that it is not necessary to call a convention for the purpose of altering or amending the constitution. The constitution has pointed out a more eligible plan of procedure. But it appears to be proper to advert, for a moment, to the difference between the state of South Carolina and the other states. I recollect no other state whose constitution may be changed without a convention of the people. This is the case in Virginia, which was under the necessity of calling a convention about three years ago, for the purpose of re-modelling their constitution. And here I would remark, that the framers of our constitution never intended, when they made provision for the calling of conventions, that one of the objects of convention should be to change the constitution.

I regard it as one of the greatest securities that we have, not only for the existence but the permanency of our free republican institutions, that all those powers not expressly given up to the general government, are reserved to the states to be exercised by them whenever they think fit. Take away this, and you remove the grand corner stone of the temple of our liberties, which has been erected in this western hemisphere at the expense of the treasure, and blood, of our glorious fathers and heroes of '76. Take away this, and you reduce this government with all its

beauties, perfections and excellences, to one grand consolidated government in which the states with all the rights and privileges incident to sovereignty, are reduced to the insignificancy of petty dependent provinces under the immediate direction and control of the general government. It is the *caput, principium et fons* of our *magna charta*, the federal constitution: and consequently entitled to our highest regard and most attentive consideration.

If this clause in our constitution be no unmeaning fallacy, it follows that so long as the general government confines itself to its legitimate sphere of action, we are bound by an oath, one made and recorded before men and angels, by the obligations of a compact or solemn treaty, to yield a ready and willing consent thereto. But it also equally follows, that whenever it assumes to itself new powers, or claims jurisdiction where it has notoriously never been granted to her, her actings and doings, carry no more obligations with them to enforce obedience on the part of the states, than the actings and doings of the Dey of Algiers or the Emperor of the two Russias. The truth of my position is by no means impaired by the broadness with which I lay it down. I repeat it, whenever therefore, we wish to test any legislation of the general government by this rule, we need determine but this one thing—whether the power has been given to the general government. But here I confess is the difficulty with a great many who are at a loss to determine who are the proper judges of infractions upon the federal constitution; and indeed this subject alone presents a wide and fruitful field for speculation, and one over which my able and learned friend from Richland, has travelled and blazed out the way. It must then suffice for me to say, that I believe that there can exist no other umpire or judge, in collisions or differences of opinion, about great fundamental constitutional rights between the states and general government, than the states themselves. For a sovereign, while he maintains his power, to be bound without his consent, is an unmeaning fallacy—it is equally so with states. How can a state be sovereign, and yet bound by any tie against her consent? The very idea of sovereignty, excludes every thing like compulsion or necessity.

I do believe that the tariff laws of which we complain are unconstitutional; and I do believe further, that a large majority of this house, and a still more overwhelming majority of the people of South Carolina, coincide in opinion with me. I hear it responded on all sides, that the laws are unconstitutional, and that the obligation of the oath which we have taken to protect and defend the constitution of this state and of the United States, binds us all to resist it. I feel glad that there is no other difference among us than that in regard to the *quo modo* and *quo cum*, that we are so far together in point of unanimity, as to differ in nothing, save that in regard to the time when and the manner how. Various remedies have been proposed for the redress of our grievances and the removal of our difficulties, each claiming to be an effectual catholicon, a *cure-all*. But the most approved as well as the safest plan, to set about getting rid of these evils, seems to me, is to let the people determine for themselves what course is most proper to pursue. For it does appear to me, that in the transaction of all grand and vitally interesting matters, the people should as immediately as the nature of the case will admit of, that is directly in their primary meeting, have the agency. If this principle be true, it is applicable to the

matter in hand, and consequently entitled to our most attentive consideration.

There are two things which appear to me to be proper to claim our consideration: 1st. the constitutionality, and 2nd. the expediency of the proposed remedy. Of its constitutionality, I am satisfied when I read that whenever two-thirds of both branches of the Legislature shall think fit, a convention shall be called. It evidently appears to me, that the wise framers of our constitution intended to throw as much restraint around the Legislature in exercising this power as they possibly could. But it by no means follows that they were not convinced of the expediency, propriety, and absolute necessity of the people's being called together in convention, to act and determine upon weighty and solemn matters, that immediately affected their rights, privileges and sovereignty. Indeed if the wise framers of our constitution had believed that conventions tend but to unsettle, and to introduce disorder and confusion into the complex machinery of governments as some contend, it is clear they would have made no provision for the meeting of such a body. But they did provide for the calling together of such a body, and they did manifest in doing so that they believed them to be necessary and proper upon great and extraordinary occasions.

