POLITICAL TRACT NO. 5.

JANUARY 1832.

THE REMEDY

BY

STATE INTERPOSITION,

OR

NULLIFICATION;

EXPLAINED AND ADVOCATED

BY

CHANCELLOR HARPER,

IN HIS SPEECH AT

COLUMBIA, (S. C.)

ON THE

TWENTIETH SEPTEMBER, 1830.

"There is more danger in the delay than in the strongest measures which will probably be adopted. I speak as a lover of peace and of the Union."

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CHANCELLOR HARPER'S SPEECH

It has generally been thought and rightly, that it is inconsistent with the decorum which ought to belong to the character of a Judge, to be active in party politics. But I cannot regard the subjects now before us as matters of party politics. The interests of the whole state to which my services are due, and still greater interests, are involved. A Judge has the feelings and interests of a man and a citizen. It is not within the range of probability that I shall ever be called to act or decide officially on any of the topics which are now canvassed, and I cannot think it indecorous that I should endeavour to explain and enforce opinions, which I had formed and avowed long before I was invested with my present character. I am the more encouraged to do so, as I am fully persuaded, that most of the differences of opinion which exist among the citizens of this state, (I mean those whose opinions we should respect or value) have arisen, as most human differences do arise, from mutual misconception. I believe that the objects of all are the same, and that when the opinions of those with whom I agree are fully understood, the whole state will be found cordially and harmoniously co-operating in the pursuit of those objects.

The topics before us are the evil and the remedy—what the remedy shall be, and how and when it shall be applied. On the subject of the oppression which the south suffers from the legislation of the General Government, I shall say but little. This is a subject on which we are all agreed, (even those who exclaim most strongly against the danger of the measures we contemplate to rid ourselves of this oppression,) and the details which would be necessary to a thorough investigation of it are hardly suited to a popular assembly. I shall only beg leave to present a few general and as it seems to me plain and obvious views. Even the author of a pamphlet which has been lately written and which is circulated for the ostensible purpose of allaying the excitement which exists in the state and persuading us that the evils we suffer are not so great but that we ought to submit to them, and which therefore naturally extenuates as much as fairness will allow, the burdens under which we labour, supposes that South Carolina pays half a million annually for the purpose of protecting manufactures alone. He supposes however that the people of the manufacturing states are equally burdened in proportion to their consumption of imported and protected articles: choosing to leave out of view, that whatever their burdens may be, by their

own acknowledgement in adhering to the system and demanding its extension, those states are more than indemnified for them, and therefore that in effect the south alone is burdened. The author says further, "that the prospective injury from restrictions on our foreign commerce threatens the most pernicious inequality, and if carried out to the point of prohibition, will probably be attended with the depopulation and abandonment of the whole lower region of the Southern States." He adds "we should consider it a less evil to have this system, with all its *attendant losses and prospective risques*, to a *separation of the States*." We are happy to believe that the losses and risques can be prevented without the danger of this separation.

I am among those who believe that the losses and dangers imposed and threatened by the American System, instead of being exaggerated have not been fully estimated. I agree with those who estimate at the highest our present pecuniary burdens; I believe that the south has been cheated out of the bounties of nature, richer than ever were bestowed on any section of the earth, by the policy or the selfish instincts of man; I believe that the continuance of the system tends, not doubtfully, to the total destruction of our commerce, to the subversion of our domestic institutions, and in the words of the author I have quoted, to "the depopulation and abandonment of the whole lower region of the Southern States."

But it is not of these matters that it was my hint to speak. I propose to go more fully into the question of the remedy. More than seven years have elapsed since our remonstrances and clamours have been heard against this system. How have we been answered? By neglect and contempt, and the imposition of fresh burdens. We are told that this is not the time to act: new hopes are opened to us—the Tariff is to be broken down in detail, and the President has imposed his veto on certain acts of internal improvement. Fellow citizens, if we can be content to follow such *ignes fatui* they will lead us on forever. The modifications which have been made in the Tariff have only made it more satisfactory to the manufacturing states. The President avows himself in principle against us, and will only impose on the majority the necessity of looking out for more plausible objects of expenditure. Two years ago we were told to wait for the election of a President and a new Congress; now we are told to wait for the payment of the national debt. Such encouraging appearances will not be wanting for twenty years to come, if we are willing to be soothed by them. We may choose here to hope against hope, but what voice has come out of the manufacturing majority to encourage our hope? What member of Congress has intimated that his opinion may be changed? What newspaper, north of the Potomac, has told of change of public sentiment, or spoken of an abandonment of the policy as a thing within the remotest range of probable events? The manufacturers tell us they have nailed their colors to the mast. Have not the majority against us gradually strengthened since the policy was adopted? and are not new interests daily enlisted against us? We are told we shall gain Kentucky. I believe it, for Kentucky is identified with us in interests and feelings, and must be with us sooner or later. But what signifies the gaining of an outpost, when the main phalanx is deepening and strengthening against us. The states north of the Potomac, and those north west of the Ohio, which must be identified with them, constitute a sufficient majority to perpetuate the system.—

These are daily becoming more unanimous. Even if the people of those states were not benefitted by the American System, as I believe they are, to an immense extent, they would not permit the interests of a large class of their fellow citizens to be utterly prostrated and destroyed What do their representatives tell us of the desolation that would overspread them if the system should be abandoned? It is no exaggerated picture. If the unnecessary expenditures of the government and the bounties on manufactures, amounting to millions, were withdrawn, the suffering would be as severe as can be conceived in a country where there is not a want of the physical necessaries of life. Will men voluntarily reduce themselves to such a situation? No? The majority will give up their policy when they *must*, and not before

I should perhaps be more disposed to delay and wait upon events, if I thought, as many seem to do, that disunion and civil war were likely to be the consequences of any course of action that is likely to be pursued—nay, if I did not believe, as I most fully do, that there is more danger in the delay than in the strongest measures that will probably be adopted. I speak as a lover of peace and of the Union; and I know that I speak the sentiments of those who concur with me as to the course to be pursued. Are these professions sincere? Are we false friends to the Union? Have we covert designs which we dare not avow? Are the distinguished men who are foremost in exciting us to action, whose honors are connected with the General Government, or who have refused its honors, implicated in such designs? These are questions which they perhaps ought not to answer for themselves; but I would recommend to you to watch closely those who offer you their councils in the present distracted state of affairs; detect their motives of interest or ambition if they are actuated by such; understand thoroughly and weigh deliberately the measures they recommend to you—and then follow firmly the course of honor and of liberty, and of safety and of union.

