

Western Carolinian.

It is even wiser 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 custom.
Dr. Channing.

BY BURTON CRAIG. SALISBURY, ROWAN COUNTY, N. C., MONDAY FEBRUARY 4, 1863. [VOL. XIII NO. 61.]

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CONGRESS.

IN SENATE.

A message was received from the President of the United States, by A. J. Dix, Esq., his Secretary. It is as follows:
Declines of Senate and House of Representatives.
In my annual message, at the commencement of your present session, I adverted to the opposition to the revenue laws in a particular quarter of the United States, which threatened not merely to thwart their execution, but to endanger the integrity of the Union. And, although I then expressed my reliance that it might be overcome by the prudence of the officers of the United States, and the patriotism of the people, I stated, that should emergency arise, rendering the execution of the existing laws impracticable, from any cause whatever, prompt notice should be given to Congress, with the suggestion of such views and measures as might be necessary to meet it.

Events which have occurred in the quarter alluded to, or which have come to my knowledge subsequently, present the emergency.
Since the date of my last annual message, I have had officially transmitted to me by the Governor of South Carolina, which I now communicate to Congress, a copy of the ordinance passed by the convention, which assembled at Columbia, in South Carolina, in November last, declaring certain acts of Congress therein mentioned, within the limits of that State, to be absolutely null and void; and making it the duty of the Legislature to pass such laws as would be necessary to carry the same into effect from and after the 1st February next.

The consequences to which this extraordinary defiance of the just authority of the Government might lead, surely have been clearly foreseen, and it was impossible for me to hesitate as to my own duty in such an emergency.
The ordinance had been passed, however, with out any certain knowledge of the recognition, which, from a view of the interests of the nation at large, the Executive had determined to submit to Congress, and a hope was indulged that, by frankly explaining his sentiments, and the nature of those duties which the crisis would devolve upon him; the authorities of South Carolina might be induced to retrace their steps. In this hope, I determined to issue my proclamation of the 10th of December last, a copy of which I now give before Congress.

I regret to inform you that these reasonable expectations have not been realized, and that the several acts of the Legislature of South Carolina, which I now give before you, and which have, all and each of them, finally passed, after a knowledge of the desire of the administration to modify the laws complained of, are too well calculated, both in their positive enactments and in the spirit of opposition which they obviously encourage, wholly to obstruct the collection of the revenue within the limits of the State.

Up to this period, neither the recommendation of the Executive in regard to our financial policy and import system, nor the disposition manifested by Congress promptly to act upon that subject, nor the unequivocal expression of the public will in all parts of the Union, appears to have produced any relaxation adopted by the State of South Carolina; nor is there any reason to hope that the ordinance and laws will be abandoned.

headquarters of the State announced his determination to accept the services of volunteers, and his belief, that should their country need their services, they will be found at the post of honor and duty, ready to lay down their lives in its defence.
Under those orders, the forces referred to are directed to "hold themselves in readiness to take the field at a moment's warning," and in the city of Charleston, within a collection district and a port of entry, a rendezvous has been opened for the purpose of enlisting men for the militia and municipal guard. Thus South Carolina presents herself in the attitude of hostile preparation, and ready even for military violence, if needs be, to enforce her laws for preventing the collection of the duties within her limits.

Proceedings thus announced and matured, must be distinguished from measures of unlawful resistance by irregular bodies of people, who, acting under temporary delusion, may be restrained by reflection and the influence of public opinion, from the commission of an act of outrage. In the present instance, aggression may be regarded as committed when it is officially authorized, and the means of enforcing it fully provided.
Under these circumstances, there can be no doubt that it is the intention of the authorities of South Carolina fully to carry into effect their ordinance and laws after the first of February. It therefore becomes my duty to bring the subject to the serious consideration of Congress, in order that such measures as they, in their wisdom, may deem fit, shall be seasonably provided; and that it may be thereby understood, that while the Government is disposed to remove all just cause of complaint, as far as may be practicable, consistently with a proper regard to the interests of the community at large, it is nevertheless determined that the supremacy of the laws shall be maintained.

