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Just Published,
LAWRENCE & LEMAY'S
NORTH CAROLINA
ALMANACK FOR 1832.

Containing, besides the astronomical calculations, Miscellaneous Articles, useful Receipts, &c. a list of the officers of Government of the United States and of North Carolina, of the members of Assembly, times of holding the court in this State, &c. &c.

Which can be had by the wholesale of the publishers at Raleigh, and by the retail at most of the towns in the State.

Raleigh, September 8, 1831

The members of the Friendly Botanic Society are respectfully invited to attend a meeting, to be held in Hillsborough on the 15th day of December next.

September 2, 1831 — 37 3t

Religious Notice.

A Baptist Camp-Meeting will commence on the 7th of October next, at Newlight Meeting House, eighteen miles north of Raleigh. Ministerial aid will be thankfully received.

August 17, 1831.

To the Public.

I intend to do no more than protect my good name against the vulgar attack of William L. Fowler, and do not mean to condescend to enter into a war of words with him; a plain statement to the public shall be my reply to the publication made against me in the last week's "Star," and which has been published in the "Carolina Sentinel;" while I reserve to myself the right of punishing him another way.

In December, 1829, William L. Fowler purchased of me a negro man named *Sam*; and though he was sold and conveyed by a bill of sale of that date, it was stipulated in writing that I was to deliver the negro before the 10th January. Mr. Fowler has the writing, and if he would produce it, there will then be no doubt whether it was the 1st or 10th, though to my present purpose this is immaterial which. The reason why I delayed the purchase kept secret and delayed the delivery of the negro, was stated at the time of the bargain: Sam was a blacksmith, whom I had allowed to work in 1829, and collect the proceeds of his labor, and pay me only $120 for the year; he had been engaged in making the collections; I did not know who were dealers and debtors for his work, and if I sold him off before he settled I should be losers; and the result has shown that I acted rightly, as the attempt to seize him on the 1st of January caused me to lose $115, which I *have collected*, and was to pay me *on that day*. When Sam left my service on the *1st of January* in consequence of Hindes having attempted to take him in his custody; and he has not been in my service, possession or control since that day. Fowler denied that he ever authorised Hindes to attempt to take him, and therefore insisted I should rescind the bargain, or comply with it by delivering up the negro, whom it *now seems* he contrived to frighten off. I contended that I had been damaged $100, and must be paid it, or have it by some of the concern for Gilderslee.

Fowler and Hindes were so much connected with the other in negro trading, that even in *justice* my claim was good against *either* of them. To this, Fowler has heretofore replied that he had nothing to do with Hindes, and never authorized him to act as he did.

Some time after this, Fowler sued me to Crawford Superior Court for the recovery of the price he had paid me for the negro. This suit is evidence enough to prove that *he* did not consider himself at that time owner of the negro; for it is hardly to be believed that he thought, or was advised by his lawyer that he might recover back the money and keep the negro likewise. The suit itself, therefore, proves I was right in my first question. But it does not rest here. He gave up the Bill of Sale to be cancelled, and I did cancel it in his presence, and with his consent.—This certificate friend *Gildersleeve*, though he does not venture positively to say so, leaves it to be inferred that Fowler only *sent* me this Bill of Sale to get the negro in for him. This I deny; and no reasonable man will believe it. Fowler now says that he discovered on first of January, 1830, that I avoided him, and did not intend to give up the negro. Now, how does it appear that with these suspicions on his mind, he was willing to trust me with my own deed that had never been proved & recorded? and this too without any distinct agreement on my part to return it. The thing is too plain. The Bill of Sale was cancelled, and given up to me, and I never could guess the full design of it, until I came to consult with professional men about the suit he was prosecuting on the bond, and the suit I was going on for running off my negro. Then I found out that it might be very useful to Fowler, who had run off the negro I had already given him title, and yet was suing me for the money back, to deprive me of the power to show this, but by my own *cancelled* deed; and the production of it in that state would leave the jury to infer that the bargain had been rescinded. He was better advised before hand than I was, and succeeded to it. After this, I considered the negro as my property; but I thought I ought to have back at the $115 which I had been damaged. The truth is, that Fowler wanted to get clear of the bargain, and preferred the money; and, on the 1st January, 1831, he wrote me a letter, from which the following is a true extract: "I am willing to take *negroes*, good notes or cash. I will sell *Sam* up." Now, this looks very much as if compelling his friend Gildersleeve. But it follows another extract from the same letter: "I had better settle it privately; previous to this I was trying to *settle to please Gildersleeve*." I think this looks very little like confirmation of the tale that Gildersleeve was made a witness of the deed being given up to me. For, mark you, these worthy trailers design to create the impression that I wanted this Bill of Sale given up to *get a witness*. But no; this Mr. Fowler is scheming for that. He takes care to have a witness, and, by his own letter, who is it he selects? The very man for whom he acted, and whom he was then bound to please. Who has credulity enough to believe a man who affirms that he surrendered up the evidence of his right for proper, to one who he suspected meant to cheat him, and therefore he took care to call a witness; and though it occurred in a town where many witnesses could be had, he selected as a witness the very man who was *interested*? John Gildersleeve is more scarce—William Fowler too. All these things are an after thought, which I can explain, think.

