

and course of justice judging of it by its merits, and by what is apparent on its face would not affirm its invalidity. But the constitution is equally obligatory on every department of the government—on the legislator who enacts, as well as on the judge who interprets a law. If the former shall, so well his unlawful purpose as to defend it from the scrutiny of the latter is it less a violation of his constitutional obligation? If it be such a violation, can it be constitutionally valid?

If instead of the absence of any express grant of power to protect manufactures the constitution had contained an express clause of prohibition, an act of Congress imposing duties beyond the purposes of revenue, and thereby operating as a bounty to the manufacturer, would, they insist, be admitted to be in violation of the constitution, and yet the repugnance would not be manifest upon its face, and would therefore elude the judicial power.

A numerous and intelligent portion of the American people believe that this view is applicable to the tariff of 1828. They admit the power of Congress to lay and collect such duties as they may deem necessary for the purposes of revenue, and within these limits so to arrange those duties as incidentally, and to that extent, to give protection to the manufacturer. They deny the right to convert what they denominate the incidental into the principal power, and transcending the limits of revenue to impose an additional duty substantially and exclusively for the purpose of affording that protection. They admit that Congress may counteract the regulations of a foreign power which may be hostile to our commerce, but they deny their authority permanently to prohibit all importation for the purpose of securing the home market exclusively to the domestic manufacturer, thereby destroying the commerce they were entrusted to regulate, and fostering an interest with which they have no constitutional power to interfere. That portion of our fellow citizens of whom we speak do not therefore hesitate to affirm, that if the right to enact the tariff law of 1828 be referred to the authority to lay and collect duties, &c., it is a palpable abuse of the taxing power, which was conferred for the purpose of revenue;—if to the authority to regulate commerce, it is as obvious a perversion of that power, since it may be extended to an utter annihilation of the objects which it was intended to protect. Having however this discussion, we concur in the opinion, that if the aggrieved party is deprived of the protection which the judicial department might otherwise afford, it would strengthen his appeal to the American people to unite with him in correcting the evil by peaceable and constitutional means.

But there is a view of this subject which may claim the concurrence of all those who are prepared to admit that the tariff is unequal in its operation, oppressive and unjust. The constitution of the United States had its origin in a spirit of compromise. Its object is the security of the rights which are committed to its protection—its principle that of an equal participation in the benefits and in the burdens of the government.

A system of taxation which is unequal in its operation, which oppresses the many for the benefit of the few, is therefore unjust, not merely with reference to the great and immutable principles of right which are applicable to human conduct, but is moreover in direct collision with that constitutional equality of right, which this instrument was thus confessedly intended to secure. A distinguished jurist of Massachusetts, one who is advantageously known as such to the people of the Union, has said of the system of which we complain, that it is calculated "to destroy many of the great objects for which the constitution of the United States was originally framed and adopted." Who will affirm that such a system can consist with the spirit of the constitution? Its enactments may be so veiled as to elude the judicial power, and may therefore be obligatory upon the other departments of the government—but as between constituent and agent, between the people and their rulers, the charter will in such case have been violated, and it will belong to them to correct the evil. Why should we fear to enunciate this principle? Is it because of the danger of those interests which have grown up under the system? A just consideration of the subject will lead to a directly opposite result. If it be conceded that the system is oppressive, unequal and unjust, can those who profit by it deceive themselves with the expectation of its permanency? Is it prudent to close their eyes to the consequences, to which sooner or later this conviction must inevitably lead? Distinguished as this system is by every characteristic which may define a tyranny the most odious, why should we, who are its victims, not stand upon our chartered rights?

As men and brethren we appeal to you then to unite your efforts with ours in the correction of this abuse. A system which is unequal in its operation, and therefore unjust—which is oppressive, because it burthens the many for the benefit of the few—grossly, fatally unjust and oppressive, since it is subversive of the bar-

riers of the Union—which is in violation of the principles of free government, and utterly at variance with the spirit of justice and mutual concession in which the Constitution was conceived and adopted; such a system, if persevered in, must alienate our affections from each other, engender discounts and animosities, and lead inevitably, and with a force which no human power can resist, to the most awful of all calamities. We entreat those who differ from us, seriously to ponder this view of the subject. We entreat them not to misunderstand us. We cannot be deterred from the discharge of our duties to ourselves and our common country by the menace of consequences, and we are equally incapable of using its language to others. It is as men and brothers—in the spirit of an affection which is still warm and undiminished, that we would call their attention to those inevitable results, which neither they nor we will have the power to avert.

Examine the subject for a moment in its connexion with the principles of an enlightened political economy, and see if the considerations which are urged to sustain this system are not fallacious and delusive. The view must be necessarily brief—consisting of hints and suggestions rather than of an extended argument, or of minute details; but our object will be attained if these may serve to awaken a spirit of dispassionate inquiry.