We have petitioned and remonstrated until petitions and remonstrances have not had the slightest effect upon an interested majority in Congress. They have turned a deaf ear to our petitions and remonstrances, spurned our reproofs and would have none of our admonitions. We can truly appropriate the language of Mr. Jefferson, and say we have not been wanting in our attentions to our northern and western brethren. We have conjured them by every tie which should indissolubly bind us together. We have warned them that a continuance on their part to oppress us by a load of taxation more onerous and iniquitous than that which is felt by any other people under the sun, may drive us to the last act of desperation and cause us like a giant overheated with wine, to declare we will assert and we will maintain our rights at all hazards. Do you call me a disunionist? You are guilty of a mis-nomer. On the contrary I declare that it is the very love which I have for the union that induces me to take some course that will preserve its entirety and integrity. I can almost say that my mother taught me to love the union. It certainly entered into the first of all my attachments—yes, Mr. Chairman, I can distinctly recollect the period when I believed it almost treasonable to call in question the power and prerogatives of the general government; but I thank God that my eyes have ever been opened to the perception of my rights and privileges, and to the discernment of those which belong to states, free, sovereign and independent, as to all those powers which they have not given up to the general government, and which nothing can divest them of save their own voluntary act.

There is a point, Mr. Chairman, at which human nature will undergo a reaction. The ebbing and flowing of the tides are not more necessarily connected together, than action and reaction. Human nature is capable of endurance to a certain extent; but no further. If we have not yet drunk sufficiently deep of the cup of humiliation, unless we check the hand of those who are administering it to us, we will soon swallow down the dregs. I do not purpose to go into any labored detail, to shew the

ruinous and withering effects of the tariff, upon this, the fairest portion of our country. That has been done most satisfactorily, by Smith, Hayne, M'Duffie and Preston, as well as by the whole delegation from the south. But this I will say, that disguise thyself as thou wilt, under the name of the American system, still thou art the tariff with all thy bitter fruits and consequences; and though thousands in this, our otherwise happy country, have been made to feel of thee, thou art no less bitter on that account.

I confess, Mr. Chairman, that I have erred and strayed from the point under discussion; but I will return by saying, that in view of all these evils and grievances, we are called upon to determine what shall be done. Shall we keep up a moral action—enlighten the public mind, and pour forth in more dolorous and prayerful accents, our grievances and remonstrances? Shall we, as suppliants, beg and pray for that which is due us *ex debito justitiae*. The subjects of the veriest despotism on earth can do no more than this. No, sir, to remonstrate any longer, is incompatible with the claim of a free, sovereign, and independent state, for that which is her inalienable right. What shall be done? Shall we look into the constitution (our polar star, an instrument venerable for its antiquity and the moral and intellectual worth of its framers) for direction? Surely it is safe to do so. But why shall we not avail ourselves of the instruction and advice which are given us thereby, or rather we will first consider why we should.

1st. To remove those obstacles which lie in the way, and prevent the operation of that justice which our northern and western brethren, might be disposed to shew us under other circumstances. It cannot be denied, that there is an impression at the north, (for they often take occasion to tell us of it,) that our grievances and oppressions are all hatched in the brain of our noisy politicians, who are looking more closely to self-aggrandizement, than to the promotion of the public weal: and further, that the few who do deprecate, and who do oppose that course of policy which they have been pursuing for the last fourteen years, are led away by the rant of impolitic and bigotted statesmen. Now, you can undeceive those men in no other way, than by calling a convention of the people of this state, and manifesting to them, that our complaints are not hollow, and our determination to pursue our legal, constitutional rights, not bounded by petitions and remonstrances; and of the importance of undeceiving them, I would just say, that you need never expect that they will do us that justice which we have long been asking for, until they are sensible we are determined to have it.

Again: I am in favor of a convention, because it will have a tendency to concentrate public opinion. I have already stated that various remedies have been proposed for the redress of our grievances, and the removal of our difficulties; in addition to which I may add, that the law contemplates no wrong without a remedy and a tribunal before which this wrong must come. Now, what objection can there be against suffering this wrong to come before the people in convention? to whom rightfully belongs all power, and from whom it emanates whenever indeed it does emanate? Will the power be denied to the people to determine for themselves, what course is most proper to be pursued? or will their ability to determine correctly, be called in question? What is a convention? Let those who are opposed to it give the definition: and they will render good service to the

cause which I advocate. Let them say, it is a proposition to call together the sovereign people, to discuss, adjudicate, and finally determine upon such questions only as might be dangerously settled by representatives or public servants.