Again, in July, 1830, this same Mr. John Gildersleeve wrote me a letter, from which I make the following extract, and which, when read, must create a regret in the minds of some people that God did not bless every man with a strong memory: "Mr. Fowler wishes nothing from you but what is right as to the *fellow*, (meaning Sam;) he don't pretend to have any claim on him; he only looks to you for the payment of the bond you gave him, and did hold back the writ in hopes that you would pay it without a law suit." And he concludes, "I shall come to Raleigh myself in the course of 4 or 5 weeks; I will settle the thing with you. Let nothing come from you."

I think I have disposed of Mr. Gildersleeve's statement; and it will be no great effort to rid myself of any effect that is to follow Hindes'. As to what the hoped states, it would have been more satisfactory to publish it. I rely more on its correctness than my man's memory. In what manner I avoided a compliance with the bargain, he does not condescend to note. His impertinent interference with my property alone prevented my delivering the negro according to contract. I have sued him for it, and this may account for his readiness to certify. Had Fowler admitted heretofore, as fully as he now does, that this act was authorised by him, I should have honored him at the same time in a similar way; but I suspect his lawyer had advised him it would not do while his suit on the bond existed; but now that he finds it his interest to claim the negro and not the money, the thing has changed. Imprudent liabilities which I had incurred for others, as a surety, involved me in debt; and though I have long struggled to recover from the embarrassment which it has created in my pecuniary affairs, I have not succeeded as yet in relieving my estate from a large debt which I honestly owe, and for which my friends are bound as my endorsers. For their indemnity, a deed of trust has been executed by me, which conveys the greater part of what I own. It was this which changed the views of Mr. Fowler. So long as he saw an immediate prospect of recovering the money which was due upon the rescinding of our bargain, he pressed for it, concealed his agency in running off the negro as well as he could, and actually gave up the Bill of Sale, and consented it should be cancelled, and it was cancelled in his presence; but no sooner was he apprized of my embarrassments, than he set up a claim to *Sam*, and insisted on his right to him under a Bill of Sale; and *he says*, in his publication, that he has discontinued his suit on the bond, (which I did not know before I saw it published, and now have only *his word for it*.) I did not feel unwilling that *Sam* should go to him, provided he would take him and make good the loss I had sustained by his being run off; and, so far as I am concerned, I will now consent to it, with the understanding that he takes him as he runs; and, upon his paying me the damage I have sustained by this improper interference with my property, I will now seal and deliver a new Bill of Sale for Sam, and so I have heretofore offered to do. I did not mean to act unfairly; but I do not intend quietly to submit to imposition. When I saw an advertisement of Fowler's in the papers, by which he offered a reward for *Sam*, and I knew too he had offered to sell him, and yet my fair claims to compensation for the damage I had sustained in having him run off were replied to in most insulting terms, I felt it was a duty, at least a privilege to let the public know how the title of the negro really was.

