Western Carolinian.

It is even wise to abstain from laws, which however wise and good in themselves, have the appearance of inequality which find no response in the heart of the citizen, and which will be evaded with little remorse.
The wisdom of legislation is especially seen in grafting laws on conscience.
Dr. Channing.

BY BURTON CRAIGE.] SALISBURY, ROWAN COUNTY, N. C., MONDAY JANUARY 7, 1833. [VOL. III. NO

TERMS

THE WESTERN CAROLINIAN is published once a week at two dollars per annum, if paid within three months; or two dollars and fifty cents, if paid at any other time within the year. No Paper will be discontinued until all arrearages are paid, unless at the Editor's discretion.—No subscription will be received for a less time than one year.

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PROCLAMATION

By the Governor of South Carolina.

Whereas, the President of the United States hath issued his Proclamation containing an "ORDINANCE OF THE PEOPLE OF SOUTH CAROLINA, to nullify certain acts of the Congress of the United States," laying "duties and imposts for the protection of domestic manufactures."

And Whereas the Legislature of South Carolina now in session, taking into consideration, the matters contained in the said Proclamation of the President, have adopted a Preamble and Resolution to the following effect, viz:

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

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

Now I, ROBERT Y. HAYNE, Governor of South Carolina, in obedience to the said Resolution, do hereby issue this my Proclamation, solemnly warning the good people of this State against the dangerous and paradoxical doctrines promulgated in the said Proclamation of the President, as calculated to mislead their judgments as to the true character of the government under which they live, and the paramount obligation which they owe to the State, and manifestly intended to seduce them from their allegiance, and by drawing them to the support, of the violent and unlawful measures contemplated by the President, to involve them in the guilt of Rebellion. I would earnestly admonish them to beware of the specious but false doctrines by which it is now attempted to be shown that the several States have not retained their entire sovereignty, that "the allegiance of their citizens was transferred in the first instance to the Government of the United States," that "a State cannot be said to be sovereign and independent whose citizens owe obedience to laws not made by it;" that "even under the royal government we had no separate character, that the Constitution has created "a national government" which is not "a compact between Sovereign States"—that a State has NO RIGHT TO SECEDE"—in a word, that ours is a NATIONAL GOVERNMENT in which the people of all the States are represented, and by which we are constituted "ONE PEOPLE;" and "that our representatives in Congress are all representatives of the United States and not of the particular States from which they come;" doctrines which, uprood the very foundation of our political system—annihilate the rights of the States—and utterly destroy the liberties of the citizens.

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

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

It is the natural and necessary consequence of the principles thus authoritatively announced by the President, as constituting the very basis of our political system, that the Federal Government is unlimited and supreme; being the exclusive judge of the extent of its own powers, the laws of Congress sanctioned by the Executive and the Judiciary, whether passed in direct violation of the Constitution and rights of the States, or not, are "the supreme law of the land." Hence it is that the President obviously considers the words, "made in pursuance of the CONSTITUTION," as mere surplusage; and therefore when he professes to recite the provision of the Constitution on this subject, he states that our "SOLEMN COMPACT in express terms, declares that the *laws of the United States*, its Constitution, and the Treaties made under it are the supreme law of the land," and speaks thro'out of "the explicit supremacy given to the laws of the Union over those of the States"—as if a law of Congress was of itself supreme, while it was necessary to the validity of a treaty that it should be made in pursuance of the Constitution. Such however, is not the provision of the Constitution. That instrument expressly provides that "the Constitution, and laws of the United States *which shall be made in pursuance thereof*, shall be the supreme law of the land, any thing in the Constitution or laws of any State to the contrary notwithstanding."

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

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

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

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

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

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

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

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

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

It is the great Apostle of American liberty himself who has consecrated these principles, and left them as a legacy to the American people, recorded by his own hand. It is by him that we are instructed* that to the Constitutional compact, "each State acceded as a State, and is an integral party, its co-States forming as to itself the other party:" that they alone being parties to the compact are solely authorised to judge in the last resort of the powers exercised under it: Congress being not a party but merely the creature of the compact:" that it becomes a sovereign State to submit to undelegated, and consequently unlimited power, in no man or body of men, upon earth! that where powers are assumed which have not been delegated (the very case now before us) a nullification of the act is the rightful remedy; that every State has a natural right in cases not within the compact (*casus non federis*) to nullify of their own authority all assumption of power by others within their limits, and that without this right they would be under the dominion absolute and unlimited of whomsoever might exercise the right of judgment for them," and that in case of acts being passed by Congress "so palpably against the Constitution as to amount to an undisguised declaration that the compact is not meant to be the measure of the powers of the General Government, but that it will proceed to exercise over the States all powers whatsoever, it would be the duty of the States to declare the acts *void* and of no *force*, and that *each should take measures of its own* for providing that neither such acts, nor any other of the General Government not plainly and intentionally authorized by the Constitution, shall be exercised within their respective territories."

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

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

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

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

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

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

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

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

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

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

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

It does not become the dignity of a Sovereign State, to notice in the spirit which might be considered as belonging to the occasion, the unwarrantable imputations in which the President has thought proper to indulge, in relation to South Carolina, the proceedings of her citizens and constituted authorities. He has noticed only to give it countenance, that miserable slander which imputes the noble stand that our people have taken in defence of their rights and liberties, to a faction instigated by the efforts of a few ambitious leaders, who have got up an excitement for their own personal aggrandizement. The motives and characters of those who have been subjected to these unfounded imputations, are beyond the reach of the President of the United States. The sacrifices they have made, and difficulties and trials through which they may have yet to pass, will leave no doubt as to the disinterested motives and noble impulses of patriotism and honor by which they are actuated. Could they have been induced to separate their own personal interests from those of the people of South Carolina, and have consented to abandon their duty to the State; no one knows better than the President himself, that they might have been honored with the highest manifestations of public regard, and perhaps instead of being the objects of vituperation, might even now have been basking in the sunshine of Executive favor.—This topic is alluded to, merely for the purpose of guarding the people of our sister States against the fatal delusion that South Carolina has assumed her present position under the influence of a temporary excitement; and to warn them that it has been the result of the slow but steady progress of public opinion for the last ten years; that it is the act of the people themselves, taken in conformity with the spirit of resolutions repeatedly adopted in their primary assemblies; and the solemn determination of the Legislature, publicly announced more than two years ago. Let them not so far deceive themselves on this subject, as to persevere in a course which must in the end inevitably produce a dissolution of the Union, under the vain expectation that the great body of the people of South Carolina, listening to the counsels of the President will acknowledge their error, or retrace their steps: and still less that they will be driven from the vindication of their rights, by the intimation of the danger of domestic discord, and threats of lawless violence. The brave men who have thrown themselves into the breach, in defence of the rights and liberties of their country, are not to be driven from their holy purpose by such means. Even unmerited obloquy, and death itself, have no terrors for him who feels and

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