Again: I am in favor of a convention, because I conceive it to be the least dangerous measure of any we can adopt under existing circumstances; and this conviction is forcibly brought home to me, from the reflection that no person will be excluded from a seat there. Our judges may sit there—our clergy may sit there—(and perhaps it would be well for a few of the men of God to exercise a correcting influence over our councils)—our old grey-headed men—men who have children and grand-children—men of extensive interest in the prosperity and welfare of the country. I say, when I consider who will constitute this convention—and when I consider further, that all the light, experience and wisdom, will again be checked by the instructions of the people—I say, when I consider these checks, and these barriers against error, I cannot but feel confident in my own mind, that it is an experiment the least dangerous, and consequently most advisable.

Again: I am for a convention, because it will enable our delegation in Congress to prosecute our claims, and address themselves more successfully to a returning sense of justice on the part of our oppressors. Our delegation in Congress have done already for us, every thing that men placed in their situation could do. They have manfully fought our battles—they have caused the halls of Congress to resound with the manly and dignified strains of Carolinian eloquence; but all to no purpose: which has caused their heads to hang down, and their knees to become faint and tremulous. What has hitherto supported them? It was our countenance and protection. But this has proved unsuccessful, and we must try something else. Let that be a resolution on the part of this Legislature, that a convention should be called after the discontinuance of another session of Congress, provided those obnoxious laws are not repealed, and provided there is no disposition manifested to relax the odious system of the tariff, and of internal improvements.

And, again: the spirit of eloquence will resuscitate from her slumbers, truth accellerate her progress, and speedy justice be restored us. Our delegation in Congress will rise up to a man and say—now, gentlemen, of the north and of the west, we appear again before you, asking for that justice which you have long withheld from us. Look to South-Carolina.—Drive her not to desperation. But if you are determined to prove blind and recreant to the best policy and the true interests of your country, be warned that the people of South-Carolina, in convention, will do that justice to themselves which they have long been petitioning for at your hands. This, in my humble opinion, will have a wonderful influence in causing them properly to investigate the subject, and mayhap eventuate in disposing them to restore to us our long lost privileges and liberties.

Again: I am for a convention, because it will enable Gen'l Jackson to aid us more effectually than he could do were we to leave the matter wholly to him. I am aware that this very argument has been made use of by those who oppose the call of a convention; but it does appear to me to answer the purpose for which I intend it, very well. I do believe, that nothing contributed so much towards inducing Gen'l Jackson to put his veto upon

the Maysville Road Bill, as the spirited remonstrances of the south. Indeed it is said, that Gen'l Jackson himself confessed that our protests caused him to give to the subject an additional share of study and investigation. Now, if we discontinue our opposition, or, which is the same thing, hush into silence our complaints, (for I do hold that either we must meet in convention, and continue a constitutional opposition, or we must be silent and give over the point, since we cannot petition any longer,) we suffer our enemies to pounce down upon Gen'l Jackson, and obtain a victory over him. It is out of the question for Jackson alone to effectuate a recovery of our rights: He needs our co-operation, and we should give it to him.

Again: I am for a convention, because the effect of waiting will subject the southern states to the payment of a large portion of the public debt: a great portion of which South-Carolina unconstitutionally pays. This argument needs no illustration.

Again, and lastly, I am for a convention, because I can perceive no reasonable ground to hope that our difficulties will be removed or our grievances redressed without such a step being taken on our part. And here, Mr. Chairman, I am obliged to confess that nothing would give me greater pleasure, than to be able to lead the minds of others through the same process which my own has undergone, and bring them to the same conclusion; for I should then congratulate myself in no ordinary degree as having contributed to the establishment of the liberty and independence of my country. But this I feel my inability to do, and must consequently substitute intention for fact. I have come to this conclusion, first, because General Jackson himself is against us. In the Maysville veto itself he says, a *moderate tariff of protection shall always receive from him a firm but temperate support;* which I can by no means give in to. Tariff for purposes of revenue, to defray the expenses of the civil and military lists, and to extinguish the public debt. When revenue ends, protection begins; these constitute the grand leading doctrines of that class of politicians to which I belong, and whom I believe to be politically orthodox. But it is said that the inflexible determination of General Jackson to pay off the public debt, and destroy the odious system of Internal Improvements, will remedy the evils of which we complain. But I do contend that this only lulls us to sleep, and causes our eyes to be shut to the existence of a still greater evil, viz: the continuance of the tariff. When the public debt is paid and the system of internal improvement abandoned, what then is to be done with the money in the treasury? It is to be distributed, sir, among the several states according to their delegation in Congress: that is, Ohio, which pays little or no duty, will get sixteen parts, and South Carolina which pays enormously, will get eleven.

Thus, Mr. Chairman, have I accomplished in my very feeble and imperfect manner, the object stated when I first rose. These, I honestly believe to be the feelings and wishes of my constituents, and I know them to be my own convictions. In conclusion, let me say, that Claremont, with her representatives, go for Convention.