In making this communication, it appears to me to be proper not only that I should lay before you the acts and proceedings of South Carolina, but that I should also fully acquaint you with those steps which I have already caused to be taken for the collection of the revenue and with my views of the subject generally, that the suggestions which the Constitution requires me to make, in regard to your future legislation, may be better understood.

That subject having early attracted the anxious attention of the Executive, as soon as it was probable that the authorities of South Carolina seriously meditated resistance to the faithful execution of the revenue laws, it was deemed advisable that the Secretary of the Treasury should particularly instruct the officers of the United States in that part of the Union, as to the nature of the duties prescribed by the existing laws.

Instructions were accordingly issued, on the 6th of November to the Collector in that State, pointing out those respective duties, and enjoining upon each a firm and vigilant, but discreet performance of them in the emergency then apprehended.

I herewith transmit copies of these instructions, and of the letter addressed to the District Attorney, requesting his cooperation. These instructions were dictated in the hope that, as the opposition to the laws by the anomalous proceeding of notification, was represented to be of a specific nature, to be pursued subsequently, according to the forms of the constitution, and without resorting, in any event, to force or violence, the measures of its advocates would be taken in conformity with such a proceeding; and, on such supposition, the means afforded by the existing laws would have been adequate to meet any emergency likely to arise.

It was, however, not possible altogether to suppress apprehension of the excesses to which the excitement prevailing in that quarter might lead; but it certainly was not foreseen that the meditated obstruction to the laws would so soon assume its present character.

Subsequently to the date of those instructions, however, the ordinance of the convention was passed, which, if complied with by the people of that State, must actually render impossible the present exigency here within her limits.

for any of the constituted authorities, whether of the State of South Carolina or of the United States, to enforce the payment of duties imposed by the said acts, within the limits of the State; but that should the said acts be enforced, such measures and provisions as may be necessary to give full effect to this ordinance, and to prevent the enforcement and arrest the operation of the said acts and parts of acts of the Congress of the United States, within the limits of the State, from and after the 1st of February next, and it shall be the duty of all other constituted authorities, and of all other persons residing or being within the limits of the State, and they are hereby required and enjoined to obey and give effect to this ordinance, and such acts and measures of the Legislature as may be passed or adopted in obedience thereto.

It further ordains—that, in no case of law or equity, decided in the courts of the State, wherein shall be drawn in question the authority of this ordinance, or the validity of such act or acts of the Legislature, as may be passed for the purpose of giving effect thereto, or the validity of the above-mentioned acts of Congress imposing duties, shall any appeal be taken or allowed to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose, and the person or persons attempting to take such appeal may be dealt with as for a contempt of court.

It likewise ordains, that all persons holding any office of honor, profit, or trust, civil or military, under the State, shall, within such time and in such manner as the Legislature shall prescribe, take an oath well and truly to obey, execute, and enforce the Ordinance, and such act or acts of the Legislature as may be passed in pursuance thereof, according to the true intent and meaning of the same, and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up as if such person or persons were dead, or had resigned; and no person hereafter elected to any office of honor, profit, or trust, civil or military, shall, until the Legislature shall otherwise provide, and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be empowered in any of the courts of the State, in any cause in which shall be in question this Ordinance, or any act of the Legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath that he will well and truly obey, execute and enforce this Ordinance, and such act or acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof.

The Ordinance concludes—"And we, the people of South Carolina, to the end that it may be fully executed by the Government of the United States and the people of the co-States, that we are determined to maintain this ordinance, and declare that every banner, do further declare, that we will not submit to the application of force on the part of the Federal Government to reduce this State to obedience; but that we will consider the passage by Congress of any act authorizing the employment of a military or naval force against the State of South Carolina, her constituted authorities, or citizens; or any act abolishing or changing the ports of that State, or any of them, or otherwise obstructing the free ingress and egress of vessels to and from the said ports; or any other act on the part of the Federal Government to coerce the State, shut up her ports, destroy or harass her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union; and that the people of this State will therefore hold themselves absolved from all further obligation to maintain or preserve their political connection with the people of the other States, and will forthwith proceed to organize a separate government, and to do all other acts and things which sovereignty and independent States may of right do."

