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Salisbury, Rowan County, (N. C.) Monday, November 4, 1833.

No 700

POLITICAL

BEPLY OF KENTUCKY AND VIR-GINIA,

To the Answers of the States.

RENTUCKY RESOLUTIONS OF 1799.

In run florse or REPRESENTATIVES. Thursday, November 14th, 1799.

The flowse, according to the standing order of the day, resolved itself into a Committee of the Whole House on the state of the Commonwealth, Mr. Desha in the chair; and, after some time speni thereur, the Speaker resumed the chair. and Mr. Desira reported that the Committee had taken under consideration sundry resulutions passed by several State Legis latures, on the subject of the Alien and Sedition Laws, and had come to a resolution thereupon, which he delivered in at the clerk's table, where it was read, and commonsly agreed to by the House, as

The representatives of the good People of this Commonwealth, in General Assembly convened, having maturely considered the answers of sundry States in the Union to their resolutions passed the last session, respecting certain unconstitutional laws of Congress, commonly called the Alien and Sedition Laws, would be faithless, indeed, to themselves, and to those they represent, yere they silently to acquiesce in the principles and doctrines attempted to be maintinned in all those answers, that of Virgiare only excepted. To again enter the field of argument, and attempt more fully or forcibly to expose the unconstitutionality of those obnoxious laws, would, it is ap he-discusse n of those interesting subje in sundry of the Legislatures of our aister. States, unfounded suggestions and oneandid iosinuations, derogatory to the true the resolutions which have met with this character and principles of this commonwealth, have been substituted in place of fair ral objections and arguments that have ap tree; sometimes those a cretice as organic reasoning and sound argument. Our opibions of these alarming measures of the General Government, together with our ple, or of reasoning, which the candor of reasons for those opinions, were detailed the General Assembly ought to acknow may and with temper, and sub

been observed in the answers of most of should be constructed into an acquiescence the United States, and of their own State. The a vigosation is that the Control tation that we shall be deterred from what it was evidently proper to express their we conceive our duty, or shrink from the principles contained in those resolutions: Therefore,

Resolved, That this Commonwealth considers the Federal Union, upon the terms and for the purposes specified in the late compact, as conducive to the liberty and happiness of the several States; That it does now mequivocally declare its attachment to the Union, and to that compact, agreeably to its obvious and real intention, and will be among the last to seek its dis olution: That if those who administer he General Government he permitted to transgress the limits fixed by that compact, by a total disregard to the special delegations of power therein contained, an annibiliation of the State Governments, and the creation upon their ruins of a General Consolidated Government, will be the inevitable consequence : That the principle and construction contended for by sundry of the State Legislatures, that the General Greenment in 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 CONSTITU lowing: TION, would be the medsure of their pow. "That this Assembly doth explicitly AFFICATION BY THOSE SOVERFIGHATIES, OF sense and intention of the instrument con mend the best rights of the citizen, it . On this resolution the Committee have cient magnitude to require their interpositions like the present, which so vitally them."

attempt, at what quarter soever offered, to violate that compact. And finally, in order that no pretext or arguments may be drawn. of this Commonwealth, in the constitution which the States are parties;" utity of those laws, and be thereby used as precedents for similar future xiolations of the Federal compact—this Commonwealth does now enter against them its SOLEMN PROTEST.

Extract, &c. Attest.

Tno's Tona, C. II. R. In Senate, Nov. 22, 1799-Read and consumered in B. THURSTON, C. S. Attest.

MR. MADISON'S REPORT ON THE VIR. GINIA RESOLUTIONS

> VIRGINIA HOUSE OF DELEGATES. Session of 1709-1800.

REPORT of the committee to whom various States, relative to the resoluthis State, concerning the Alien and Se dition Laws:

Whatever room might be found in the occordings of some of the Status, who have disapproved of the Resolutions of the General Assembly of this Commonwealth, passed on the 21st day of December, 1798, for painful remarks on the spirit and manner of those proceedings, it ap branch of the resolution, namely pears to the Committee most consistent the States are parties to the with the duty, as well as dignity, of the or compact," is, in the judgement of General Assembly, To-hasten an oblivion of every execupatance which might be prehended, be as unnecessary as unavailing, construed into a domination of mutual res. W. cannot, however, but largent, that, in peet, confidence, and affection, among the bers of the Union.

The committee have deemed it resolul task to revise, with a critical eve, disapprobation; to examine fully the save peared against them; and to inquire wheledge and correct.

PIRST RESOLUTION.

sincere and firm adherence.

SECOND RESOLUTION

In their next resolution-" The Gene ral Assembly most solemnly declares a warm attachment to the Union of the States, to maintain which, it pledges all its powers: and that, for this end, it is their duty to watch over and appose every infraction of those principles which constitute the only basis of that Union, be cause a faithful observance of them can atone secure its existence and the public appiness."

