Western Carolinian.

It is even wise to abstain from laws, which however wise and good in themselves, have the semblance 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 APRIL 15, 1833. [VOL. XIII NO. 6[illegible]

TERMS.

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SENATE OF U. STATES.

SPEECH OF MR. CALHOUN,

OF SOUTH CAROLINA.

On the Bill further to provide for the collection of duties on Imports.

[CONTINUED.]

It was thus that the reasonable hope of relief, through the election of General Jackson, was blasted; but still, one other hope remained; that the final discharge of the public debt, an event near at hand, would remove our burden. That event would leave in the Treasury a large surplus; a surplus that could not be expended under the most extravagant schemes of appropriation, having the least color of decency or constitutionality. That event, at last arrived. At the last session of Congress, it was avowed on all sides, that the public debt, for all practical purposes, was, in fact, paid; the small surplus remaining being nearly covered by the money in the treasury and the bonds for duties which had already accrued; but with the arrival of this event, our last hope was doomed to be disappointed. After a long session of many months, and the most earnest effort on the part of South Carolina and the other southern States, to obtain relief, all that could be effected was a small reduction in the amount of the duties; but a reduction of such a character, that while it diminished the amount of burden, distributed that burden more unequally than even the obnoxious act of 1828; reversing the principle adopted by the act of 1816, of laying higher duties on the unprotected than the protected articles, by repealing almost entirely the duties laid upon the former, and imposing the burden almost entirely on the latter. It was thus, that instead of relief,—instead of an equal distribution of the burdens and benefits of the Government on the payment of the debt, as had been fondly anticipated, the duties were so arranged as to be, in fact, bounties on one side, and taxation on the other, and thus placing the two great sections of the country in direct conflict in reference to its fiscal action, and thereby letting in that flood of political corruption which threatens to sweep away our Constitution and our liberty.

This unequal and unjust arrangement was pronounced, both by the administration, through its proper organ, the Secretary of the Treasury, and by the opposition, to be a *permanent* adjustment; and it was thus that all hope of relief through the action of the General Government terminated, and the crisis so long apprehended at length arrived, at which the State was compelled to choose between absolute acquiescence in a ruinous system of oppression, or a resort to her reserved powers—powers of which she alone was the rightful judge, and which only in this momentous juncture, could save her. She determined on the latter.

The consent of two thirds of her legislature was necessary for the call of a Convention, which was considered the only legitimate organ through which the people, in their sovereignty could speak. After an arduous struggle, the State rights party succeeded; more than two-thirds of both branches of the legislature favorable to a Convention were elected; a Convention was called—the Ordinance adopted. The Convention was succeeded by a meeting of the legislature, when the laws to carry the Ordinance into execution, were enacted; all of which had been communicated by the President—had been referred to the Committee on the Judiciary, and this bill is the result of their labor.

Having now, said Mr. C., corrected some of the prominent misrepresentations, as to the nature of this controversy, and given a rapid sketch of the movement of the State in reference to it, he would next proceed to notice some objections connected with the Ordinance and the proceedings under it.

The first and most prominent of these is directed against what is called the test oath—which, an effort has been made to render odious. So far from deserving the denunciation which has been levelled against it, he viewed this provision of the Ordinance as but the natural result of the doctrines entertained by the State, and the position which she occupies. The people of that State believe that the Union is a union of States, and not of individuals; that it was formed by the States, and that the citizens of the several States were bound to it through the acts of their several States; that each State ratified the Constitution for itself, and that it was only by such ratification of a State that any obligation was imposed upon the citizens;—thus believing, it was the opinion of the people of Carolina, that it belonged to the State which had imposed the obligation, to declare, in the last resort, the extent of that obligation, as far as her citizens were concerned; and this, upon the plain principles which exist in all analogous cases of compact, between sovereign or political bodies. On this principle, the people of the State, acting in their sovereign capacity, in Convention, precisely as they had adopted their own and the Federal Constitutions, had declared by the Ordinance, that the acts of Congress which had imposed duties under the authority to lay imposts, were acts, not for revenue, as intended by the Constitution, but for protection, and therefore null and void. The Ordinance thus enacted by the people of the State themselves, acting as a sovereign community, was, to all intents and purposes, a part of the Constitution of the State; and though of a peculiar character, was as obligatory on the citizens of that State, as any portion of the Constitution. In prescribing, then, the oath to obey the Ordinance, no more was done than to prescribe an oath to obey the Constitution. It was, in fact, but a particular oath of allegiance, and in every respect similar to that which is prescribed under the Constitution of the United States, to be administered to all the officers of the State and Federal Governments; and was no more deserving the harsh and bitter epithets which had been heaped upon it, than that or any similar oath. It ought to be borne in mind, that, according to the opinion which prevailed in Carolina, the right of resistance to the unconstitutional laws of Congress belongs to the State, and not to her individual citizens, and that, though the latter may, in a mere question of *meum* and *tuum*, resist, through the courts, an unconstitutional encroachment upon their rights, yet the final stand against usurpation rests not with them, but with the State of which they are members; and that such act of resisting by a State, binds the conscience and allegiance of the citizen. But there appeared to be a general misapprehension as to the extent to which the State had acted under this part of the Ordinance. Instead of sweeping every officer, by a general proscription of the minority, as has been represented in debate, as far as the knowledge of Mr. C. extends, not a single individual had been removed. The State had, in fact, acted with the greatest tenderness, all circumstances considered, towards citizens who differed from the majority; and, in that spirit, had directed the oath to be administered, only in cases of some official act directed to be performed, in which obedience to the Ordinance was involved.