We are the advocates of free trade. The argument which sustains it rests upon a proposition which may not be denied. It is the unquestionable right of every individual to apply his labour and capital in the mode which he may conceive best calculated to promote his own interest. It is the interest of the public that he should so apply it. He understands better than it can be understood by the government, what will conduce to his own benefit;—and since the majority of individuals will, if properly protected, be disposed to follow their interests, such an application of their industry and capital, must produce in the result the greatest amount of public good. Let it be remembered that the question relates exclusively to the application of capital. It cannot be generated by an act of legislation. The power of the government is limited to its transfer from one employment to another. It takes from some less favoured interest, what it bestows on the one which it professes to protect. It is equally untrue that such a system gives greater employment to labour. It is operation is confined to the simple change of its application. Laws which protect by bounty any peculiar species of labour, cannot be said to encourage American industry—that is directed to various objects. These laws favour only a single class; and since the bounty is not supplied by the government, but taken from the pocket of the individual, the protection which is given to one species of labour, is so given at the expense of every other. The course of legislation, which leaves American capital and labour to the unfettered discretion of those who possess the one and apply the other, can alone be denominated the "American System."

The interference of government, with the right of the individual to apply his labour and capital in such mode as he may think most conducive to his own interest, thus necessarily operates to diminish the aggregate amount of production. In other words, the amount of the necessities and conveniences of life which are enjoyed by the community is necessarily diminished. If all nations then were willing to adopt the system of free trade for which we contend, which is accordant to the spirit of Christianity and calculated to unite nations in harmony and peace, it cannot be doubted that the interest of each would be promoted. The only question which can be raised on this part of the subject is, whether the adoption of a restrictive policy by one or more nations makes it the interest of others to reciprocate these restrictions. The answer seems to be sufficiently obvious and satisfactory. The proposition which asserts the superior advantages of a free trade among all nations, rests upon the following principle. The universal freedom of action which it allows, tends most thoroughly to develop the moral and physical energies of each nation, and to apply them to those objects to which they are best adapted. The proposition must be equally true in relation to each nation, whatever may be the policy adopted by others. The nation which resorts to a restrictive policy, legislates to her own disadvantage by interfering with the most profitable employment of capital. To the extent to which she thus excludes another nation from an accustomed or from a desirable market, she occasions, it is true, in that nation also a displacement of capital from its natural channels. But can the remedy consist in a retaliatory system of legislation? In a system of further restrictions imposed by the latter nation? If it be true that a restrictive system is injurious to the nation imposing it, does it cease to be so in regard to the latter nation, because of the wrong done by the former, and because it is also injurious to such nation? When we apply these views

to the Corn Laws of Great Britain, considered with reference to their effect upon us, is it not then obvious that a system of pretended retaliation, which endangers the productive energies of our own people, whatever may be its effect upon that nation, must necessarily increase the evils we ourselves are destined to sustain?

It is strongly urged as a motive to the continuance of the existing tariff, that its operation has been to effect a reduction of prices. These have in fact fallen since 1816, and our opponents contend that this has been the result of domestic competition. A moment's reflection will demonstrate the fallacy of this assertion. We present a single fact in the outset. The diminution of price has been general—as well in relation to articles which are not protected by the existing tariff of duties, as to those which are. It cannot therefore have arisen from this cause. Let us remember now, that this diminution of price has occurred every where—abroad as well as at home—and not only in an equal, but, as a necessary consequence of the tariff, in a greater degree there than here. Among the causes which have produced this result, two prominent ones are presented to your consideration—the diminished amount of the circulating medium of the world, and the astonishing improvements which have been introduced in the modes of production. The cost of production is less—the comparative value of money has become greater. Can we wonder at the result? Take the case of cotton goods—these have fallen in price here since the enactment of the tariff. But the same thing is true not only in an equal, but in a greater degree abroad—and the reason is obvious. The causes which have produced this result—those which have been before stated—have elsewhere been left to exert their full influence in effecting the reduction of price. Here their operation has been restrained by the conflicting influence of the tariff. The reduction therefore with us necessarily stopped at a point, which is as certain by adding the amount of duty to the price of the imported article. Thus the diminution of price here has not been produced by the tariff, but in despite of it—and has been retarded by it. But for this law the imported, which take the place of the domestic article in the consumption of the country, would be obtained at a price greatly below that which we actually pay, and the difference, amounting yearly to many millions of dollars, would be saved to the community. It cannot be doubted that the prices of all commodities, the domestic production of which is forced by the imposition of a duty on a foreign article of similar description, are raised by the amount of duty necessary to effect the exclusion of the foreign article, or that this increase of price is paid by the consumer, and that the loss to the nation which is occasioned by this system of protection is nearly equal to such difference of price.