As to the charge of my having harboured the negro *Sam*, it is a base libel, and but the spiteful scandal of unprincipled malice. And the charge that I have fraudulently conveyed away any part of my property, is equally base and false. Were these charges made by one who was worthy of such notice, I would afford him the opportunity to prove them; and, contemptible as he is, I may yet determine to furnish this chance to the *gentleman* who publishes such libels. This Mr. Fowler may rest assured that there is nothing but his insignificance to protect him; and if he ever gets in my way, I will very probably convince him how faithful I will be in the keeping of my *last promise* to him.

I hope the public will excuse me for the trouble I impose on them, by noticing a controversy with a base and unprincipled libeller. I thought it might be proper for me to give the statement I have for the satisfaction of those who do not know me, and are ignorant of my assailant, for fear his appearance before them in the fine feathers of another man's language, might pass off his production for more than it merits.

No one who knows me will doubt the correctness of my extracts, as referred to in this notice. If any one shall dare to question them, the letters shall be deposited with the Editors of the "Star," who will certify of their truth.

MERITT DILLIARD.

September 5, 1831 — 37 2w

For Sale or Rent.

My store house in Nashville, North Carolina, with every improvement necessary to carry on business on an extensive scale. The buildings are new and substantial, and the store room, 21×50 feet, is considered by many superior to any in the State in point of construction. A good cotton gin, and house capable of holding two hundred thousand pounds seed cotton, with lumber house *and first rate stand for business*. I only give up the business in consequence of having made as much money as I want at present.

I will give a great bargain if application be made ere I change my mind.

A. WATSON.

Nashville, N. C. Aug. 20, 1831 — 35 tf

Valuable Property for Sale.

That valuable corner lot, known as CASSO'S LOT, 157½ feet by 62½, can now be had at a reduced price, and the payments accommodating. For particulars, apply to Capt. Th's Cobbs, who will show the ground, &c.

WM. R. HINTON.

Raleigh, June 25, 1831 — 27 tf

Wool Carded into Rolls,

OR BROKE FOR HATTERS,

At the Mills of Col. Wm Hinton, on Neuse River, 6 miles east of Raleigh, where the subscriber has now a Machine in full and complete operation for that purpose. Wool, before brought to this Machine, should be first well washed; all the burs and hard substances, which would injure cards, carefully picked out; and greased with one pound of lard or oil to every 10 lbs of wool. The subscriber will card wool thus prepared into good rolls for eight cents a pound cash, or the one fifth part of the wool, if brought before the 1st of October; and for 10 cents for all that is brought after that time; and will break wool for hatters at five cents. Wool should be carded in warm weather—the sooner in the season the better. Good work cannot be done when the weather is cool.

S. S. CLAYTON.

Wake county, June 16, 1831 — 25 tf

State of North Carolina,

Wake County.

I hereby give notice to the legatees of the late George Cole, residing in the Western District of the State of Tennessee, and all other legatees of said Cole, that I shall be prepared to settle with them on the third Monday in November, A. D. 1831, on their giving me refunding bonds with good security.

JAMES WOOD,
Executor of George Cole.

37 3t

Notice.

Was committed to the jail of Randolph county, on the 3d day of July last, a negro man, who saith his name is ABRAHAM, and belongs to John Mahew, of Iredell county. Abraham was taken up and committed as a runaway slave, and is a mulatto, about 40 years old, large and likely. No other particular marks recollected. The owner of said negro is required to prove his property, pay charges, and take him away.

GEO. HOOVER, Sh'ff.

August 25, 1831 — 37 6m

Notice.

Was committed to the jail of this place, on the 21st inst. a runaway negro, who says his name is JACOB, and that he belongs to Mr. Charles Carson, of Burke county. He is of common size, and has lost many of his foreteeth. The owner is required to take him away, or he will be dealt with as the law directs. Mr. Carson has been written to on the subject.

J. T. C. WIATT, Jailor.

August 29, 1831 — 36 tf

Jesse Proctor vs. Patty Taylor.

