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 JOHN BEARD, Jr.] SALISBURY, ROWAN COUNTY, N. C....MONDAY JULY 15, 1833. [VOL. XIV....NO. 684.

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, and no subscription will be received for a less time than one year.

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From the Raleigh Register.

OUR STATE CONSTITUTION.

NO. VI.

All political power is vested in and derived from the people.—

Bill of Rights.

To the Editors:

I have already shewn that our Constitution was framed at a period when any attempt to defeat it would have been disastrous to Liberty, and by a body of men (however pure their intentions were)—who had no power from the People to establish it—that these men were plainly influenced by a necessity to accommodate some of its features to the customs of the country and the divisions of our people. I have proved that they did not impose any limits on the right of the People to reform it when the circumstances of the country should render it safe as well as feasible—that such a limitation was purposely omitted, with a view to quiet all parties and avoid a strife that might be fatal to the cause of Independence. I have demonstrated as plainly as figures will prove any thing, that a majority of the people and they who support the Government of North Carolina, do not administer its affairs.—I have stated for the consideration of your readers some of the public evils which have sprung from this unequal and unjust representation. These are an expenditure which exceeds the revenue, and has [illegible] wasteful extravagance, which must soon end in bankruptcy, or the imposition of higher taxes on a majority to pay the minority for their misrule; unwholesome & expensive legislation; sectional party spirit and geographical divisions among our legislators; and a growing diffusion of this dangerous influence among the People at large. I have pointed out that one man, in one part of North Carolina, has more weight in its councils than 7 men in another, or 6 in another, or 5 in another, &c. That the people of 21 counties pay those of 43 to rule over them; and that they of 20 counties, do not contribute towards the revenue a sum equal to the sum received by their delegates, and a fair proportion of the cost of preparing and printing the edicts which they promulgate for the government of the people. That one third, govern and tax two thirds of the people of the State.—That the people are ruled by those whom they cannot call to account for their conduct. That one portion of them pay the taxes which another imposes. And now let me ask you, WHY are these things permitted to be so? I call for an answer. These are not evils which rest upon the bare assertion of any one man or set of men. They are not the hasty suggestions of party enthusiasm. They are sober truths, susceptible of the clearest proof, and made plain to the humblest capacity. Let me therefore repeat the enquiry, WHY are they allowed to continue? If the opposers of Reform act manfully, and speak out the real truth, they must tell you, that they can be maintained for no other purpose than to preserve the Power of a minority and to perpetuate a denial of rights to a MAJORITY of the people. Heretofore there has been some faint denial that these evils existed, but they have gone on to increase in their magnitude until now no man who has any regard for his character will deny their existence. Yet the Representatives of the people have obstinately refused a remedy. They who represent a majority, have proposed that, under the direction of lawful authority, the People might be required to vote "*for or against a Convention*," and that such a body of delegates might be convened if a majority of the people voted for it; but this has been rejected. They have at other times submitted the plan of calling a Convention, to be *limited* to the consideration of such parts of our Constitution [illegible] of just complaint, but [illegible] refused. They have [illegible] *amendments* (em[illegible]) the pre[illegible] minority) and proposed to put these to the *direct vote of the People, to accept or reject them en masse*, but here again, they have been assailed by a violent opposition which has suspended this demand. They have again and again called on their opponents (whose candour obliged them to admit their grievances) to devise any other mode of redress—but here also they have been destined to meet with disappointment. I cannot enter into a full consideration of the pretexts upon which these repeated demands have been refused, and at times most contemptuously scouted, by a refusal even to debate them. It ought to be sufficient that there are no good reasons why they shall be any longer denied, but there are many unanswerable reasons for yielding satisfaction—while those who have been heretofore refused it, are willing to take even less than strict right entitles them to exact—He must be a very careless observer of his own government and of the operation of things in this State, who has not perceived that before many years have passed over our head, these *inequalities* in our Constitution must and WILL BE REMOVED. A change in our unequal system of representation is demanded by every principle of justice in a free Government. It is impossible to meet it, but by a denial of the right of the people to GOVERN THEMSELVES. A fair and equal representation, where it is withheld for a long time, invites, nay forces a struggle for rights which is sanctioned by public opinion all over the world.—The House of Lords in Great Britain resisted its approaches on them, until the very existence of their government was threatened, when the KING was forced to dissolve the Parliament, and leave this question to the people, declaring, "that whatever should be the will of the people, HE was bound to obey." The General Assembly of North Carolina ought not to be less obedient to the will of the people; and persevering resistance to that will cannot be less hazardous in free America, than in the dominions of a Monarch. Let it be remembered, that when I speak of "dangers to the State," I am not silly enough to be thinking of *bloodshed* and *civil war*. We may have commotions without spilling of blood; we may have dangerous experiments upon our liberty and upon the permanency of our free institutions in this country, without the breaking of necks, or strangling, or hanging our citizens. The ambitions of demagogues and the temptations of power may prompt us to withhold justice and deny rights, until the affections of our people shall be weaned from the State—until they will be induced to assert their claims by a *Convention not authorized by a previous law, but deriving its existence and its powers directly from a majority of the people.* Are you ready to prove that such a course would not be effectual? Are you prepared to demonstrate that such a step would be obnoxious to the principles of our Government? Are the minority of North Carolina blind to the consequences of that course into which they are *forcing the majority*? I am far, very far, from desiring to see this experiment tried. The Governments of this country have had trials enough in one generation. I wish to see no such test applied to their permanency and stability. It has dangers which I need not depict to you, and which I heartily deprecate. But remember that a people who have been long denied their rights, who have unsuccessfully made all the proposals that are consistent with the practice and theory of free Governments in this country, are not the most prudent calculators of consequences when they are contending for that which they have inherited in common with their brethren, but which they are yet denied the enjoyment of—EQUAL RIGHTS.