It had been further objected that the State had acted precipitately. What! precipitately! after making a strenuous resistance for twelve years—by discussion here and in the other house of Congress—by essays in all forms—by resolutions, remonstrances, and protests on the part of her Legislature, and finally by attempting an appeal to the judicial power of the United States? He said attempting, for they had been prevented from bringing the question fairly before the court, and that by an act of that very majority in Congress which now upbraid them for not making that appeal; of that majority, who, on a motion of one of the members in the other house from S. Carolina, refused to give to the act of 1828 its true title; that it was a *protective*, and not a *revenue* act. The State has never, it is true, relied upon that tribunal, the Supreme Court, to vindicate its reserved rights; yet they have always considered it as an auxiliary means of defence, of which they would gladly have availed themselves to test the constitutionality of protection, had they not been deprived of the means of doing so by the act of the majority.

Notwithstanding this long delay of more than ten years, under this continued encroachment of the Government, we now hear it on all sides, by friends and foes, gravely pronounced that the State has acted precipitately, that her conduct has been rash! That such should be the language of an interested majority, who, by means of this unconstitutional and oppressive system, are annually extorting millions from the South, to be bestowed upon other sections, was not at all surprising. Whatever impedes the course of avarice and ambition will ever be denounced as rash and precipitate; and had South Carolina delayed her resistance fifty instead of twelve years, she would have heard from the same quarter the same language; but it was really surprising that those who are suffering in common with herself, and who have complained equally loud of their grievances, who had pronounced the very acts which she had asserted within *her* limits to be oppressive, unconstitutional, and ruinous, after so long a struggle—a struggle longer than that which preceded the separation of these States from the mother country—longer than the period of the Trojan war—should now complain of precipitancy!! No, it is not Carolina which has acted precipitately, but her sister States, who have suffered in common with her, that have acted tardily. Had they acted as she has done—had they performed their duty with equal energy and promptness, our situation this day would be very different from what we now find it. Delays are said to be dangerous; and never was the maxim more true than in the present case—a case of monopoly. It is the very nature of monopolies to grow. If we take from one side a large portion of the proceeds of its labor and give it to the other, the side from which we take must constantly decay, and that to which we give must prosper and increase. Such is the action of the protective system. It exacts from the South a large portion of the proceeds of its industry, which it bestows upon the other sections in the shape of bounties to manufactures, and appropriations in a thousand forms—pensions, improvement of rivers and harbors, roads and canals, and in every shape that wit or ingenuity can devise. Can we then be surprised that the principle of monopoly grows, when it is so amply remunerated at the expense of those who support it? And this is the real reason of the fact which we witness, that all acts for protection pass with small minorities, but soon come to be sustained by great and and overwhelming majorities. Those who seek the monopoly, endeavor to obtain it in the most exclusive shape; and they take care, accordingly, to associate only a sufficient number of interests barely to pass it through the two houses of Congress—on the plain principle that the greater the number from whom the monopoly takes, and the fewer on whom it bestows, the greater is the advantage to the monopolists. Acting in this spirit, we have often seen with what exact precision they count, adding wool to woollens, associating lead and iron, feeling their way, until a bare majority is obtained, when the bill passes, connecting just as many interests as is sufficient to ensure its success, and no more. In a short time, however, we have invariably found that this *lean*, becomes a decided majority, under the certain operation which compels individuals to desert the pursuits which the monopoly have rendered unprofitable, that they may participate in those pursuits which it had rendered profitable. It is against this dangerous and growing disease which South Carolina has acted—a disease whose cancerous action would soon spread to every part of the system, had it not been speedily arrested.