The measure at present under consideration is, the calling of a Convention of the people of this state. There are advantages in this measure, whatever course such a body may pursue. A wider selection of the talent, information and experience of the state may be made than for the legislative body. It will satisfy the scruples of those who belive that only legislative powers relative to the internal concerns of the state have been committed by the Constitution to the Legislature; that to determine any thing which respects our relations with the General Government, does not come within this class of powers, though clearly appertaining to the sovereign authority of the state, which will be represented in Convention. It does not follow, that the Convention will act promptly—it can hardly be supposed that it will act rashly. It will not, in all probability, meet until the adjournment of the ensuing session of Congress If the hopes which are held out to us shall appear to have b ightened, it may have power to adjourn to a more distant day. In the mean time, it may communicate with the G neral Government, or with our sister states of the south, and certainly will not take any decisive step till it shall become inevitable.

Those who oppose a Convention, do so because it will be nugatory unless it shall result in a *nullification* (as it is called,) and this they think equivale t to a secession from the Union, and fear civil war will follow. I will not effect to disguise my own opinion,

though abler men may differ from me, that if all other efforts fail, the sovereign power of the state ought to interfere for the purpose of arresting the operation of the unconstitutional laws of which we complain; thus compelling the General Government to abandon its oppressive policy, or to apply to a Convention of the states for the purpose of obtaining, by a vote of three fourths, an express grant of the power which it claims. I believe this course to be necessary; I believe it to be constitutional, and that the state may adopt it without relinquishing her character as a member of the Union; I believe it to be safe and peaceful.

It has been often remarked that the simplest truths are the last to be acknowledged It is difficult to illustrate them. Men cannot believe that there is no more in it than this! And such I conceive to be the proposition that the sovereign power of the state has the right, consistently with the Constitution, to arrest the operation, within its own limits, of a law which it shall judge to be unconstitutional until the disputed power shall be expressly granted by a vote of three fourths of the states or of a convention. No proposition would seem to be more simple and obvious than that of Mr. Madison, that where no resort can be had to a superior tribunal, the parties to a compact must decide, each for itself, in the last resort, whether the compact has been pursued or violated. Nothing would seem more obvious than that the constitution of the United States is a compact between sovereign states, each with the rest; and nothing would seem more obvious to a plain understanding than that the constitution has provided no tribunal, superior to the parties themselves to decide on its interpretation; except that three fourths of the states or of a convention, may make or declare what they will to be part of the constitution. It has been the course of our counsels however that constitutional rights have been the sport of sophists, and word mongers. Verbal deductions, or distinctions, or coincidences have taken the place of substance and reality. Such I conceive to be those who contend for the constitutionality of the Tariff law because it is, in terms, a law laying duties and imposts, and such those appear to me to be who deny that the constitution of the United States is a compact between sovereign states, because the General Government for certain specified purposes may exercise the powers of a consolidated government and because the words "we the people" occur in the preamble to the constitution. Is it intended to be denied, that previously to the formation of the constitution, the several states were sovereign and independent? that the people of each state as a distinct body politic adopted the constitution, and were free to adopt or reject it? that they remain sovereign states for all purposes for which they have not delegated their powers to the General Government? that if by any circumstances the General Government should be dissolved, as it might be, they would remain sovereign states, and might declare war, make peace, or do any other act appertaining to sovereighty? These things may have been denied: but I shall not think it necessary to contend with those who deny them.

I suppose it will be conceded to me, that the power in question—that of interpreting the Constitution, deciding on the constitutionality of laws, and determining the boundaries of power between the General and State Governments must reside some where. It must either belong to the whole General Government, each department

deciding for itself within its own province, or in some particular department of the Government, or it must remain with the states to decide for themselves, whether their just powers have been invaded by a law of the General Government. I suppose it must be conceded to me, that if this power belongs to the General Government, or any department of it, it either must be granted by some express provision of the constitution, or it must be implied, as being necessary and proper to carry the express powers into effect. If implied, it must be either from some particular part of the constitution, or from the whole structure and character of the constitution; or result from the nature of Government in general.

A grant of the power in question has been claimed for the judicial department under that clause of the Constitution of the United States, which declares that the Constitution and *the laws made in pursuance of it*, shall be the supreme law of the land; and that which provides, that the judicial power shall extend to *all cases of law and equity*, arising under the Constitution and laws of the United States. To these clauses, Mr. Webster refers the grant of the power; and the distinguished jurist of Louisiana, Mr. Livingston, agrees with him, that the power in question belongs to the Supreme Court, in cases which the forms of the Constitution will allow to be brought within its jurisdiction, but in other cases he thinks there is no arbiter—or in other words, that the Legislative department is the judge in the last resort of the extent of its own powers, subject only to public opinion; and to the natural right of resistence in case of an abuse of power.

It is plain enough that if the General Government may make laws and appoint tribunals to administer them, these tribunals must necessarily, as the Constitution is the Supreme law, in deciding its *cases in law and equity*, have the power, *incidentally*, of determining whether the laws are conformable to the Constitution. But it would hardly occur to any one, whose habits did not lead him to refine on words, that this has any relation to the question we are considering, or that this incidental power, makes those tribunals the supreme arbiters of the relations between the Federal and State Governments. I believe, if those clauses, which are relied on as the express grant of the power, were struck out of the Constitution, the Supreme Court would possess exactly the same authority that it has now. The adopting of the Constitution, which gives the General Government the exclusive power of making laws on particular subjects, does seem directly and necessarily to imply, that those laws, when made in pursuance of the power, shall be supreme. At all events, the clause declaring that the Constitution and the laws made in pursuance of it, shall be the supreme law, would, of itself, conclude nothing. The question would still recur—who shall judge whether the laws are made in pursuance of it. I am sure the Supreme Court would possess exactly the same authority that it has, if the other clause, giving it jurisdiction, were struck out. If the Government may make laws, and establish Courts, it is a matter of the strictest and most necessarry inference that the Courts may determine cases arising under the laws, and within the territory over which the laws operate. The clause was necessary for the purpose of giving jurisdiction, in cases where it would not have been possessed of course—as between citizens of different states, &c.; but was utterly superfluous, for the purpose of giving jurisdiction in cases arising within

the territory, and under the laws and Constitution of the United States.