This solemn denunciation of the law and authority of the United States has been followed by a series of acts on the part of the authorities of that State, which manifest a determination to render inevitable a resort to those measures of self-defence which the paramount duty of the Federal Government requires, but upon the adoption of which that State will proceed to execute the purpose it has avowed in this ordinance, if withdrawing from the Union.

On the 27th of November the Legislature assembled at Columbia; and on their meeting the Governor laid before them the Ordinance of the Convention. In his message, on that occasion, he acquaints them that "this ordinance has thus become a part of the fundamental law of South Carolina; that it has been at last cast, and South Carolina has at length appeared to be a sovereign government, as a member of the confederacy, and has placed its honor and its rights on a basis which shall resist any longer argument. It is sufficient that she has willed it, and that the act is done; not in its strict compatibility with our constitutional obligation to all laws passed by the General Government without the authorized grants of power, to be a question, when this interference is entered in a case in which the compact has been palpably, deliberately, and dangerously violated. That it brings up a conjuncture of deep and momentous interest. This crisis presents a class of duties which is referable to yourselves. You have been commanded by the people in their highest sovereignty, to take care that within the limits of this State their will shall be obeyed." "The measure of legislation," he says, "which you have to employ at this crisis, is the precise amount of such enactments as may be necessary to render it utterly impossible to collect, within our limits, the duties, imposed by the protective tariffs thus nullified." He proceeds, "that you should arm every citizen with a civil process by which he may claim, if he please, a restitution of his goods, seized under the existing imposts on his giving security to abide the issue of a suit at law, and at the same time, define what shall constitute treason against the State, and by a bill of pains and penalties, compel obedience, and punish disobedience to your own laws, and points too obvious to require any discussion. In no word, you must survey the whole ground. You must look to and provide for all possible contingencies. In your own hands, your own assets of jurisdiction must not only be supreme, but you must look to the ultimate issue of any conflict of jurisdiction and power between them and the courts of the United States."

The Governor also asks for power to grant clearance to the laws of the Union; and to prepare for the alternative, which must happen, unless the United States shall passively surrender their authority, and the Executive, disregarding his oath, refrain from executing the laws of the Union, he recommends a thorough revision of the militia system, and that the Governor be authorized to accept for the defence of Charleston and its dependencies, the services of two thousand volunteers, either by companies or files; and that they be formed into a legionary brigade, consisting of infantry, riflemen, cavalry, field and heavy artillery; and that they be armed and equipped from the public arsenals completely for the field; and that appropriations be made for supplying all deficiencies in our munitions of war. "In addition to the volunteer drafts, he recommends that the Governor be authorized to accept the services of four thousand volunteers from the other divisions of the State, to be organized and arranged in regiments and brigades—the officers to be selected by the Commander-in-Chief—and that this whole force be called the State Guard."

A request has been regularly made of the Secretary of the State of South Carolina for authentic copies of the acts which have been passed for the purpose of enforcing this ordinance, but, up to the date of the latest advices, that request had not been complied with; and, on the present occasion, therefore, reference can only be made to those acts as published in the newspapers of the State.

The acts to which it is deemed proper to invite the particular attention of Congress, are, 1st. "An act to carry into effect, in part, an ordinance to nullify certain acts of the Congress of the United States, purporting to be laws laying duties on the importation of foreign commodities," passed in Convention of this State, at Columbia, on the 24th Nov., 1832.

This act provides, that any goods seized or detained, under pretence of securing the duties, or for the non-payment of duties, or under any process, order, or decree, or other pretext, contrary to the intent and meaning of the ordinance, may be recovered by the owner or consignee by an act of replevin. That, in case of refusing to deliver them, or removing them, so that the replevin cannot be executed, the sheriff may seize the personal estate of the offender to double the amount of the goods; and, if any attempt shall be made to retake or seize them, it is the duty of the sheriff to receive them. And, that any person who shall disobey the process, or remove the goods, or any one who shall attempt to retake or seize the goods, under pretence of securing the duties, or for non-payment of duties, or under any process or decree contrary to the intent of the ordinance, shall be fined and imprisoned, besides being liable for any other offence involved in the act.