The friends of Reform have now taken what we know to be the last step before they reach that perilous height which I have hinted at. If they fail here, they are left no other alternative but to SUBMIT, or resort to the exercise of the high but dangerous privilege of ORIGINATING a Convention among themselves by the vote of a majority. What then, is the part of wisdom and of patriotism? They have applied to the Legislature in vain for more than 20 years; as their evils have increased, they have repeated their demands. Now, they have turned with confidence to the PEOPLE, and invoked their attention to these things. They have appealed from the SERVANTS of the Republic to the SOVEREIGNS of the State, and no man can feel indifferent to the answer that this appeal shall find, for none can be uninterested in its consequences. The result ought not to prove, that a large portion of North Carolina are prepared to repudiate the maxim of American freedom, that "in a State, the majority must govern." Our history ought never to record that they, whose fathers were *first* to defy the power of a tyrant, are willing to renounce their confidence in the capacity and virtue of the people, and their allegiance to the rights of self government; or, that they despise the ancient boast of our free institutions that "every inequality may be [remedied], and their evils may be cured by the action of the public will." If this appeal is rejected, [illegible] a minority [illegible] plaudit "well done good and faithful servants"—to persevere in a denial of RIGHTS to a majority—poor old North Carolina may be destined to present the spectacle of a people roused to put in practice *the most dangerous experiment our country has ever endured*; but one, which, I think, it will puzzle the most ingenious politician among us to prove, is not sanctioned by our BILL of RIGHTS and the principles of our Government—I would rather hope, but I dare not trust myself to believe, that this majority will sooner submit. Let us do justice, and avert the possibility of such an evil. A majority of the people who are accustomed to study the principles of their government, and have been long contending against injustice, may not be patient after having exhausted all other means of getting an equal share in the Government, and they will not halt at fears of danger when they have once *resolved not to submit*. More than once or twice have I heard it urged upon the consideration of this majority, "not to despair, for they had the *right* and the *power* to ORIGINATE a Convention and redress themselves." I am greatly deceived, if it was not designed to press these things upon the attention of the people in 1823, when a Convention was held in Raleigh by the representatives of those who have been so long excluded from a fair share in the government of the State. I may indeed be mistaken, for I cannot speak *ex cathedra*, but I have reasons to think it was so, and that the design was not carried into execution, because the public attention soon after it became so much engrossed by the Presidential Election. The inequalities of our representation are now much greater than they were at that day—the temper of reform is now much milder—the concessions which are now offered are more liberal; consequently, a refusal to accede to them will be much more offensive. Hence too, the majority are less likely to submit to any refusal to do them justice and the minority will be less excusable for such a course. For one, I say then let these things be settled—and in my judgment, (however honest his purpose may be) that man is blind to the interest of North Carolina, as well as indifferent to the demands of the most ordinary equity, who will any longer withhold his assent to a just compromise of this agitating question.

I know that there are some among your readers who will pervert my argument into a seeming threat and call it a note of defiance—"What forsooth, does this scribbler expect to alarm me into his terms?" No my good sir, say I to any such—I seek not any thing of the sort. But those who love the *State* more than their party—those who are not too proud to be wise, and would take a sober view of the probable effects of withholding an *admitted right*—who are Statesmen and not political coxcombs, may find, I think, in these things subjects for reflection not arguments to convince them. Rest assured they are not meant *for you* my high mettled friend.