If, according to the idea of Mr. Livingston, and in his words,* a clause had been inserted in the Constitution, reserving the power which we claim to the states, would it have occurred to any one that there was any incompatibility between that reservation and the exercise of the powers granted by the clauses in question? Might they not have had full operation and effect? and shall it be said that records are a grant of power, when they may have their full effect, notwithstanding the express reservation of the power claimed to have been granted? Would it have ousted the Supreme Court of any jurisdiction? Might it not still have gone on to decide all the specified "cases in law and equity," and to declare the law applicable to them? The only consequence would have been, that in cases arising within a particular state, which had arrested the operation of a law, they would have been under the necessity of following the interpretation of the Constitution given by the competent authority. Most of the states have adopted the Common Law and some of the Statutes of England. In all, they have been in some degree differently interpreted, and yet, in cases arising under the laws of a state, the Courts of the United States hold themselves bound to follow the interpretation of the state authorities. Of the confusion, mischiefs and embarrassment, which would have resulted from this state of things, I shall have occasion to speak again. The truth is, as observed by Mr. Jefferson, that the Constitution no more commits the interpretation of the Constitution to the Judiciary, than to any other department of the Government. Each is bound by the Constitution, and each, in the exercise of its powers must determine for itself, incidentally, what the Constitution is. Indeed the *Constitution* no more commits the interpretation of itself to the Supreme Court than to the Courts of the states. The words are, "the Judicial power shall *extend* to all cases in law and equity, arising under this constitution, the laws of the United States; &c." and does not the jurisdiction of the State Courts extend to cases arising under the Constitution and laws of the United States? Are these less bound by the laws and Constitution? Is it less their duty or less within their province to decide on them and determine what laws are in pursuance of the Constitution? It is true that this authority has been peculiarly arrogated to the Supreme Court—not by warrant of any thing to be found in the Constitution itself, but by means of that *law* which declares that there shall be an appeal from the courts of the last resort of the several states, to the Supreme Court. Unquestionably there is no express or direct power to this effect in the Constitution. I shall again enquire how far it is implied, or necessary to carry into effect the granted powers.

I am almost ashamed to have said so much on the subject of this

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* "Whenever in the opinion of one State, a law passed by the Congress, shall be deemed unconstitutional and dangerous, such state may prevent its execution, and the President and the Courts shall forbear to enforce the same; but Congress shall in that case, if they persevere in thinking the law expedient, submit the question as an amendment to Conventions of the States in the manner prescribed by the Constitution."

grant of power to the Judiciary in a public assembly of South-Carolina, where we are in the habit of canvassing these topics, and where even those who differ from us in our views of the Constitution hasten to disclaim having the absurdity imputed to them of supposing that any such power has been granted to the Judiciary. Yet these are the arguments of leaders!—of those who speak the voice of States and parties! I verily believe that these views prevail over more than half the United States. Legislatures have announced them; and by this sort of logic you are to be reasoned into acquiescence that you have a government without limitation of powers.

But let us leave this war of words, and consider the more imposing views of those who think that the power in question belongs to the whole General Government, each department deciding for itself within its own province, and who do not claim this by virtue of any specific grant, but as the necessary result of the whole structure of our particular Government, and of Government in General. Such are plainly the views—though not fully expressed—of a distinguished citizen, whose written sentiments will be communicated to you; who, while he is with the foremost in his sense of the injuries which the South sustains, and in his promptness to take decisive measures for their redress, yet differs from us as to the course of action we recommend; and to whose sound, clear and comprehensive mind, and honest and patriotic heart, I could almost concede any thing but my own clear conviction of truth and right.

To this effect are their arguments: The power of deciding for itself on the constitutionality of its own acts, is necessary to the existence of Government. Government would be impracticable if its operations were liable to be suspended at the will of a small portion of its citizens; who might often exercise their power capriciously, and would, in effect, under colour of arresting an unconstitutional law, have a *veto* on every act of the Government. That this is the common understanding of mankind: every civilized nation in the world has some Constitution, and in none of them, unless in a few where specific checks are provided, is the Constitution guarded by any thing else than the intelligence and spirit of the people; the force of public opinion, and actual resistance, if that opinion shall be disregarded. This is the legitimate tribunal in the last resort, before which the acts of Government must be tried. It would be as absurd to say that every citizen of a State, being a party to the constitutional compact, might decide for himself in the last resort, on the constitutionality of laws, and his right to do so might be vindicated by the same sort of reasoning. The Constitution gives to the General Government the power of making laws, and of carrying them into execution; and makes no provision for their being arrested by the State. Can it be thought, if it had been intended to reserve such a power to the States, that nothing would have been said concerning it in the Constitution? and does any one in good faith believe that such were the intentions of the framers of the Constitution? Such a construction would render the Constitution a mere treaty. If the power in the States were recognized, it would in fact, be Disunion—the confederated Government could not answer the purposes for which it was instituted. It would reduce us to the distracted and miserable condition of the old confederacy. Or if not at once to Disunion, would inevitably lead to Disunion, by the difficulties and animosities it would engender. It would rend-

the Union a "rope of sand;" the Constitution would be only heads of contention to a disputatious people." Do I state these views fully and fairly? I hope so. If I knew any force of argument, or illustration to add to their strength, I would willingly employ it. I would make the structure as strong as possible, for I know that five direct blows can hammer it to atoms.

Many persons are startled when it is proposed to them that a single State, a small portion of the people and territory of the Union, has power to arrest the operations of the Government of the whole confederacy. They regard it as something unprecedented in Governments, and, as I before remarked, as absurd as the notion that any individual member of a consolidated Government should arrogate to himself the right to judge in the last resort, whether he was bound by the laws of his Government. The surprize is perhaps natural; but such persons do not call to mind that our Federative Government is itself an anomaly, and unprecedented among the Governments which have existed. For certain specific purposes it has been invested with the character of a consolidated Government; it may, by means of its tribunals, operate directly on the persons, property and rights of individuals—for all other purposes it was intended by the Constitution to remain federative. Our notions are generally drawn from the examples of consolidated Governments, which are those which have commonly existed in the world. Confederations have been rare, and with many of their Constitutions, we are very imperfectly acquainted. In a purely federative Government, there could be no question at all about the principle for which we contend—that each of the parties would have the right, as expressed by Mr. Madison, of judging for itself in the last resort, whether the federative compact had been purshed or violated. When laws were passed or requisitions made by the common Government, and the members of the Confederacy were called upon to carry them into effect, the first question presented to them would of course be, whether the laws or requisitions were in pursuance of the Compact. If they were judged not to be so made, by any member, it would be of course; that it should refuse to carry them into effect. It would have the *Constitutional power and right* so to judge and decide, whether any thing were said about it in the compact of Confederation or not; and though, if the other members should think the power wrongly and injuriously exercised, this might be cause of excitement on their parts, and perhaps justify them in receding from the Compact, they would neither have Constitutional right nor means of carrying the proposed measure into effect, within the territory of the dissenting member.

The case stands very differently in a purely consolidated Government. There it is of the strictest and most absolute necessity, and is a part of the Constitutional Compact, that the judgments of its tribunals should be final and conclusive between the Government and its citizens. The action of such a Government, so far as its subjects or citizens are concerned, is only felt by its operation on the rights and interests of individuals. The object of practical tribunals is, to determine on the right of individuals, and when the Constitution has provided a tribunal in the last resort, it is of course part of the Compact that its judgment shall be conclusive. There

is nothing beyond this, but public opinion and the right of resistance to oppression.