There was another powerful reason why the action of the State could not be safely delayed. The public debt, as he had already stated, for all practical purposes, had already been paid and, under the existing duties, a large annual surplus, of many millions, must come into the Treasury. It was impossible to look at this state of things without seeing the most mischievous consequences; and, among others, if not speedily corrected, it would interpose powerful and almost insuperable obstacles to throwing off the burden under which the south had been so long laboring. The disposition of the surplus would become a subject of violent and corrupt struggle, and could not fail to rear up new and powerful interests in support of the existing system; not only in those sections which have been heretofore benefited by it, but even in the south itself. He could not but trace to the anticipation of this state of the Treasury the sudden and extraordinary movements which had taken place, at the last session, in the Virginia Legislature, in which the whole south was vitally interested. It was impossible for any rational man to believe that that State could seriously have thought of effecting the scheme to which he alluded, by her own resources, without powerful aid from the general Government.

It was next objected, that the enforcing acts have legislated the United States out of South Carolina. He had already replied to this objection on another occasion, and would now but repeat what he then said—That they had been legislated out only to the extent that they had no right to enter. The constitution had admitted the jurisdiction of the United States within the limits of the several States, only so far as the delegated powers authorized; beyond that they were intruders, and might rightfully be expelled; and that they had been efficiently expelled by the legislation of the State through her civil process, as has been acknowledged on all sides in the debate, is only a confirmation of the truth of the doctrine for which the majority in Carolina had contended.

The very point at issue between the two parties there, was, whether nullification was a peaceable and efficient remedy against an unconstitutional act of the general Government, and which might be asserted as such through the State tribunals. Both parties agree, that the acts against which it was directed are unconstitutional and oppressive. The controversy was only as to the means by which our citizens might be protected against the acknowledged encroachments on their rights. This being the point at issue between the parties, and the very object of the majority being an efficient protection of the citizens through the State tribunals, the measures adopted to enforce the ordinance, of course received the most decisive character. We were not children, to act by halves. Yet, for acting thus efficiently, the State is denounced, and this bill, reported to override, by military force, the civil tribunals and civil process of the State! Sir, said Mr. C., I consider this bill, and the arguments which have been urged on this floor in its support, as the most triumphant acknowledgment that nullification is peaceful and efficient; and so deeply entrenched in the principles of our system, that it cannot be assailed but by prostrating the Constitution, and substituting the supremacy of the laws. In fact, the advocates of this bill refute their own argument. They tell us that the ordinance is unconstitutional, that they infract the constitution of South Carolina, although, to him, the objection appears absurd, as it was adopted by the very authority which adopted the Constitution itself. They also tell us that the Supreme Court is the appointed arbiter of all controversies between a State and the General Government. Why, then do they not leave this controversy to that tribunal? Why do they not confide to them the abrogation of the ordinance, and the laws made in pursuance of it, and the assertion of that supremacy which they claim for the laws of Congress? The state stands pledged to resist no process of the court. Why, then, confer on the President the extensive and unlimited powers provided in this bill? Why authorize him to use military force to arrest the civil process of the State? But one answer can be given: That, in a contest between the State and the general Government, if the resistance be limited on both sides to the civil process, the State, by its inherent sovereignty, standing upon its reserved powers, will prove too powerful in such a controversy; and must triumph over the Federal Government, sustained by its delegated and limited authority; and, in this answer, we have an acknowledgment of the truth of those great principles for which the State has so firmly and nobly contended.

Having made these remarks, the great question is now presented: has Congress the right to pass this bill? Which he would next proceed to consider. The decision of this question involves the inquiry into the provisions of the bill. What are they? It puts at the disposal of the President, the army and navy, and the entire militia of the country.—It enables him, at his pleasure, to subject every man in the United States, not exempt from militia duty, to martial law—to call him from his ordinary occupation, to the field, and under the penalty of fine and imprisonment inflicted by a court martial, to imbrue his hand in his brothers' blood. There is no limitation on the power of the sword, and that over the purse is equally without restraint, for among the extraordinary features of the bill, it contains no appropriation which, under existing circumstances, is tantamount to unlimited appropriation. The President may, under its authority, incur any expenditure, and pledge the national faith to meet it. He may create a new national debt, at the very moment of the termination of the former,—a debt of millions to be paid out of the proceeds of the labor of that section of the country whose dearest Constitutional rights this bill prostrates! Thus exhibiting the extraordinary spectacle, that the very section of the country which is urging this measure, and carrying the sword of devastation against us, are at the same time incurring a new debt, to be paid by those whose rights are violated; while those who violate them are to receive the benefits, in the shape of bounties and expenditures.