Pursuant to a decree of the Chancery Court at Charlotte, in the Western Division of the State of Tennessee, made in the above cause, at the June Term 1831, I shall proceed to sell at auction, to the highest bidder for cash, at the court house in the town of Clarksville, on the 10th day of December next, all the right, title, claim and interest, which Patty Taylor has in and to *fourteen hundred and seventeen acres of LAND*, lying in Montgomery county, on Person's creek, a branch of Red river, that empties in on the south side opposite Renfroe's old station; beginning at a Red Oak, on the south side of Person's creek, two or three miles from the mouth, running north six hundred and seventy one poles to a white oak, thence west three hundred and thirty eight poles to a popler, thence south six hundred and seventy one poles to a haw tree, thence east three hundred and thirty eight poles to the beginning. Said land will be sold in such parcels as may best suit purchasers.

JOHN MONTGOMERY,
Clerk & Master.

July 30, 1831 — 37 4o

Price adv. $5 00

Notice.

Committed to jail in Gates county, some time since, two negro fellows, HARRY and DICK. The former of whom states he was set free by the Dismal Swamp Company something like 12 years ago. He is of light complexion, about 5 feet 7 inches high, and looks to be about 60 years of age. He has no particular mark about the face or mouth, save the loss of nearly all his teeth.

Dick says he was sold by a Mr. John Stroshan, of Amelia county, Va. to a Mr. Simons, a trader, about 4 years since, from whom he eloped 2 or 3 days after the purchase. He is of dark complexion, 5 feet 8 or 10 inches high, and about 40 years old, and who also has a very bad set of teeth.

The owner or owners of the above negroes are requested to come forward immediately, prove their right, pay charges, and take them away, or otherwise they will be disposed of as the law directs.

JAMES R. RIDDICK, Sh'ff.

Gatesville, N. C. July 7, 1831 — 30 6m

Taken up

On the 19th day of April, 1831, and committed to the jail of Stokes county, a negro slave, who says his name is BENJAMIN, and that he belongs to Duncan McBride, of Robeson county, in this State. Benjamin says he is forty-three years of age. He is about six feet high, very black, and has a scar on his right cheek and below his left eye. The owner is requested to come forward, prove his property, pay charges, and take him away.

JOHN M. VANHOY, Jailor.

Germanton, N. C.
May 14, 1831 — 24 6m

Negroes for Sale.

In pursuance of a decree made at the last term of the Court of Equity for Wake county, I shall expose to public sale, before the court house door in the city of Raleigh, on Monday the 3d of October next, (that being the Monday of Wake Superior Court,) thirteen valuable negro slaves; among them several first rate mechanics.

Terms of sale, cash.

H. M. MILLER C. & M.

Raleigh, August 16, 1831 — 34 7w

THE RESOLUTIONS OF VIRGINIA AND KENTUCKY,

Penned by Madison and Jefferson, in relation to the Alien and Sedition Laws.

(CONTINUED.)

Is then the Federal Government, it will be asked, destitute of every authority for restraining the licentiousness of the press, and for shielding itself against the libellous attacks which may be made on those who administer it?

The Constitution alone can answer this question. If no such power be expressly delegated, and if it be not both necessary and proper to carry into execution an express power; above all, if it be expressly forbidden, by a declaratory amendment to the Constitution, the answer must be that the Federal Government is destitute of all such authority.

And might it not be asked in turn, whether it is not more probable, under all the circumstances which have been reviewed, that the authority should be withheld by the Constitution, than that it should be left to a vague and violent construction; whilst so much pains were bestowed in enumerating other powers, and so many less important powers are included in the enumeration?

Might it not be likewise asked, whether the anxious circumspection which dictated so many *peculiar* limitations on the general authority, would be unlikely to exempt the press altogether from that authority? The peculiar magnitude of some of the powers necessarily committed to the Federal Government; the peculiar duration required for the functions of some of its departments; the peculiar distance of the seat of its proceedings from the great body of its constituents; and the peculiar difficulty of circulating an adequate knowledge of them through any other channel; will not these considerations, some or other of which produced other exceptions from the powers of ordinary Governments, altogether, account for the policy of binding the hand of the Federal Government, from touching the channel which alone can give efficacy to its responsibility to its constituents; and of leaving those who administer it, to a remedy for their injured reputations, under the same laws, and in the same tribunals, which protect their lives, their liberties, and their properties?

But the question does not turn either on the wisdom of the Constitution, or on the policy which gave rise to its particular organization. It turns on the actual meaning of the instrument; by which it has appeared, that a power over the press is clearly excluded, from the number of powers delegated to the Federal Government.