We do not deny that the judgments of the Supreme Court are final and conclusive on the matters committed to its jurisdiction, and bind the individuals whose rights are affected by them. We give this effect even to the judgments of the tribunals of foreign countries. To determine the rights and duties of parties before them is the function of Courts, and their whole function. But besides affecting the rights of individuals, the laws of the United States have another operation, over which judicial tribunals have no power of arbitrament—affecting the sovereignty of the States, and checking and restricting the operation of their laws. The laws of our State provide that a citizen shall not be restrained of his personal liberty. The law of the United States, authorizing the enlistment of soldiers, restricts the effect of that law, and furnishes a warrant for his detainment It is a violation of the laws of the State that you should seize and detain the property of a citizen till money or a bond be extorted from him. The laws of the Federal Government authorize this for the purpose of enforcing payment. The Government, by virtue of the Federal Compact, has power thus to trench on the sovereign authority of the States and restrict its laws, by its own laws *made in pursuance of the Constitution*, and by none other. The sovereign States have authority to go on to execute their laws, made for the protection of their citizens, restrained by the Federal laws made in pursuance of the Constitution, and by none other. Which shall judge? This is the very pivot on which the controversy turns. That to which power was delegated, and which is restrained from using any power not granted expressly or by implication? or that in which it is original and inherent, and has reserved to itself all power which it has not granted away? Show me the grant or make out the implication! When you tell me that while the Constitution has given Congress the power to make laws and carry them into execution—judging, of course, in the first instance, of their constitutionality—it has made no provision for arresting their operation, I reply, that anterior to and independent of the Constitution, the States had full power to execute all their laws; by becoming parties to the Constitutional Compact, they consented to be limited in the exercise of this power by laws made in pursuance of the compact and none other, and they have never surrendered the right to judge which were so made, and all rights are reserved to them which were not surrendered. This is the answer, too, to those who enquire whether we suppose, in good faith, that the framers of the Constitution intended this power to be reserved to the States? It may be that they thought and intended nothing about it; but it is the direct and necessary result of our institutions, as they existed previously to the Constitution and are modified by it. If a power is claimed to be exercised on the part of the General Government, it is incumbent on those who contend for the power to make out the grant of it, and they commit violence or fraud on the compact, when they assume any power which they are not satisfied was in good faith intended to be granted. But it is for the States, to whom every thing is reserved that was not given away, to decide from the expressed provisions of the Constitution, a power which they claim to exercise; of a power too, which I shall shew hereafter, is absolutely essential to their existence as separate and sovereign States, and involved in

the very nature of our confederated system. The truth is, however, that a difficulty was in some degree foreseen—indistinctly apprehended it may be. No one can read the Federalist, or the debates of the Conventions which adopted the Constitution, without perceiving that some control of the States was expected over the acts of the General Government. How that control was to be exercised, is not explained. It may be that the great Statesmen, who were in favor of the power of the General Government were unwilling to explain. It was anticipated that the collision of the laws of the General and State Governments would create embarrassments. But the difficulty is not obviated by the provisions of the Constitution. The power is not granted; no common tribunal is appointed, and it must be held amongst the reserved rights of the States.

If the Act of 1789, authorizing an appeal from the State Court, in cases involving any question of the Constitution or laws of the United States, where the decision shall be *against* the authority of the General Government, were not in existence, it is plain that the decisions of the State tribunals would have been final. The State, by means of its tribunals, would thus have had the power to a certain extent of arresting the operation of a law which those tribunals should judge to be unconstitutional. But this would not of course have excluded the interference of the sovereign authority of the State, if we have taken a correct view of the Constitution. The Judiciary, like the other departments of Government, in the exercise of its functions, must incidentally and in the first instance interpret the Constitution. If to the sovereign authority of the State belongs, under the Constitution, the right to determine for itself in the last resort, the Judiciary would be bound to follow and abide by that determination. The intervention of the law of 1789 can make no difference, even supposing it to be Constitutional. The Federal, like the State Judiciary, having only the incidental right to give construction to the Constitution in discharging its function of administering justice to individuals, is no less bound than the State tribunals to follow the interpretation of the competent authority. If the appeal were allowed, it would be so bound; but the truth is, that in the cases supposed, the Constitutional question involved being already decided by the competent authority, the right of appeal would be superseded.

Those who say that the power in the States which we contend for would render the Constitution a mere treaty, have perhaps never considered exactly what is the characteristic distinction between our Constitutional Compact and a treaty. Treaties, to be sure, have not often provided that jurisdiction should be exercised, for certain purposes, over the citizens of one of the contracting parties, and within its territory by the others. But this might be done, by that which was in terms a treaty. The essential distinction is, that each of the contracting parties have committed to three-fourths of the rest, the power of binding it by any new articles of compact, without its own assent. This is the great distinction between our Constitution and other compacts between sovereign states. This it is, which is to restrain the States from casting off the obligation of its compact like an ordinary treaty, and it is to this you must appeal, if you seek a power superior to the sovereign authority of the States.

I proceed further, to shew that it is absolutely incompatible with the nature and existence of our government, as a confederacy, that

the power in question should be taken from the States, and attributed to the General Government, and that if such were our Constitution, it must inevitably end either in an absolute, consolidated government, without any limitation of powers, or in disunion. What do we mean, when we speak of the General Government, or of the power or oppression of the General Government. Do we speak of an imaginary being—an abstraction? No! we mean a majority of the States, including a majority of the people; for it is to these, as represented in the two houses of the Federal Legislature, that the Constitution has committed the power of Government; and I should wish this to be kept in mind, when I speak of the Federal Government. If Congress were the sole judge of its own constitutional powers, with no check upon its acts, but all must have effect, it would be palpable enough that the government was absolute and unlimited. It is too familiar to be argued, that the unchecked, unrestricted power of construing an instrument, is the power of making it what you please And what is the check? Do you tell me of the Veto of the President, who is created by the same majority, which of course, when great interests are depending, will select one whose views coincide with their own; or of the judiciary, which is created by, and dependent on that Legislature. Without attributing any corrupt subserviency to those tribunals, which I believe have been as honest and patriotic as any other, it has never been, perhaps, sufficiently estimated, how much any bias of interest, or feeling, has upon the judgment and belief of men. A friend once asked me, whether it was from a distrust of their integrity, or their judgment, that the law forbids interested persons to give testimony; and we concurred that the defect of judgment, rather than morality was guarded against. But if this be true of those who are to relate facts, how much more of those who are to form opinions. Such bias colours every perception, and finally moulds the whole mind. Even the honorable feeling which might induce the Judge of a State, to stand up against power, in defence of the rights of an individual, in a great degree loses its influence here. Here is power against power—the power of the States, which they are naturally led to regard as the most dangerous. But independently of this bias it is idle to say, that the judiciary is independent of the Legislature. Congress, by modeling the judiciary system, may have a Court of what political opinions it pleases, in a week; and can any one doubt, that when great interests were at state, it would, if found necessary, resort to such means. Plausible pretexts could always be found; and, independently of this, if the majority is a permanent one, formed on fixed principles, as the present majority in the government is, the Court must gradually, but infallibly, be moulded into accordance with the predominating opinions As vacancies occur, they will of course, be filled by those whose opinions conform to those of the government—the majority.