And for what purpose is the unlimited control of the purse and of the sword thus placed at the disposition of the Executive? To make war against one of the free and sovereign members of this confederation; which the bill proposes to deal with, not as a State, but as a collection of banditti or outlaws. Thus exhibiting the impious spectacle of this Government, the creature of the States, making war against the power to which it owes its existence.

The bill violates the Constitution, plainly and palpably, in many of its provisions, by authorizing the President, at his pleasure, to place the different ports of this Union on an unequal footing, contrary to that provision of the Constitution which declares that no preference shall be given to one port over another. It also violates the Constitution, by authorizing him, at his discretion, to impose cash duties in one port, while credit is allowed in others; by enabling the President to regulate commerce, a power vested in Congress alone; and by drawing within the jurisdiction of the United States' courts, powers never intended to be conferred on them. As great as these objections were, they became insignificant in the provisions of a bill which, by a single blow,—by treating the States as a mere lawless mass of individuals—prostrates all the barriers of the Constitution. He would pass over the minor considerations, and proceed directly to the great point. This bill proceeds on the ground that the entire sovereignty of this country belongs to the American people, as forming one great community; and regards the States as mere fractions or counties, and not as an integral part of the Union; having no more right to resist the encroachments of the Government than a county has to resist the authority of a State; and treating such resistance as the lawless acts of so many individuals, without possessing sovereignty or political rights. It has been said that the bill declares war against South Carolina. No. It decrees a massacre of her citizens! War has something ennobling about it, and with all its horrors, brings into action the highest qualities, intellectual and moral. It was perhaps, in the order of Providence, that it should be permitted for that very purpose. But this bill declares no war, except, indeed, it be that which savages wage—a war, not against the community, but the citizens of whom that community is composed. But he regarded it as worse than *savage* warfare—as an attempt to take away life under the color of law, without the trial by jury or any other safe-guard which the Constitution has thrown around the life of the citizen! It authorizes the President or even his deputies, when they may suppose the law to be violated, without the intervention of a court or jury, to kill without mercy or discrimination!

It was said by the Senator from Tennessee, (Mr. Grundy,) to be a measure of peace! Yes, such peace as the wolf gives to the lamb; the kite to the dove! Such peace as Russia gives to Poland; or death to its victim! A peace by extinguishing the political existance of the State, by awing her into an abandonment of the exercise of every power which constitutes her a sovereign community. It is to S. Carolina a question of self-preservation, and he proclaim it, that, should this bill pass, and an attempt be made to enforce it, it will be resisted, at every hazard—even that of death itself. Death is not the greatest calamity: there are others still more terrible to the free and brave; and among them may be placed the loss of liberty and honor. There are thousands of her brave sons who, if need be, are prepared cheerfully to lay down their lives in defence of the State, and the great principles of constitutional liberty for which she is contending. God forbid that this should become necessary. It never can be, unless this Government is resolved to bring the question to extremity, when her gallant sons will stand prepared to perform the last duty—to die nobly.

I go (said Mr. Calhoun) on the ground that this Constitution was made by the States; that it is a federal union of the States, in which the several States still retain their sovereignty. If these views be correct, he had not characterized the bill too strongly, which presents the question, whether they be or be not. He would not enter into the discussion of that question now. He would rest it, for the present, on what he had said on the introduction of the resolutions now on the table, under a hope that another opportunity would be afforded for more ample discussion. He would for the present confine his remarks to the objections which had been raised to the views which he had presented when he introduced them. The authority of Luther Martin had been adduced by the Senator from Delaware, to prove that the citizens of a State, acting under the authority of a State, were liable to be punished as traitors by this Government. As eminent as Mr. Martin was, as a lawyer, and as high as his authority might be considered, on a legal point, he could not accept it, in determining the point at issue. The attitude which he occupied, if taken into view, would lessen, if not destroy, the weight of his authority. He had been violently opposed, in Convention to the Constitution, and the very letter from which the Senator has quoted, was intended to dissuade Maryland from its adoption.—With this view, it was to be expected that every consideration calculated to effect that object should be urged; that real objections should be exaggerated, & that those having no foundation, except mere plausible deductions, should be presented. It is to this spirit that he attributed the opinion of Mr. Martin, in reference to the point under consideration. But if his authority is good on one point, it must be admitted to be equally so on another. If his opinion be sufficient to prove that a citizen of the State may be punished as a traitor when acting under allegiance to the State, it is also tended to be given in the Constitution for the protection of manufactures by the General Government, and that the provisions in the Constitution, permitting a State to lay an impost duty, with the consent of Congress, was intended to reserve the right of protection to the States themselves, and that each State should protect its own in- sufficient to show, that no authority was in- dustry. Assuming his opinion to be of equal authority on both points, how embarrassing would be the attitude in which it would place the Senator from Delaware, and those with whom he is acting,—that of using the sword, and the bayonet to enforce the execution of an unconstitutional act of Congress. He must express his surprise that the slightest authority in favor of *power* should be received as the most conclusive evidence, while that which is at least equally strong in favor of right and *liberty*, is wholly overlooked or rejected.