It also provides that any person arrested or imprisoned on any judgment or decree obtained in any Federal Court for duties, shall be entitled to the benefit secured by the habeas corpus act of the State in cases of unlawful arrest, and may maintain an action for damages; and that, if any estate shall be sold under such judgment or decree, the sale shall be held illegal. It also provides, that any jailer who receives a person committed on any process or other judicial proceedings to enforce the payment of duties, and any one who hires his house as a jail to receive such person, shall be fined and imprisoned. And, finally, it provides that persons paying duties may recover their goods back with interest.

The next is called "an act to provide for the security and protection of the people of the State of South Carolina."

This act provides, that, if the government of the United States, or any officer thereof, shall, by the employment of naval or military force attempt to coerce the State of South Carolina into submission to the acts of Congress declared by the Ordinance null and void, or to resist the enforcement of the ordinance, or of the laws passed in pursuance thereof, or in case of any armed or forcible resistance thereto, the Governor is authorized to resist the same, and to order into service the whole or so much of the military force of the State as he may deem necessary; and that in case of any overt act of coercion or intention to commit the same, manifested by an unusual assemblage of naval or military forces in or near the State, or the occurrence of any circumstances indicating that armed force is about to be employed against the State, or in resistance to its laws, the Governor is authorized to accept the services of such volunteers, and call into service such portions of the militia, as may be required to meet the emergency.

The act also provides for accepting the service of the volunteers, and organizing the militia, embracing all free white males between the ages of sixteen and sixty, and for the purchase of arms, ordinance, and ammunition. It also declares that the power conferred on the Governor shall be applicable to all cases of insurrection or invasion, or imminent danger thereof, and to cases where the laws of the State shall be opposed, and the execution thereof forcibly resisted, by combinations too powerful to be suppressed by the power vested in the sheriffs and other civil officers; and declares it to be the duty of the Governor, in every such case, to call forth such portions of militia and volunteers as may be necessary promptly to suppress such combinations, and cause the laws of the State to be executed.

The act is also an act concerning the oath required by the ordinance, passed in convention at Columbia, the 24th of November, 1832. This act prescribes the form of the oath—which is, to obey and execute the ordinance, and all acts passed by the Legislature in pursuance thereof; and directs the time and manner of taking it by the officers of the State, civil, judiciary, and military.

It is believed that other acts have been passed, embracing provisions for enforcing the ordinance, but I have not yet been able to procure them.

I transmit, however, a copy of Governor Hays's message to the Legislature of South Carolina, of Governor Hayne's inaugural address to the same body, as also of his proclamation, and a general order of the Governor and commander in chief, dated the 20th of December, giving public notice that the services of volunteers will be accepted, under the act already referred to.

If these measures cannot be defeated and overcome by the power conferred by the constitution on the Federal Government, the constitution must be considered as incompetent to its own defence, the supremacy of the laws is at an end, and the rights and liberties of the citizens can no longer receive protection from the Government of the Union. They not only abrogate the laws of Congress, commonly called the tariff acts, of 1828 and 1832, but they prostrate and sweep away, at once, and without exception, every act, and every part of every act imposing any amount whatever of duty on any foreign merchandise, and, virtually, every existing act which has ever been passed authorizing the collection of the revenue, including the act of 1816, and also the collection law of 1790, the constitutionality of which has never been questioned. It is not only those duties which are charged to have been imposed for the protection of manufactures that are thereby repealed, but all others, though laid for the purpose of revenue merely, and upon articles in no degree suspected of being objects of protection. The whole revenue system of the United States in South Carolina is obstructed and overthrown; and the Government is absolutely prohibited from collecting any part of the public revenue within the limits of that State. Henceforth, not only the citizens of South Carolina and of the United States, but the subjects of foreign States, may import any description or quantity of merchandise into the ports of South Carolina, without the payment of any duty whatever. That state is thus relieved from the payment of any part of the public burthens, and duties and imposts are not only removed, but uniform throughout the United States, but a direct and various preference is given to the ports of that State over those of all the other States of the Union; in manifest violation of the positive provisions of the Constitution.