The success which has attended the manufacture of cottons, is used to illustrate and enforce another suggestion in favor of the tariff. It is said that by means of the protection afforded by government, manufacturers are enabled to overcome the difficulties incident to new enterprises, and that this protection is ultimately repaid to the community in the reduced price at which the article is furnished. We have already shown that this reduction in price in the case referred to has not resulted from the protective system. Let us look however at this suggestion apart from that consideration. If it be conceded for the purpose of the argument, and only for that purpose, that a manufacture might be established by a temporary encouragement from government, which would not otherwise, at least at that time, come into successful operation, and that the community might ultimately be repaid in the manner which is supposed, the following considerations seem decisively to repel the force of that suggestion. The idea of permanent protection is excluded by the nature of the proposition. That which is proposed, is temporary merely, and the question whether it is to be ultimately repaid to the community, is of course made to depend on the successful operation of the protected establishment. It is Congress who are to determine in advance, upon the propriety of putting at hazard the interests of the community, by the forced establishment of the proposed manufacture. The question to be determined depends upon the calculation of probabilities, to the correct estimate of which much practical information is obviously indispensable. Constituted as that body is, it is difficult to conceive of one less fitted for such reference. On the other hand, there is always enough of individual enterprise, intelligence and capital, to test any experiment which gives a fair promise of ultimate remuneration, notwithstanding it may be subject to temporary loss. Left to individual enterprise, the question would be decided by those who have every motive and every means to come to a just conclusion—while the proposed suggestion would throw upon Congress those visionary projects who, having failed to obtain the support of discreet and intelligent capitalists, would play the same game of securing profit, if by the recent accident in their vicinity, will be purchased by the

profit should arise, and throwing the loss upon the community; if loss should ensue.

It is said that a dependence upon other nations, for those manufactures which are essential to our wants, is inconsistent with our character as a nation; and in this view that the tariff is essential to national independence. To us the term seems to be strangely misapplied. It is agreed that a system of free trade among all the nations of the world, by securing the application of the highest energies of each, to those objects which it was qualified to produce, would enlarge the amount of production, and increase the sum of human comfort. But such a state of things would, according to the argument which is urged, be a state of universal dependence, and precisely the same consequences would follow in relation to the commercial intercourse of any given nation with the other nations of the world, to the extent of that intercourse, whether a system of free trade or of partial restrictions should prevail. That intercourse consists in the mutual interchange of commodities, and it is impossible to conceive the idea of a dependence on the one side, without recognising the fact of a corresponding dependence on the other. But such a state of mutual dependence is a source of gratulation rather than of regret, since it gives to each nation an increased facility for the development of its highest energies, enlarges the sum of its enjoyments, and affords the surest guarantee for the peace and harmony of the world.

If the suggestion be urged in its application to the necessities of the country during a state of war, an equally satisfactory answer may be given. It is unquestionably the duty of every government to be prepared for those conflicts with other nations, which it is not always possible to avoid; but this is most effectually done by the unrestricted exertion of its peaceful energies. In a government constituted as ours is, and separated as it is by the Atlantic from the nations of the old world, it is reasonable to presume that such conflicts will be rare. The intervals of peace will probably be of much the longest duration, and our system of permanent policy should therefore be regulated chiefly with a view to this state of our national existence. But the decisive answer to this suggestion is, that money constitutes the sinews of war, and that its exigencies are best provided for by enriching the nation in time of peace. A system of free trade will mainly conduce to this object. The resources which it will furnish will second the services of the neutral trader, and these with our own internal manufactures which are already independent of Legislative protection, will amply supply our wants in such an emergency.

It is one and not the least of the evils of the system which we deprecate, that it has a tendency to demoralize our citizens, to habituate them to evasions of the laws, and to encourage the odious and detestable practice of smuggling. It is the effect of the protecting duty to raise the price of commodities considerably above that at which they could be imported at a moderate revenue duty. Unless this is so, it fails to do accomplish its destined object, and is entirely useless. The inevitable consequence is, the temptation to clandestine importation, and the facilities which are afforded by our widely extended inland and ocean frontier, give impunity to the smuggler.