There remains no other check, but the force of public opinion, and secession from the Union, or forcible resistance. Public opinion!—Do we speak of the public opinion of a minority, as likely to influence a majority? Unfortunately, here again it happens, that of all systems of government in the world, ours is that where such public opinion is likely to have the least weight. In the other consolidated governments of the world, the voice of public opinion is irresistible. A Mahmoud or a Nicholas, dare not close their ears

to that mandate. And why so? Because if it be disregarded, it will lead to the employment of public force, and not only the oppression will be resisted, but the tyrants punished. The government of France was deaf to that voice, and the King expiated his fault on the scaffold, as did some of her proud aristocracy—while the rest, deprived of wealth and honors, were driven beggars and fugitives over the face of the earth. Other tyrants have in like manner atoned for their offences against their people, and all are kept in check by the fear of it. But what shall be done to that despot *majority*, which, apart and unassailable, disposes of all the rights and interests of the South? What do the people of the great States of Pennsylvania, New-York and Massachusetts, hear or feel of the opinions or the oppressions of the South—of States which have always been regarded as provinces. An extract from a new-paper, now and then, informs them that there are discontents on the subject of the Tariff, and that there are some ridiculous and extravagant mal-contents, called nullifiers. Separated as they are, and fortified in their own strength and unanimity, any voice of the South passes by them as the faintest summer gale. It might be hoped that their representatives, placed on a post of eminence, to look over the whole country, would be accessible to the opinions of the South. But this hope is equally vain. They go to the public councils *instructed* by those who elect them, or at all events, answerable to them for the votes they are to give; and their responsibility to their consciences and posterity, (such is the nature of man,) is as thistledown in the balance, weighed against that responsibility. Has not the voice of the South been uttered? Has not every State from Virginia to Mississippi, clamoured against the injustice and unconstitutionality of the Tariff? And what has been the answer? The Tariff of 1824 was passed by a majority of three votes, and that of 1828, by a majority of sixteen. The strongest despot, or despotism, that ever heretofore existed, would not have ventured on a measure, which so large a portion of its subjects believed to be ruinous to their interests and subversive of their rights. The government of England, which, next to our own, I believe to be the strongest, could not stand a day against the consequences of such a measure. A despotic majority is the only despot exempted from all responsibility.

We are told however that although the Southern States have been unanimous in their remonstrances against the Tariff, yet they have not unanimously determined to resist it. Wait till that unanimity shall have been brought about, and then you will remonstrate with effect—then the majority will be found to yield. And is this all that the lovers of union and advocates of peaceful counsels have to tell us? Determine on force—determine on war, and the result may perhaps be peace! But how, if they should not yield? They have every inducement to hold out to the last. On the one side are all the advantages resulting from the American System—wealth—prosperity—the building up of their institutions and public works—political preponderance—pride: on the other humiliation—ruin to thousands—general distress and poverty, and the loss of political importance. When so much is at stake, will they not be tempted to stand the hazard of the die. What then, must the South submit? Is this our Constitution? Is our government indeed without any limitation of power whatever, and are we as absolute slaves as men

can be to government? Or must the blow be struck? Then where are the hopes of the lovers of the Union? It is vain, and every one feels it to be vain, to hope that the Union can ever continue after force shall have been resorted to. Cut that cord with the sword and there exists no power in nature to unite it again: or suppose the majority to yield—with what feelings will both parties retire from the contest? On one side baffled hatred—hourly smarting under the privations that have been inflicted—daily tempted to new encroachments: on the other, jealous hostility—watchful and prompt to resist. With such mutual dispositions, our harmonious union is to go on. It cannot be that new causes of collision will not soon arise—the mutual feelings of animosity will be more and more embittered until the blow must indeed be struck. If the Constitution be such as our antagonists represent, it needs no hand-writing on the wall to tell us that its days are numbered. The sun of another jubilee will never shine upon it. And along with it will go all the hopes which have been held out to the lovers of mankind, from the example of our freedom, union, prosperity, and greatness.

It has been thought, and apparently with justice, that even in a single, consolidated community, the government of an absolute and unlimited majority would be the most intolerable of despotisms. It is the government of a despot, with a spy and a police officer in every house. Yet even in an arbitrary government of this sort, there is some mitigation; those who are in a minority to-day, may hope they will be in a majority to-morrow, and though the government be arbitrary, they may taste of the sweets of power in their turn. Or if there be a fixed and permanent majority, of different feelings and interests from the rest of the community, yet there is some human sympathy for men whose faces they know and whose distresses they witness. But it is useless and impracticable to disguise the fact, that the South is in a permanent minority, and that there is a *sectional* majority against it—a majority of different views and interests and little common sympathy. This is the origin of the evil and the great fountain of the waters of bitterness. We are divided into slave-holding and non slave-holding States; and this difference creates the necessity for a different mode of labour, different interests and different feelings; and however particular States or sections, on either side may have started from their proper spheres, this is the broad and marked distinction that must separate us at last. Would to God it were not so! But shall we be reproached that we cannot fail to note that which is daily forced on our attention.—Ever since the fatal *Missouri question*, which, "like a fire bell in the night" startled the last days of Jefferson, and sent him to the grave, "in the belief that the sacrifice of themselves by the generation of 1776, to acquire self-government and happiness to their country, is to be thrown away by the unwise and unworthy passions of their sons," no one can be so dull as not to have observed that every question of leading importance in our federal councils has been connected, more or less, with this great distinction. And let us appeal to the world and posterity whether the South has been the author of this. But the sacrifice will not have been in vain; there is yet "a redeeming spirit in the Constitution," which will be evoked and will preserve it, in spite of its enemies, and in spite of its misjudging friends; whose erring zeal is eagerly attempting to shackle the arms that are combatting to save it. But propose to the people of

the South, and prove to them, that this is their Constitution—that the States and people North of the Potomac and North-West of the Ohio, have right and power to make laws to bind them in all cases whatsoever—and then foretell us the duration of the Constitution and the Union. To those who propose to submit to this state of things—who have made up their minds patiently to endure the injuries we now suffer, and all that shall be offered to us, there is nothing to be said. They might, if others were of their mind, have Union—such as it is, and peace—such as it is. But I know that the people of the South are not of their mind If oppression be continued, they will resist it—all concur, that at some day, the cup will be full and overflow—and I ask if those be truly considered the advocates of peaceful counsels who tell us there is no redress but in violence and disunion.