In point of duration, also, those aggressions upon the authority of Congress, which, by the ordinance, are made part of the fundamental law of South Carolina, are absolute, indelible, and without limitation. They neither prescribe the period when they shall cease, nor indicate any condition upon which those who have thus undertaken to arrest the operation of the

laws are to retrace their steps and rescind their measures. They offer to the United States no alternative but unconditional submission. If the scope of the ordinance is to be received as the scale of concession, their demands can be satisfied only by a repeal of the whole system of revenue laws, and by abstaining from the collection of any duties and imposts whatsoever.

It is true that in the address to the people of the United States by the Convention of South Carolina, after announcing "the fixed and final determination of the State in relation to the protecting system," they say, "that it remains for us to submit a plan of taxation, in which we would be willing to acquiesce, in a liberal spirit of concession, provided we are met in due time, and in a becoming spirit, by the States interested in manufactures." In the opinion of the Convention, an equitable plan would be that "the whole list of protected articles should be imported free of all duty, and that the revenue derived from import duties should be raised exclusively from the unprotected articles, so that whenever a duty is imposed upon protected articles imported, an excise duty of the same rate shall be imposed upon all similar articles manufactured in the United States." The address proceeds to state, however, that "they are willing to make a large offering to preserve the Union, and with a distinct declaring that it is a concession on our part, we will consent that the same rate of duty may be imposed upon the protected articles that shall be imposed upon the unprotected; provided that no more revenue be raised than is necessary to meet the demands of the Government for constitutional purposes, and provided also that a duty substantially uniform be imposed upon all foreign imports."

It is also true, that in his message to the Legislature, when urging the necessity of providing "means of securing tranquility by ample resources, for repelling force by force," the Governor of South Carolina observes, that he "cannot but think, that on a calm and dispassionate review by Congress, and the inauguration of the General Government, of the true merits of this controversy, the arbitration, by a call of a convention of all the States, which we sincerely and anxiously seek and desire, will be accorded to us."

From the diversity of terms indicated in these two important documents, taken in connexion with the progress of events in that quarter, there is too much reason to apprehend, without in any manner doubting the intention of those public functionaries, that neither the terms proposed in the address of the convention, nor those alluded to in the message of the Governor, would appease the excitement which has led to the present excesses. It is obvious, however, that should the latter be insisted on, they present an alternative which the General Government, if it can by no possibility grant, since, by express provision of the Constitution, Congress can call a convention for the purpose of proposing amendments only "on the application of the Legislatures of two-thirds of the States." And it is not perceived that the terms presented in the address are more practicable than those referred to in the message.

It will not escape attention, that the conditions on which it is said in the address of the convention they "would be willing to acquiesce," form no part of the ordinance. While this ordinance bears all the solemnity of a fundamental law, is to be authoritative upon all within the limits of South Carolina, and is absolute and unconditional in its terms; the address conveys only the sentiments of the convention, in no binding or practical form; and in the act of the State, the other only the expression of the opinions of the members of the convention. To limit the effect of that solemn act by any terms or conditions whatever, they should have been embodied in it, and made of import no less authoritative than the act itself. By the positive enactments of the ordinance the execution of the laws of the Union is absolutely prohibited; and the address offers no other prospect of their being again restored, even in the modified form proposed, than what depends upon the improbable contingency, that said changing events and increasing excitement, the sentiments of the present members of the convention, and of their successors, will remain the same.

It is to be regretted, however, that these conditions, even if they had been offered in the same binding form, are so indefinite, and are so directly opposed to the known opinions and interests of the great body of the American people, as to be almost hopeless of attainment. The majority of the States, and of the people, will certainly not consent that the protecting duties shall be wholly abrogated, never to be re-enacted at any future time, or in any possible contingency. As little practicable is it to provide that "the same rate of duty shall be imposed upon the unprotected; which, moreover, would be so oppressive to the poor, and, in time of war, would add greatly to its rigors. And though there can be no objection to the principle, properly understood, that no more revenue shall be raised than is necessary for the constitutional purposes of the Government;