If an agent were called on to account and surrender his power of Attorney, and he refused it upon the vain pretext that his principal had accompanied his demand with an intimation that obstinate refusal would compel him to demand the surrender by *suit*, would it be a good answer from a faithful agent?—"I will give nothing though it be just, because you have dared to let me know I might ultimately be forced to do it!"

If a man has come into possession of another's property by accident, in a time of common danger, can he honestly withhold it from the true owner, upon the pretence that he is justified, because the owner will not go on his knees and humbly beseech him to restore it? Shall he pray for it "seventy times seven, and will not seven times answer the pride of his neighbor? Alas how long must it be true, that men will perpetrate injustice in their political relations, which they would scorn to practise in the private relations of life? If a partnership is formed in trade, and after its continuance for 50 years, two thirds of the partners do not furnish funds sufficient to *cover their own expenses* and the other third are yearly sinking their capital in defraying these expenses—would it be considered just in that two-thirds, to refuse the entreaties of their copartners to consent to diminish the expenses and reform their articles accordingly. The answer is too plain, and who is so blind as not to observe a parallel to this, in the Government of North Carolina? But it may be said, that some of the partners, whose substance is let out by this ruinous copartnership, do not complain, and yet does that, in any way justify the infliction of this injury upon those who do complain of it? In the school of party, stimulated by jealousy and a love of power, logick like this may pass for substantial; but what is it in the school of reason and justice? Let candor and conscience answer the enquiry.

SENEX.

Importance of Newspapers.—"The basis of our government, (says Mr. JEFFERSON, in a letter to Col. CARRINGTON,) being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment, to prefer the latter."

AN EXPOSITION

Of the Virginia Resolutions of 1798.

No. III.

TO THOMAS RITCHIE, ESQ.

[CONTINUED.]

I am now to prove to you, Sir, that nullification is the only mode in which the usurpations of the Federal Government may be resisted by the States, in accordance with the principles of our resolutions of 1798. Daring as you may consider this enterprise, I do not enter upon it with any fear, although I approach without flourish of trumpets, or any other parade. I am a plain, practical man, and desire to state my opinions in a manner which other plain, practical men will understand. If such men are not the *ornaments* of the country, they are at least its strength and support, and the very people to whose capacity all reasoning upon political subjects ought to be addressed.

I beg you to bear in mind the principles which have already been stated as deducible from the resolutions of 1798. Perhaps our best course of proceeding will be to state them in detail, and see whether nullification does or does not conform to every one of them.

1. The resolutions assert that there is some mode *within* the Constitution by which the usurpations of the Federal Government may be resisted by the States. Now, it is true that nullification is denied to be a constitutional remedy; but the nullifiers assert that it *is* constitutional; and I mention the point only to show that they do not *intend* to assert any extra-constitutional or revolutionary remedy; and that, so far, at least, they are within the resolutions of 1798. Whether their remedy is constitutional or not, supposing the principles of the resolutions to be so, must depend on its conformity with those principles in the subsequent propositions. We remark, therefore, that,