I trust it is sufficiently proved, that under our Confederated Government, the power in question is Constitutionally reserved to the States, and that such a principle is absolutely essential to the very nature and existence of the system. But authority with most men weighs more than argument, and our authorities are of the highest. There could not, perhaps, be a better illustration of the fact, that there is nothing so plain that it will not afford matter of cavil to a skilful dialectician, than that it should be contended that Mr. Madison's Report of 1799 does not contain the doctrine we now maintain. But how did others understand him at the time? How did the Legislatures of Connecticut, Massachusetts, and others which made counter resolutions, understand him? Was it then thought there was any thing ambiguous in his words? or was the interpretation then put upon them ever disavowed? And what doctrines are those which have ever since been known as the doctrines of Virginia? I appeal to Mr. Jefferson as a still higher authority—the author of that word which is thought so new and barbarous; the uncouth sound of which, I really believe, is with many, one of the strongest arguments against our constitutional doctrine—Nullification. I have read his works, lately published, and I profess—whatever may be objected to him on other scores—that for a true and thorough comprehension of the genius and working of our confederate system, he alone appears the master. I refer not to any insulated passage, which might be the subject of cavil, but to the whole context of his opinions. But when he says, that if doubts arise between the States and the General Government, as to the true meaning of the Constitution, the appeal is to neither, but to their masters assembled in Convention, can we suppose him to mean that the minority, which complains of the violation, shall call the Convention and propose the amendment? No, his words are unmeaning, unless we suppose some method of compelling the majority to assemble the Convention and offer the proposition, which is to remove the doubt.

I go on further to show that the proposed remedy is a peaceful, safe, and efficacious one, and less liable to abuse than any check that ever was devised in government. We propose, in effect, that one fourth of the States have the right of annulling any act of the general government, on the ground of its unconstitutionality; and that for the purpose of compelling the majority to appeal to the three fourths for a grant of the power which is denied, any State may suspend the operation of the act within its own jurisdiction. And is this an

alarming or unreasonable claim? Would any wise—would any sane government, desire to exercise a power which one fourth of its citizens believed to be a violation of their constitutional rights, and destructive of their interests? Most surely, unless it be our own, there is no government on earth that would or could enforce its measures under such circumstances. Already the Judiciary alone may annul any act of the government. The President, if supported by one third of either House of the Legislature, may do so. And it is feared to commit the same power to one fourth of the sovereign States of the Union. The experience of the world has proved that checks on power are the most harmless things imaginable; and the complaint has commonly been, that they are inefficacious, rather than too great a clog, on the operations of government

When a government is once organized, it can rarely do much harm to say, that things shall remain as they are. It is new policy that is dangerous. In Rome, the most efficient and successful government that ever existed, there were, I believe, ten tribunes, either of whom had an absolute veto on every act of the government. In Holland, the *previous* assent of every State, and of the principal towns, was required to all the important acts of government; and this was a State prosperous beyond example. In Poland, every member of a numerous diet had an absolute veto, and this was not found entirely an impracticable government. I verily believe, that if every State in the Union had power to appoint a tribune, having an absolute veto on the acts of the general government, no great harm would be done, or inconvenience suffered from it. If it were required that every act of Congress should be passed by a majority of three fourths, I am by no means sure that it would not be a most beneficial provision; and certain I am, that this would be a much better Constitution, than such an one as our opponents represent ours to be.

Those who tell us that, with the power we claim for the States, the Union would be a rope of sand, and would not answer the purposes for which it was instituted, have not, perhaps, reflected maturely, what the true and legitimate purposes of this Union are The first and great purpose, is to maintain peaceful relations among ourselves, to save the necessity of war and arbitrary government. The second, but far subordinate, is the strength to be derived from the Union, for defence against foreign nations, and regulating our intercourse with them. These legitimate purposes of the Union, we believe the Union would answer fully, notwithstanding the check we propose But there are some illegitimate purposes, such as that of benefitting one section of the country, at the expense of the rest, which it would not answer It can hardly be feared, that the States will arrest the operation of the laws which are beneficial to them. The only cases in which the interposition of the check can be seriously feared, are those of war and taxation. In case of war, apart from the feeling that makes it disgraceful to abandon our friends in the hour of danger, though we have cause to complain of them, and which will always have its effect, to annul a war would be an absurdity The Constitution expressly forbids the making a treaty with the enemy, and the only effect would be to leave the States exposed to the common enemy, undefended by the common arms. If men are disposed to be traitors, they want no nullifying power to colour their proceedings. The truth is, that there is no

reason to apprehend that the check will be interposed, except on laws of taxation, where it is most necessary. Let it be borne in mind, that power should always be lodged where there is the least temptation to abuse it. Has not the majority in Congress the greatest possible temptation to abuse the power of taxing? Let the present situation of things answer. When a section of the country which is by nature the poorest in the world—which has no products but those which are also produced in every other soil and climate, and which can find no market but their own and ours, is rich prosperous and flourishing—while another, by nature the richest, whose products are eagerly sought in every market of the world, is poor and embarrassed. Tell us not of the difference of industry and habits. The difference does not exist; certainly, in no degree adequate to producing such effects. But what temptation will the States have to abuse the power of checking. Will you assume, that one-fourth of the States may be desirous of destroying the government, and seek to effect their purpose, by withholding the revenue necessary to its support. Those who urge the objection know its fallacy. They know, that if one fourth of the States are disposed to abandon the Union, it is not the want of a nullifying power that will prevent them. They know, too, that all the States have calculated the value of the Union, and although it will always be most advantageous to the sections where labor and its products are cheapest, yet they are willing to pay the price they have stipulated. Supposing then the desire to maintain the Union to be sincere, the States will have no temptation to reduce the revenue below what is required for the necessary expense of government. To this it ought to be reduced. The truth is, that this is all the important effect which the checking power will ever have; and this is the effect which is dreaded by its antagonists.

A single State, it is true, may suspend, though it cannot annul a law, if three-fourths of the States be disposed to grant the power. But as three-fourths may modify the Constitution as they please, if a single State should exercise its power capriciously, a full indemnity might be exacted. This is a security against the wanton exercise of the power by a State. But the securities are endless. When it is proposed in a State to exercise the power, the very proposition is an acknowledgment of weakness. The State is in a minority. This alone will damp the spirit of the people. By the plan we now propose, two-thirds of the State, as represented in the Legislature, will be required to call a Convention? You must satisfy two-thirds of the people, who cannot be corrupted though they may be misled, that the law is unconstitutional and oppressive; you must do this against the active resistance of those who are connected with the general government, or benefited by its patronage, among whom will always be found a considerable portion of talent; for talent is the natural ally of that government; and the passive resistance of the ignorant, the indolent, and the timid. The State is called upon to act too, knowing that it acts in vain, unless supported by one-fourth of the confederacy. The presses of the majority will act their part in sustaining the opposition within the State. Suspicion will be cast on the motives of those who are active in exciting the State to interpose Under all these discouragements, is it too much to say, that the proposed check is one of too little, rather than too much, vigour? Such is the truth. Usurpations will still go on.