Notwithstanding all that has been said, he must say, that neither the Senator from Delaware, (Mr. Clayton,) nor any other who had spoken on the same side, had directly and fairly met the great question at issue: Is this a Federal union? a union of States, as distinct from that of individuals? Is the sovereignty in the several States, or in the American people in the aggregate? The very language which we are compelled to use, when speaking of our political institutions, affords proof conclusive as to its real character. The terms union, federal, united, all imply a combination of sovereignties, a confederation of States.—They are never applied to an association of individuals. Who ever heard of the United State of New York, of Massachusetts, or of Virginia? Who ever heard the term Federal, or Union, applied to the the aggregation of individuals into one community? Nor is the other point less clear—that the sovereignty is in the several States, and that our system is a union of twenty four sovereign powers, under a constitutional compact, and not of a divided sovereignty between the States severally and the United States. In spite of all that had been said, he maintained that sovereignty is, in its nature, indivisible.—It is the supreme power in a State, and we might just as well speak of half a square, or half of a triangle, as of half a sovereignty. It is a gross error to confound the *exercise of sovereign powers* with *sovereignty itself*; or the *delegation* of such powers with a *surrender* of them.

A sovereign may delegate his powers to be exercised by as many agents, as he may think proper, under such conditions and with such limitations as he may impose; but to surrender any portion of his sovereignty to another is to annihilate the whole. The Senator from Delaware (Mr Clayton) calls this metaphysical reasoning, which, he says, he cannot comprehend. If by metaphysics he means that scholastic refinement which makes distinctions without difference, no one can hold it in more utter contempt than he, (Mr. C.) but if, on the contrary, he means the power of analysis and combination—that power which reduces the most complex ideas into its elements, which traces causes to their first principle, and, by the power of generalisation and combination, unites the whole in one harmonious system; then, so far from deserving contempt, it is the highest attribute of the human mind. It is the power which raises man above the brute—which distinguishes his faculties from mere sagacity, which he holds in common with inferior animals. It is this power which has raised the astronomer from being a mere gazer at the stars, to the high intellectual eminence of a Newton or Laplace; and astronomy itself from a mere observation of insulated facts into that noble science which displays to our admiration the system of the universe. And shall this high power of the mind, which has effected such wonders, when directed to the laws which control the material world, be forever prohibited, under a senseless cry of metaphysics, from being applied to the high purpose of political science and legislation. He held them to be subject to laws as fixed as matter itself and to be as fit a subject for the application of the highest intellectual power. Denunciation may indeed fall upon the philosophical inquirer into these first principles, as it did upon Galileo and Bacon, when they first unfolded the great discoveries, which have immortalized their names; but the time will come when truth will prevail in spite of prejudice and denunciation; and when politics and legislation will be considered as much a science as astronomy and chemistry.

In connexion with this part of the subject, he understood the Senator from Virginia (Mr. Rives) to say that sovereignty was divided, and that a portion remained with the States, severally, and that the residue was vested in the Union. By Union, he supposed that the Senator meant the United States. If such be his meaning—if he intended to affirm, that the sovereignty was in the twenty-four States, in whatever light he might view them, their opinions would not agree; but, according to his (Mr. C's.) conception, the whole sovereignty was in the several States, while the exercise of sovereign powers was divided—a part being exercised under compact, through this General Government, and the residue through the separate State Governments. But if the Senator from Virginia (Mr. Rives) meant to assert that the twenty-four States formed but one community, with a single sovereign power, as to the objects of the Union, it would be but the revival of the old question, of whether the Union was a union between States, as distinct communities, or a mere aggregate of the American people, as a mass of individuals, and in this light his opinions would lead directly to consolidation.

But to return to the bill. It is said that the bill ought to pass, because the law must be enforced. The law must be enforced. The Imperial Edict must be executed. It is under such sophistry, couched in general terms, without looking to the limitations which must ever exist in the practical exercise of power, that the most cruel and despotic acts ever have been covered. It was such sophistry as