2. The remedy must be such as to "*arrest* the progress of the *evil*." Now, be pleased to bear in mind, that nullification does not proceed upon any supposed right of a State to *repeal a constitutional law*, but upon the right of a State *to declare that an unconstitutional law really is so, and to refuse obedience to it for that reason*. I beg you to bear this distinction in mind. If nullification proposes any thing more or less than this, I am no nullifier, and do not understand the doctrine. Now, Sir, is not this right of a State (to decide on the constitutionality of an act of Congress) distinctly asserted in the resolutions of 1798? Nay, has not Virginia asserted it *in practice*, both in regard to the alien and sedition laws, and in regard to these very tariff laws themselves? We all know that such is the fact. And was not resistance to such unconstitutional laws distinctly contemplated in the resolutions of 1798? I have already shown that it was; and if any farther proof is necessary, it will be found, in all abundance, in the address to the people which accompanied those resolutions. It appears, then, that the *principles* upon which nullification proceeds, are (in the abstract) in strict conformity with those of the resolutions of 1798. But those principles, it is admitted, must by limited and qualified by the object in view. We are, then, to inquire whether nullification does, or does not, "arrest the progress of the evil." The evil is the exercise of an usurped power: nullification declares that the usurped power shall no longer be obeyed. Is not this the best of all possible modes, if not the *only* mode, in which it can be "arrested?" Perhaps it is not too great a refinement to say, that the "arrest" here contemplated, is of the *usurpation* only, and not of the *usurping power*. In other words, it is not designed to put down the Federal Government—nor embarrass nor impede its legitimate operation; but simply to prevent it from exercising a power which does not belong to it. Hence, no resort is contemplated in the resolutions of 1798, to any measures which may submit the existence of that Government to the decision of arms. Its operations *within* the Constitution must all go on as before, whilst its operations *beyond* the Constitution must be "arrested." Now, this is precisely and *peculiarly* the effect of nullification. And, strange to tell, it is on this very ground that you and others have most strongly assailed that doctrine. You all say, that it is absurd to pretend that a State can be *in* the Union and *out* of the Union at the same time; and that it is monstrous in a State to contend for all the advantages of the Union, as to certain laws, while she refuses to submit to the burthens imposed by other laws. Nothing in nature can be more perfectly self-evident than all this. It is not surprising that a man of Gen. Jackson's measure of intellect and information should be deceived by such a superficial view of the subject; but we had a right to expect better things from a veteran in politics, like yourself. Remember, Sir, that a law *beyond* the Constitution *is no law at all*, and there is no right any where to enforce it. A State which refuses to submit to such a pretended law, is strictly *within* the Union—because she is *in strict obedience to the Constitution*; and it is strange to say that she "refuses to submit to the burthens" imposed by any LAW which is NOT LAW AT ALL. There, then, you have a picture of nullification. It secures to the State the right to remain in the Union, and to enjoy all the advantages which the Constitution and laws can afford—submitting, at the same time, to all which that Constitution and laws rightfully enjoin; while it "arrests the progress" of usurped power, by destroying the obligation of every pretended law which the Constitution does not authorize, and which, therefore, is NOT LAW. If this is not the meaning of the resolutions of 1798, I have much misunderstood them. It is precisely upon this point that the public mind of Virginia has been most strangely misled by the authority of the President's name, and the speciousness of your paragraphs. You owe the people a heavy debt of reparation, which I hope you will live to pay. This leads us to the second object of the resolutions of 1798, which is "to maintain within the limits of the respective States, the authorities, rights, and liberties appertaining to them." I have already shown, in my second letter, that these authorities, rights, and liberties, are not merely those which belong to every sovereign State, and which may be enjoyed as well in a state of separation as in league with others, but, also, all the authorities, rights and liberties which the States are entitled to, under the Constitution, and *as members of the Union*. No State, therefore, can possibly effect this object of the resolutions of 1798, by any proceeding which *either withdraws her from the Union, or weakens her just influence in it*.

The remarks offered under the preceding head, apply with equal force and propriety to this. You and the President both say, that it is arrogance and presumption in a State to insist on retaining her place and influence in the Union, while she refuses to submit to a part of its laws. Admitting, again, that this is perfectly true, but re-asserting that it cannot apply to the refusal of a State to submit to what is NOT LAW, I have to ask you how it is possible for a State to "maintain her authorities, rights, and liberties," except by the check which she may apply, *as a State, and as a member of the United States*, to the usurpations of the Federal Government, or by an appeal to arms? I pray you, Sir, to enlighten my understanding upon this subject. If you cannot show me some other mode of proceeding, I take it for granted that no one else can. At all events, until it shall be done by some one or other, I shall be compelled to continue in my present heresy. If it was the meaning and object of the resolutions of 1798, that the States had the right, and were in duty bound, to resist the usurpations of the Federal Government, by some means which, *at the same time that it arrested the evil, should preserve the Union unbroken*, I must be permitted to think that nullification, if it does not attain these objects completely, comes much nearer to it than any other proceeding which has yet been proposed. I know, Sir, that you, and hundreds of others, have said that the resolutions of 1798 have been misunderstood. Perhaps so. It is true their language has appeared to me, and to others like me, to be extremely plain—and it is our own construction of it alone which has formed our principle. Yet it is possible that it may hide some meaning deeper than we have been able to penetrate. I pray you to tell us what it is. Do not content yourself with the THEORY only, but let us know the precise extent of our rights, and *the precise mode in which they may be constitutionally asserted, according to the resolutions of* 1798.

It has not escaped my attention, that, according to those resolutions, the State interposition which they contemplate is not authorized, except in cases of "deliberate, palpable, and dangerous exercise of powers not granted." It will be obvious, however, to intellects less clear than your own, that this does not affect, in any degree, the principle upon which State resistance is justified, nor even the mode in which it may be exerted. It merely points out the *proper occasion* for the *application* of the principle. And it will be sufficient here to remark, that, according to your own theory, which in this respect agrees with the resolutions, *each State is the exclusive judge for itself, whether the usurpation is deliberate, palpable & dangerous, or not.* It follows, of course, that no objection to nullification can be derived from this view of the subject.