3. And, in the opinion of the committee, well may it be said, as the Resolution concludes with saying, that the unconstitutional power exercised over the press by the "Sedition Act," ought, "more than any other, to produce universal alarm; because it is levelled against that right of freely examining public characters and measures, and of free communication among the people thereon, which has ever been justly deemed the only effectual guardian of every other right."

Without scrutinizing minutely into all the provisions of the "Sedition Act," it will be sufficient to cite so much of section 2, as follows:—"And be it further enacted, that if any person shall write, print, utter, or publish, or shall cause or procure to be written, printed, uttered, or published, or shall knowingly and wilfingly assist or aid in writing, printing, uttering, or publishing, any false, scandalous, and malicious writing or writings against the Government of the United States, or either House of the Congress of the United States, *with an intent to defame the said government, or either House of the said Congress, or the President, or to bring them, or either of them into contempt or disrepute; or to excite against them, or either, or any of them, the hatred of the good people of the United States, &c. Then such person being thereof convicted before any Court of the United States, having jurisdiction thereof, shall be punished by a fine not exceeding two thousand dollars, and by imprisonment not exceeding two years.*"

On this part of the act, the following observations present themselves.

1. The Constitution supposes that the President, the Congress, and each of its Houses, may not discharge their trusts, either from defect of judgment or other causes. Hence, they are all made responsible to their constituents, at the returning periods of election; and the President, who is singly entrusted with very great powers, is, as a further guard, subjected to an intermediate impeachment.

2. Should it happen, as the constitution supposes it may happen, that either of these branches of the Government may not have duly discharged its trust; it is natural and proper, that according to the cause and degree of their faults, they should be brought into contempt or disrepute, and incur the hatred of the people.

3. Whether it has, in any case happened that the proceedings of either, or all of those branches, evinces such a violation of duty as to justify a contempt, a disrepute, or hatred among the people, can only be determined by a free examination thereof, and a free communication among the people thereon.

4. Whenever it may have actually happened, that proceedings of this sort are chargeable on all or either of the branches of the Government, it is the duty as well as right of intelligent and faithful citizens to discuss and promulge them freely, as well to control them by the censorship of the public opinion, as to promote a remedy according to the rules of the Constitution. And it cannot be avoided, that those who are to apply the remedy must feel, in some degree, a contempt or hatred against the transgressing party.

5. As the act was passed on July 14, 1798, and is to be in force until March 3, 1801, it was of course, that during its continuance, two elections of the entire House of Representatives, an election of a part of the Senate, and an election of a President were to take place.

6. That consequently, during all these elections, intended by the Constitution, to preserve the purity, or to purge the faults of the Administration, the great remedial rights of the people were to be exercised, and the responsibility of their public agents to be skreened, under the penalties of this act.

May it not be asked of every intelligent friend to the liberties of his country, whether the power exercised in such an act as this, ought not to produce great and universal alarm? Whether a rigid execution of such an act, in time past, would not have repressed that information and communication among the people which is indispensable to the just exercise of their electoral rights? And whether such an act, if made perpetual, and enforced with rigour, would not, in time to come, either destroy our free system of Government, or prepare a convulsion that might prove equally fatal to it?

In answer to such questions, it has been pleaded that the writings and publications forbidden by the act, are those only which are false and malicious, and intended to defame; and merit is claimed for the privilege allowed to authors to justify, by proving the truth of their publications, and for the limitations to which the sentence of fine and imprisonment is subjected.

To those who concurred in the act, under the extraordinary belief that the option lay between the passing of such an act, and leaving in force the common law of libels, which punishes truth equally with falsehood; and submits the fine and imprisonment to the indefinite discretion of the Court, the merits of good intentions ought surely not to be refused. A like merit may perhaps be due for the discontinuance of the *corporal punishment*, which the common law also leaves to the discretion of the Court. This merit of *intention*, however, would have been greater, if the several mitigations had not been limited to so short a period; and the apparent inconsistency would have been avoided, between justifying the act at one time, by contrasting it with the rigors of the common law, otherwise in force; and at another time, by appealing to the nature of the crisis, as requiring the temporary rigour exerted by the act.