More revenue will be exacted than is required for the expenses of government. Abuses must be flagraut indeed, before the people can be tempted to set this mighty machinery in motion. Certainly there never was a check in government, so effectually guarded against the possibility of abuse.

Let those who suppose that our doctrines would reduce the Union to the condition of the old confederacy, compare the state of things I have described with that confederacy. *Now* the laws of the general government go into operation at once and of course. Their operation can only be arrested after the difficulties mentioned shall have been overcome; and a Herculean task it is. They can only be suspended for a time, if three-fourths of the confederacy shall agree to enforce them. *Then* the acts of Congress were dead and inoperative, till similar difficulties were overcome to give them life and efficacy; and if any confederate refused to perform its part of the compact, there was no authority beyond that to enforce it. This indeed is all the improvement the old confederacy needed, which, by the by, was pronounced the best government then in the world.

That the principle we contend for would, if generally recognized, promote harmony and tend to the perpetuation of the Union, is too obvious to be doubted. Here discontents would find vent. What temptation would any State have to desire the destruction of the Union when it had in its own hands the means of protecting itself from injustice. This feeling of security would beget favorable dispositions; it would add, I admit, something to the difficulties of legislators in Congress; but some disadvantages attend the best institutions. Instead of bare majorities passing sweeping laws to promote their own interests, heedless of their destructive effects on the interests of the minority, they would be under the necessity of devising measures to reconcile the interests and feelings of every section. But they would be rewarded for their toil, (if they estimate such reward) by the confidence and attachment of the whole country. Thus instead of a rope of sand, the Union would become a golden chain, which violence would not break, nor time corrode. If under the Constitution, the State have already the power contended for, without which the confederacy cannot exist, the exercise of which will be a safe, peaceful, and efficacious remedy for the evils of which we complain, promoting harmony and strengthening the Union, it only remains to inquire, why the power should not be exercised and the remedy applied.

If we cannot resort to this remedy, it is plain we have no other. And I will say more; no other could be devised by the assembled wisdom of all the States. Distinguished men have long sought to devise some impartial tribunal, which might be the umpire between the general government and the states. But from the nature of things, this is manifestly impossible. By the general government, we mean a majority of the states and people. Then, if you give the creation of the tribunal entirely to the States, they can at all events have but equal authority in the formation of it. If you give to each State the power of selecting one member of such tribunal, each will be chosen so as to represent the interests and opinions of his own State, and you will have the very same majority to control you, rom whose oppression you have appealed.

But if the constitutional right be clear and the remedy effectual,

why should it not be applied? Do you say, that clear as it may be, it will not be recognized by those who are opposed to us? they will persist to execute their measures and if it be necessary, resort to actual force for the purpose, and thus civil war, anarchy and disunion will be the result. And is this reasoning addressed to the people of —South Carolina! Shall I not defend my purse from the robber, for fear he should do violence to my person? Shall the States be deterred from using their lawful and constitutional privileges, for fear that it shall provoke others to lawless and unconstitutional violence? Would it not be so? Would not they be the rebels and traitors to the constitution? And would not any impartial tribunal so pronounce them?

But I believe we can avert the fears even of those who are influenced by this sort of reasoning. I believe that they would not resort to violence. I believe so, because it is safe to calculate that men will be governed by their own obvious interests. They cannot but know, that such a blow once struck, would rouse every freeman, from Norfolk to the Balize, and that the Union would be severed never to be united again. And what would be the consequences to them? The loss of every thing—the being reduced from their most prosperous state, to as depressed a condition as a civilized people can be placed in. And shall it be called an appeal to the forbearance or an attempt to work on the fears of an adversary, because we believe he will not do an act of open wrong, to the utter ruin of his own most essential interests?

We offer further security against violence. We intend to proceed according to law—and to resist by means of its peaceful process. In the first place, we shall have a question which "the forms of the constitution" will allow to be presented to the Federal Judiciary, if it should attempt to take jurisdiction of a question which the competent authority has already decided. We can compel a decision and the reasons in support of that decision, to be laid before the South and Union. And though perhaps it would be extravagant to hope that conviction can reach that tribunal; yet, we cannot but hope a most important effect from the canvass that will thus take place, in enlightening the public opinion.

We shall have a question, too, to present to the juries of those tribunals uninvolved in the disguise of a false and fraudulent title. It is a modern heresy, and the most dangerous one of the Mansfield school, and utterly at war with the free spirit of the old common law, that juries are not to decide according to their own conviction both of the law and the fact. The most important, the most sound and durable, accessions to public liberty have been made by the verdicts of juries; and the most important, in future, will be gained by the same means. This is the legitimate organ through which public opinion is heard in countries where the common law obtains. They are the true judges on those questions of "common right," which are better decided by plain sense and the heart of a freeman, than the acutest dialectian that ever wrangled.

What room is here for the interposition of force? Will the commanding officer at Fort Moultrie send a detachment to take charge of the Jury, till they find a verdict in pursuance of the direction of the Court? Or, if damages be recovered against a collector who commits a trespass on the property of a citizen, will a General and army be sent, to make war on the bailiff who goes to execute his Fi.

Fa.? Will you try Mark Solomons for high treason? Or, in the very teeth of the constitution, which declares that no preference shall be given to the ports of one State over those of another, will Congress disfranchise the port of Charleston and send a squadron to blockade it? Does the constitution, which authorizes Congress to call out the militia to "execute the laws of the Union," authorize it for the purpose of obstructing the execution of the laws of the States? It must be a bold majority that shall pass an act for that purpose. All the curses and infamy that ever were heaped on the head of criminals and tyrants, would scarce equal the memory of that majority. This I believe would exceed the courage of the President of the United States. He would sacrifice himself in a good cause; but I believe it exceeds his hardihood to sacrifice himself with the present age and with all posterity, in a cause obviously the most lawless and wicked that ever a sword was drawn in.

I will not deny that it is within the limits of possible events, that the course we propose to pursue may occasion a resort to force, as it is possible that a comet may strike the earth from its orbit. But on my conscience, I believe one to be nearly as probable as the other. And for the sake of our dearest interests; for the sake of liberty; for the sake of the Constitution, the Union and posterity, I think that remote risque ought to be encountered. I think a determination to submit to the evils we endure, would be attended with risques infinitely more fearful; nay, the most certain dangers and calamities. I believe that these are rendered more imminent, the longer we delay.