On the several interests of agriculture, navigation, commerce, the mechanic arts, and even on manufactures themselves, this system operates with an injurious influence. Speaking with reference to that portion of agriculture, which is employed in the production of articles which must be exported to a foreign market, it is obvious that any considerable diminution of commercial capital, by its transfer to other employments, must have a tendency to diminish their price. It is in the southern portion of the union that this will be most extensively felt. The domestic market will consume a portion of its great staple, which is comparatively small, and the immense residue will seek in vain for a foreign market, if the manufactures of other nations are in effect, and permanently excluded from our ports. This state of things may not at once occur. The necessity of having a supply of the raw material for the employment of her manufactures, may induce our great customer to submit, for a time, to a system of purchase instead of exchange; but she will be urged by the strongest considerations to seek that supply from those who will receive her manufactures in return. If this system be rendered permanent, and pushed to the prohibitory extent, to which it seems inevitably to tend, the fate of the cotton planter is therefore irrevocably sealed. Nor is he alone affected by this system of protection. The farmer of the middle states will feel its influence in the increase of the price of labour, as well as of every article which he buys; and if those in the manufacturing districts should find an improved market for the produce of their farms, the considerations just stated, will operate to diminish their profits—and the benefits which they enjoy from the increased investment of capital in securing profit, if by the recent accident in their vicinity, will be purchased by the

expense of their interests from which the capital has been transferred.

When we direct our attention to the influence of the protective system on the navigation of the country, we might say to the subject a peculiar interest, by dwelling on the fact, that a ship is the product and most successful of our manufactures. From an early period of our history, down to the present hour, we have been conspicuous for our skill in ship building. Adverting to it, as an art, we have by the elegance of our models, and the minuteness of our finish, raised it from a mechanical, to one of the fine arts. We have applied the principles of a correct taste to naval architecture, and have therefore produced the same mastery result in this as the application of the same principles had produced in the other arts. We might then with perfect propriety and propriety, press the inconsistency of that policy, which seeks the prosperity of manufacturers, by loading with burthens a branch of them which has flourished with but little aid, and is necessarily subject to exclusion of the jealousy of foreign nations. We might connect this topic with our naval glory, and thus enlist in our behalf the sensibilities of patriotism. But we waive these advantages, and without entering into details, content ourselves with adverting to the positive discouragements to ship building occasioned by the tariff of 1828. By that tariff, iron, hemp, duck and cordage, are subjected to duties which would be in effect prohibitory, if these articles were not of the first necessity, and their importation indispensable. The quantity of these articles which enter into the construction of a ship, with the labour bestowed on them, constitute one half of its value, and the duties upon them impose upon a new ship of five hundred tons a dry direct tax little short of two thousand dollars, which is paid in advance. We say a dry, direct tax, for it is not, as in cases of consumable articles, repaid by the consumer. Neither is it repaid by the freighter, for the rate of freight depends on foreign competition, and the foreign ship, cheap, because unburthened, settles the price.

The effects of the protective system upon commerce in general, can only be satisfactorily illustrated by details. It is an important task, and will be faithfully performed by those to whom it is committed. The diminution of imports—a total or partial scarcity of some articles—an increase of price to the consumer, a depression of the mercantile spirit which, under different circumstances, would be animated to new enterprises, and the consequent check to our attainment of that height of prosperity, to which the freedom of our institutions guides us, these are results which cannot be denied. That actual misery is not felt in a young and free country, where almost every citizen is, or easily can be, a proprietor, is not an argument to deter us from the removal of those obstructions to that assured and unexampled ease and comfort of condition, to which the American citizen aspires, and is entitled. If to the easy acquisition of good cheap land, he can likewise add, not only the necessities, but also the blameless luxuries of life, why should he be churlishly prevented by a sordid and monopolising system, which finds enjoyment in restriction, and profusion in prohibition?

Every class of manufactures which is not the object of the bounty of this system, as well as the mechanic arts generally, are injuriously affected by its operation. Nay, even those manufacturers, who experience this protection are thereby interested in the removal of these restrictions—The enormity of the profits, in many instances, combined with the uncertainty of the continuance of the system, give to this employment the character of a gambling speculation, rather than that of a regular pursuit of industry. The high rate of profits would occasion a rush of capital from other pursuits, and competition would speedily reduce them to the general level, if the precarious tenure by which they are held did not restrain the movement—Such of them as are adapted to the circumstances of the country, and conducted with the requisite skill and industry would continue to flourish, although legislative protection were withdrawn. They would still give a fair return for the capital and labour which they employ. The rate of profits would indeed be less, but they would be certain, or liable only to those changes which are common to the whole productive industry of the country. It is with this view of the subject, that the best informed and most intelligent among the manufacturers themselves, cannot resist the conviction that the abandonment of the protecting system, and a return to moderate duties, would be best calculated to promote the steady growth, and the safe and permanent establishment of American manufactures.

There is a remaining suggestion which we desire to present to your consideration—The national debt, which has annually absorbed from ten to twelve millions of revenue, is rapidly diminishing, and will speedily be extinguished. On the first day of January, 1833, the available funds of the government will be ade-