But, whatever may have been the meritorious intentions of all or any who contributed to the Sedition Act; a very few reflections will prove, that its baleful tendency is little diminished by the privilege of giving in evidence the truth of the matter contained in political writings.

In the first place, where simple and naked facts alone are in question, there is sufficient difficulty in some cases, and sufficient trouble and vexation in all, of meeting a prosecution from the Government, with the full and formal proof necessary in a court of law.

But in the next place, it must be obvious to the plainest minds, that opinions and inferences, and conjectural observations, are not only in many cases inseparable from the facts, but may often be more the objects of the prosecution than the facts themselves; or may even be altogether abstracted from particular facts, and that opinions and inferences, and conjectural observations, cannot be subjects of that kind of proof which appertains to facts, before a Court of Law.

Again: It is no less obvious that the *intent* to defame or bring into contempt or disrepute, or hatred, which is made a condition of the offence created by the act, cannot prevent its pernicious influence on the freedom of the press. For, omitting the inquiry, how far the malice of the intent is an inference of the law from the mere publication; it is manifestly impossible to punish the intent to bring those who administer the Government into disrepute or contempt, without striking at the right of freely discussing public characters and measures: because those who engage in such discussions, must expect and *intend* to excite these unfavorable sentiments, so far as they may be thought to be deserved. To prohibit, the intent to excite those unfavorable sentiments against those who administer the Government, is equivalent to a prohibition of the actual excitement of them; and to prohibit the actual excitement of them, is equivalent to a prohibition of discussions having that tendency and effect, which, again, is equivalent to a protection of those who administer the Government, if they should at any time deserve the contempt or hatred of the people, against being exposed to it, by free animadversions on their characters and conduct. Nor can there be a doubt, if those in public trust be shielded by penal laws from such strictures of the press, as may expose them to contempt or disrepute, or hatred where they may deserve it, that in exact proportion as they may deserve to be exposed, will be the certainty and criminality of the intent to expose them and the vigilance of prosecuting and punishing it, nor a doubt that a Government thus intrenched in penal statutes, against the just and natural effects of a culpable administration, will easily elude the responsibility which is essential to a faithful discharge of its duty.

Let it be recollected lastly, that the right of electing the members of the Government, constitutes more particularly the essence of a free and responsible Government. The value and efficacy of this right, depends on the knowledge of the comparative merits and demerits of the candidates for public trust, and on the equal freedom, consequently of examining and discussing these merits and demerits of the candidates respectively. It has been seen that a number of important elections will take place while the act is in force, although it should not be continued beyond the term to which it is limited. Should there happen, then, as is extremely probable in relation to some or other branches of the Government, to be competitions between those who are, and those who are not, members of the Government; what will be the situations of the competitors? Not equal, because the characters of the former will be covered by the "Sedition Act" from animadversions exposing them to disrepute among the people, whilst the latter may be exposed to the contempt and hatred of the people, without a violation of the act. What will be the situation of the people? Not free, because they will be compelled to make their election between competitors, whose pretension they are not permitted by the act, equally to examine, to discuss, and to ascertain. And from both these situations will not those in power derive an undue advantage for continuing themselves in it, which by impairing the right of election, endangers the blessings of the Government founded on it?

It is with justice, therefore, that the General Assembly have affirmed in the resolution, as well that the right of freely examining public characters and measures, and of communication thereon, is the only effectual guardian of every other right, as that this particular right is levelled at, by the power exercised in the "Sedition Act."

The resolution next in order is as follows:

"That this State having by its Convention, which ratified the Federal Constitution, expressly declared, that among other essential rights, "the liberty of conscience and of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States," and from its extreme anxiety to guard these rights from every possible attack of sophistry and ambition, having with other States, recommended an amendment for that purpose, which amendment was in due time, annexed to the Constitution; it would mark a reproachful inconsistency, and criminal degeneracy, if an indifference were not shown, to the most palpable violation of one of the rights, thus declared and secured; and to the establishment of a precedent, which may be fatal to the other."