It is because we are satisfied that we are pursuing a peaceful and constitutional course, and do not look to war or disunion, that we do not seek the co-operation of the other Southern States. We believe that a Convention of the Southern States would be unconstitutional, and more than any thing else, tend to disunion. But if a time of extremity shall arrive, there can be no doubt of their co-operation. Their interests, their condition in the Union, circumstances, inevitable as the working of destiny, must drive them to the stand which we desire to take. I hear already the note which summons Georgia to the common standard. Let the Supreme Court, by virtue of its claim to appellate power, proceed to arrest the operation of her laws, within her own territory and upon her own citizens, and my life upon it, Georgia will be found occupying the very position in which we wish to place South Carolina. But if any thing could retard the desired co-operation, it would be that South Carolina should shrink from the course she has marked out to herself. In the absence of the accustomed leader from his post, she has happened to be pushed to the van of this great contest, and if she shall blench in the hour of trial, what has she to hope from those who are still behind her.

Such are the views we profess and we appeal to you, whether they are the views of demagogues or disorganizers. That such epithets will continue to be heaped on us by those who are opposed to us, we are well aware. Those who have imposed the tariff tax cry out treason, and threaten to levy the *hemp tax*. This is the consideration in which the Sovereign States of the South are held by the men of the North. When Mr. Webster enquires if the States can authorize individuals to commit treason, I could perhaps more readily answer him, if it were asked, whether a citizen of this State—

his original sovereign; to whom all his allegiance is due, save what *she* has delegated to another, should be found "levying war against her, or adhering to her enemies and giving them aid and comfort, would incur the guilt of treason?" I verily believe that the people of the South are the tamest in the world—certainly not from want of the love of liberty, coldness of heart or fearfulness of temper, but from that very loyalty and devotion to what we have been accustomed to hold sacred and which we are reproached with wanting. If the burdens which have been laid on the South, had been imposed on New England, the band of the union would long since have been snapped like a string of tow. And would this be matter of reproach? Certainly not; it would result from that spirit of liberty which has always distinguished her. But shall those States cry treason to South Carolina? who, devoted now, as she ever has been, to the whole country, if a common enemy should call for a common effort, would reply as promptly to the call as she did in 1776 or 1814. We have been assimilated to Hartford Conventionists; but it remains to be seen, whether the day will ever come that we shall be compelled to retract or extenuate the sentiments we now utter or the conduct we now pursue; or whether every one of us will not promptly and proudly, to his latest day, avow and defend them. South Carolina will not commit nor authorize treason.

If any thing could endanger that our contest will end in blood and disunion, it would be the conduct of those mistaken friends of the Union, who actively seek to discredit our views and principles with our natural friends and allies of the South, and to strengthen the hands of our enemies. Spirited by them—counting on our divisions and weakness, and the support which they will receive from among ourselves, they may be tempted to strike a desperate blow. If such is to be the result, and the stars of the Union must be quenched in blood—if they will persist to clog the efforts of those who are struggling for life amidst the troubled waters, on their heads be the crime and the shame. But no; founded as we believe our principles to be, in truth and the principles of the constitution and of freedom, we cannot doubt but that they will finally prevail, and those *friends*, who are separated from us because they have mistaken us—to whom we have been accustomed to look as associates or as leaders, when the question was of constitutional liberty, or the country's good will yet be found by our side, sustaining as rightful and glorious a cause as a patriot ever struggled in.

From the Lynchburg Jeffersonian Republican.

COURSE OF SOUTH-CAROLINA.

"The people of South Carolina are too intemperate." This is the common language of the Federalist and the Demagogue. But in what have the people of South Carolina been intemperate? Has it been in the proceedings of the Legislature? Truly not. They have, in language as mild and dignified as can be used, declared what they considered to be their rights—and with the greatest patience and forbearance, submitted for ten years to insult and wrong, through a love of peace and the Union. Has it been in the proceedings of popular assemblies? They too have but asserted what was due to themselves as a portion of the sovereign People of a free Republic. From 1820 to this day, have the people of South Carolina, although fully persuaded of rights violated, and wrongs endured at the hands of the Federal Government, continued to remonstrate, petition and appeal. What more could be expected from them? And is this forbearance intemperance and hot headedness? What was the course of Virginia under like circumstances? The Alien and Sedition Laws were passed during the session of Congress of 1797–8. In her Legislature, in less than twelve months thereafter, Virginia, in the true spirit of her Fathers, declared that the said acts were "unconstitutional, and dangerous infractions of the Federal Compact;" and were only prevented through the influence of a single individual, from nullifying them totally and unconditionally. Her resolutions were sent to the several States, and though they were scoffed at, and declared it to be ridiculous and treasonable, she was not to be driven from her grounds by sneers and threats. The very next year her Legislature, in Madison's celebrated Report, re-asserted the doctrines of her resolutions, and boldly defied the Federal Government, which had thus manifested a disposition to trample on her reserved rights. Money was appropriated to the purchasing of arms. An armory was established—her militia kept in readiness for actual service—and a law was passed making it an offence punishable by fine and imprisonment, to attempt the enforcement of the obnoxious laws in the limits of her jurisdiction. All this was done in less than two years after the passage of the unconstitutional acts of Congress. Was she abused and insulted, and charged with intemperance, hot headedness and treason? She was—but was it not by the very same party which is now so prodigal of these epithets towards the people of South Carolina? The Monarchy men and the Federalists were hot and heavy in their curses on Virginia. But the people regarded them not: and the elder Adams, finding that he could not carry his plans into execution, yielded to the firmness of the people, and the force of circumstances, and our constitution and liberties were preserved. And can it now be said with

truth, that South Carolina, after having for eleven years, continued to protest and remonstrate, is hot headed in the attempt to preserve her violated rights? Is she to be charged with treason for submitting to insult and wrong, for the sake of peace and harmony? And is it indeed come to pass, that he only shall be accounted a patriot, who silently and slavishly submits to every aggression on the rights of man, which a reckless majority in Congress can practice? If so, South Carolina is almost a patriot! But it cannot be, that submission to unauthorized and unlimited power can become the test of patriotism. Such is the doctrine of tyrants, but it suits not the freeborn sons of the South.

But it may be said that the delegation of South Carolina has been intemperate in their language in Congress. They have been firm and adherent in support of the constitution and liberties of the country, as they should be—but not intemperate. Let the speech, and the language be pointed out. Patriotism, like anger, should have "a privilege;" but, in no case have we seen language of intemperance employed. One, among the assembly of the "grey headed high and grave," we remember to have heard, to use the language of the first of poets,

> Of middle age one rising, eminent,
> In wise deport, who spake of right and wrong—
> Of justice, and of freedom, truth and peace.

But we deny that his language was justly liable to the charge of intemperance. He spake in the native chivalry of his soul, in behalf of an outraged constitution and an injured people. He spake as became the representative of an independent State—as became a man and an American. But denunciations he made none. He reasoned; and his argument gave new life and vigor to the cause of constitutional liberty. He spake in the concentrated power of truth and justice—and all the sophistry of his antagonist was dissipated into thin air.