I have now, Sir, to present to you a dilemma, connected with this part of our inquiries, and to ask you in what manner you propose to escape its horns?

South Carolina says that an unconstitutional law is void, and so say the Virginia Resolutions: South Carolina says that each State has a right to decide for itself whether a law is constitutional or not, and so say the Virginia Resolutions: South Carolina, in the exercise of this right, has declared that the tariff laws ARE unconstitutional, and so say the Virginia Resolutions of 1828 and 1829, (have forgotten the date,) and so, Mr. Ritchie, SAY YOU. How, then, can you countenance the President, *in subjecting the citizens of South Carolina to the sword, for not submitting to what you, yourself, believe to be a sheer usurpation on the part of the Federal Government*? Do, Sir, in pity to our oppressed spirits, answer this question. You will not answer it, Sir—because you CANNOT answer it, without convicting yourself of inconsistency. THIS I WILL PROVE—for I do not mean to allow you any refuge from this dilemma. South Carolina is either right in her proceedings, (principles and all,) or else she is wrong. If she is RIGHT, then there can be no pretence whatever for making war upon her; if she is WRONG, *how does that fact appear?* It is admitted that the other States, co-parties with her to the Constitution, have not said so. Congress alone, and the President, or rather the *Federal Government, has said it*. Do you, Sir, acknowledge any such right in the Federal Government? Is it not perfectly clear, that if *such right exist*, the Federal Government *is an appellate tribunal*, WITH POWER TO DECIDE, IN THE LAST RESORT, UPON THE CONSTITUTIONALITY OF ITS OWN ACTS? Of what avail is the right of a State to pronounce that an unconstitutional act of Congress *is really so*, if Congress may overrule that decision? Is not this, Sir, the very essence of that consolidation against which the Virginia Resolutions, Madison's Report, and your own valuable labors, have so long contended? It is impossible, then, for you to justify Congress and the President, except by asserting, either that Congress may overrule the decision of South Carolina, upon a question touching their own powers, and, by the same rule, may overrule the decision of every other State, and thus become the *sole judges of the extent of their own powers*; or by asserting that they may *constitutionally enforce an unconstitutional law*. Can you, Sir, escape this difficulty, without abandoning every principle for which you have professed to contend for thirty years? I am exceedingly anxious to know in what manner you will do it. For myself, I can discover but one possible loop hole of retreat, and even that I will endeavor to close upon you. I reserve this, however, for a succeeding letter.

No. IV.

In my last letter, Sir, I submitted for your solution, a proposition which appears to me to place you in considerable difficulty. A lion in the toils might in perfect consistency with his character, decline all means of escape, through fear of committing his dignity upon an unsuccessful effort. In order that I may occasion you no such course, (believing that you are already determined on pursuing it,) I proceed to show you that you *could not escape, if you would*.

You will perhaps say, that although a State has a right to pronounce on the constitutionality of an act of Congress, yet it is, nevertheless, bound to submit to an act so pronounced to be unconstitutional, *until the other States shall have sanctioned its decision*. This, if it were true, might perhaps afford some ground of apology for the President and Congress. It is that which I have already alluded to, as presenting the only possible chance of escape from the horns of my dilemma. Indeed, Sir, it may be useful for you to know, that a great many of the most vociferous denouncers of nullification go with it, in perfect fellowship, until it reaches this point. I will endeavor now to show you that there is no sort of reason for separating here; and if I should succeed in this effort, you may rely upon it, that a vast number who are now in your ranks will desert to ours. I affirm, therefore, that the Resolutions of 1798, *so far from countenancing the idea that a State which has pronounced an act of Congress to be unconstitutional, is bound to obey that law, until the other States shall sanction its decision, do distinctly assert the precise reverse.* This, I think, I shall prove.

I presume it will readily be admitted, that Madison's Report, which was made expressly to sustain those resolutions, is a fair interpreter of their meaning. That report, after stating the proposition, that "where resort can be had to no tribunal superior to the authority of the parties, the parties themselves must be the judges in the last resort, whether the bargain made has been pursued or violated," proceeds thus:—"The States, then, being the 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 decide, *in the last resort*, such questions as may be of sufficient magnitude to require their interposition.—From this view of the resolution, it would seem inconceivable that it can incur any just disapprobation from those who, laying aside all momentary impressions, and recollecting the genuine source and object of the Federal Constitution, shall candidly and accurately interpret the meaning of the General Assembly. If 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 avert 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 of all relief from usurped power, and a direct subversion of the rights *specified or recognized under all the State*