To place this resolution in its just light, it will be necessary to recur to the act of ratification by Virginia, which stands in the ensuing form:

"We, the delegates of the people of Virginia, duly elected in pursuance of a recommendation from the General Assembly, and now met in Convention, having fully and freely investigated and discussed the proceedings of the Federal Convention, and being prepared as well as the most mature deliberation hath enabled us, to decide thereon; do, in the name and in behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, being derived from the people of the United States, may be resumed by them, whensoever the same shall be perverted to their injury or oppression; and that every power not granted thereby, remains with them, and at their will. That therefore, no right of any denomination can be cancelled, abridged, restrained or modified by the Congress, by the Senate or House of Representatives acting in any capacity, by the President, or any department or officer of the United States, except in those instances in which power is given by the Constitution for these purposes; and that among other essential rights, the liberty of conscience and of the press, cannot be cancelled, abridged, restrained or modified by any authority of the United States."

Here is an express and solemn declaration by the Convention of the State, that they ratified the Constitution in the sense that no right of any denomination can be cancelled, abridged, restrained or modified by the Government of the United States, or any part of it, except in those instances in which power is given by the Constitution; and in the sense particularly, "that among other essential rights, the liberty of conscience and freedom of the press cannot be cancelled, abridged, restrained or modified by any authority of the United States."

Words could not well express, in a fuller or more forcible manner, the understanding of the Convention, that the liberty of conscience and the freedom of the press, were *equally* and *completely* exempted from all authority whatever of the United States.

Under an anxiety to guard more effectually these rights against every possible danger, the Convention, after ratifying the Constitution, proceeded to prefix to certain amendments proposed by them, a declaration of rights, in which are two articles providing, the one for the liberty of conscience, the other for the freedom of speech and of the press.

Similar recommendations having proceeded from a number of other States, and Congress, as has been seen, having in consequence thereof, and with a view to extend the ground of public confidence, proposed among other declaratory and restrictive clauses, a clause expressly securing the liberty of conscience and of the press; and Virginia having concurred in the ratification which made them a part of the Constitution; it will remain with a candid public to decide, whether it would not mark an inconsistency and degeneracy, if an indifference were now shown to a palpable violation of one of those rights, the freedom of the press; and to a precedent therein, which may be fatal to the other, the free exercise of religion.

That the precedent established by the violation of the former of these rights, may, as is affirmed by the resolution, be fatal to the latter, appears to be demonstrable, by a comparison of the grounds on which they respectively rest, and from the scope of reasoning, by which the power of the former has been vindicated.

First, Both of these rights, the liberty of conscience and of the press, rest equally on the original ground of not being delegated by the Constitution, and consequently withheld from the Government. Any construction, therefore, that would strike this original security for the one, must have the like effect on the other.

Secondly, They are both equally secured by the supplement to the Constitution, being both included in the same amendment, made at the same time, and by the same authority. Any construction or argument then, which would turn the amendment into a grant or acknowledgment of power with respect to the press, might be equally applied to the freedom of religion.

Thirdly, It will be admitted that the extent of the freedom of the press, secured by the amendment, is to be measured by the common law on this subject, the same authority may be resorted to, for the standard which is to fix the extent of the "free exercise of religion." It cannot be necessary to say what this standard would be; whether the common law be taken solely as the unwritten, or as varied by the written law of England.

Fourthly, If the words and phrases in the amendment are to be considered as chosen with a studied discrimination, which yields an argument for a power over the press under the limitation that its freedom be not abridged; the same argument results from the same consideration, for a power over the exercise of religion, under the limitation that its freedom be not prohibited.

For, if Congress may regulate the freedom of the press provided they do not abridge it, because it is said only, "they shall not abridge it," and is not said, "they shall make no law respecting it;" the analogy of reasoning is conclusive, that Congress may *regulate* and even *abridge* the free exercise of religion, provided they do not *prohibit it*, because it is said only "they shall not prohibit it," and is not said, "they shall make no law *respecting*, or no law *abridging* it."

The General Assembly were governed by the clearest reason, then, in considering the "Sedition Act," which legislates on the freedom of the press, as establishing a precedent that may be fatal to the liberty of conscience; and it will be the duty of all, in proportion as they value the security of the latter, to take the alarm at every encroachment on the former.

The two concluding resolutions only remain to be examined. They are in the words following:

"That the good people of this Commonwealth, having ever felt and continuing to feel the most sincere affection for their brethren of the other States; the truest anxiety for establishing and perpetuating the union of all; and the most scrupulous fidelity to that Constitution which is the pledge of mutual friendship, and the instrument of mutual happiness, the General Assembly, doth solemnly appeal to the like dispositions in the other States, in confidence that they will concur with this Commonwealth in declaring as it does hereby declare, that the acts aforesaid are unconstitutional; and that the necessary and proper measures will be taken by each, for co-operating with this State, in maintaining unimpaired, the authorities, rights and liberties reserved to the States respectively, or to the people."

"That the Governor be desired to transmit a copy of the foregoing resolutions to the executive authority of each of the other States, with a request that the same may be communicated to the Legislature thereof; and that a copy be furnished to each of the Senators and Representatives, representing this State in the Congress of the United States."

The fairness and regularity of the course of proceeding, here pursued, have not protected it against objections even from sources too respectable to be disregarded.

It has been said that it belongs to the Judiciary of the United States, and not to the State Legislatures, to declare the meaning of the Federal Constitution.

But a declaration, that proceedings of the Federal Government are not warranted by the Constitution, is a novelty neither among the citizens, nor among the Legislatures of the States; nor is the opinion of the Legislature of Virginia, singular in the example of it.

Nor can the declarations of either, whether affirming or denying the constitutionality of measures of the Federal Government, or whether made before or after judicial decisions thereon, be deemed in any point of view, an assumption of the office of the Judge. The declarations, in such cases, are expressions of opinion, unaccompanied with any other effect than what they may produce on opinion, by exciting reflection. The expositions of the Judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expression of the general will; possibly to a change in the opinion of the judiciary; the latter enforces the general will, whilst that will and that opinion continue unchanged.

And if there be no impropriety in declaring the unconstitutionality of proceedings in the Federal Government, where can be the impropriety of communicating the declaration to other States, and inviting their concurrence in a like declaration? What is allowable for one, may be allowable for all; and a free communication among the States, where the Constitution imposes no restraint, is as allowable among the State Governments as among other public bodies or private citizens. This consideration derives a weight, that cannot be denied to it, from the relation of the State Legislatures to the Federal Legislature as the immediate constituents of one of its branches.

The Legislatures of the States have a right also to originate amendments to the Constitution, by a concurrence of two-thirds of the whole number, in applications to Congress for the purpose. When new States are to be formed by a junction of two or more States or parts of States, the Legislatures of the States concerned, are, as well as Congress, to consent in the measure. The States have a right also to enter into agreements or compacts, with the consent of Congress. In all such cases communications among them results from the object which is common to them.

It is lastly to be seen, whether the confidence expressed by the resolution, that the *necessary and proper measures* would be taken by the other States for co-operating with Virginia in maintaining the rights reserved to the States, or to the people, be in any degree liable to the objections which have been raised against it.

If it be liable to objection, it must be because either the object or the means are objectionable.

The object being to maintain what the Constitution has ordained, is in itself a laudable object.

The means are expressed in the terms "the necessary and proper measures." A proper object was to be pursued, by means both necessary and proper.

To find an objection, then, it must be shown that some meaning was annexed to these general terms, which was not proper; and, for this purpose, either that the means used by the General Assembly were an example of improper means, or that there were no proper means to which the terms could refer.

In the example given by the State, of declaring the Alien and Sedition Acts to be unconstitutional, and of communicating the declaration to other States, no trace of improper means has appeared. And if the other States had concurred in making a like declaration, supposed too by the numerous applications flowing immediately from the people, it can scarcely be doubted, that these simple means would have been as sufficient, as they are unexceptionable.

It is no less certain that other means might have been employed, which are wholly within the limits of the Constitution. The Legislatures of the states might have made a direct representation to Congress, with a view to obtain a rescinding of the two offensive acts; they might have represented to their respective Senators in Congress, that two-thirds thereof would propose an explanatory amendment to the Constitution, or two-thirds of the Legislatures would call a Convention for the same purpose, which might, by an application