The observation just made is equally pplicable to this solemn declaration of warm attachment to the Union, and this solemn pledge to maintain it; nor can any question arise, among enlightened friends of the Union, as to the duty of watching over and opposing every infraction of those principles which constitute its basis, and a faithful observance of which can a lone secure its existence, and the public happinees thereon'depending.

THISD RESOLUTION.

The third resolution is in the words fol-

would consider a silent acquiescence as lestowed all the attention which its imhighly criminal; That although this Com- portance merits; They have scanned it It does not follow, however, that bemonwealth, as a party to the Federal com- not only with a strict, but a severe eye; cause the Scates, as sovereign parties to hypothesis, the delegation of judicial pow- as the United States, in Congress assem-

oppose, in a constitutional manner, every tions, as well as constitutional and conclusive forever, and beyond the possible the following part of Section 81 "The sive in its inferquees.

The resolution declares, first, that " it words, that the Federal powers are derived from the Constitution; and that the Constitution is a compact to which the States are parties.

Clear as the position must seem, that the Federal powers are derived from the Constitution, & from that alone, the committee opens another source of Federal powers, not less extensive and important, than it is new and unexpected. The examination propriples of their political system. of this subject will be most conveniently connected with a review of a succeeding resolution. The Committee satisfy themselves here by briefly remarking, that a all the contemporary discussions and comments which the Constitution underwent it was constantly justified and encommend ed, on the ground that the powers not giv from it; and that it any doubt could have tions of the last General Assembly of existed on this subject, under the original text of the Constitution, it is removed far as words could remove If, by the 12th amendment, now a part of the Cousting tion, which expressly declares "that the powers now deligrated to the United State by the Constitution, nor probabited by to the States, are reserved to the State

> respectively, or to the people. The other position involved in committee, equally free from objection. It is indeed true that the term "States, sometimes in different senses, according to the subject to which it or applied. Thus, it semictimes means the separate sections of territory occupied by the political societies within each ; sometimes the nurticular Governments established by those some ed into those particular Governments; and soldient societies, in their highest sour? eign capacity. Although it might be wished that the perfection of language 4d-

Resolved, That the General Assembly | collected with certainty from the different

widely differ from us, on those important which the General Assembly ought always then they are not have the capes to feel, and to which, on such an occasion, thereto enterers to be such as the capes. prosedule to a non-just objection care be plainly intended by the nation to it; it other, to a declaration that it ought to have the execution and effect intended by them. If the powers granted he valid, it granted, all other powers not granted must rution would never draw within the connot be valid.

The resolution having taken this view of the Federal compact, proceeds to infer, that, in case of a deliberate, patpuble, and dangerous exercise, of other powers, not granted by the said compact, the States are in duty bound, to interpose for arrest ing the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, & liberties, appertaining to them."

It appears to your Committee to be a plain principle, founded in common score, Hestrated by rommon practice, and essentrail to the nature of compacts - that, where resort can be had to no tributal superior to the authority of the parties the parties them. solves must be the rightful judges, in the That the several States who formed and peremptorily declare, that it views last resort, whether the bargain made has that instrument, being sovereign and inde- the powers of the Federal Government as been pursued or violated. The Constitu pendent, have the unquestionable right to resulting from the compact to which the tion of the United States was formed by the Judge of the infraction; and, THAT A NUL- States are parties, as limited by the plain sanction of the States, given by each in its sovereign capacity. It adds to the stabili. ALL UNAUTHORIZED ACTS DONE UNDER CO. stituting that compact -as no further valid by and dignity, as well as to the authority to an rear insequence, is received than they are sutherized by the grants of the Constitution, that it rests on this for annual that this Commonwealth compared in that compact; and that, in legitimate and solid foundation. The down, under the most deliberate re-considers of a deliberate, pulpable, and danger. States, then, being the parties to the conferation, declare, that the said Alien and ous exercise of other powers; not granted stitutional compact; and in their sovereign Bedition Laws are, in their opinion, palpa. by the said compact, the States, with are expectly, it follows of necessity that there be violations of the said Constitution; and, parties thereto, have the right, and are in can be no ribural above their authority, to werer cheerfully it may be disposed to duty bound, to interpose, for arresting the decide, in the last resort, whether the surrender its opinion to a majority of its progress of the evil, and for maintaining compact made by them be violated; and, hister States, in matters of ordinary or within their respective limits, the authori consequently, that, as the parties to it, doubtful policy, yet, in momentous regula- ties, rights, and liberties; appertaining to they must themselves decide, in the last resort, such questions as may be of suffi-

views the powers of the Pederal Govern- different nations, where, by the strict role preserve, from a supposed acquiescence on the part ment as resulting from the compact to of interpretation a breach of a part may be in other deemed a breach of the whole-every part, ing retablished, the expediency of making are not unapprised of a late doctrine, which position of the parties, in their sovereign as a necessary safeguard against the dan-

> on to the Government, were withheld gerous to the great purpose for which the er, or as a vigilant discharge of an import ermination; but a case sumped with a fi necessary than at present al consideration and deliberate with rence It is not necessary, because the resolution does not require that the question should be discussed, how for the expresse of any parbealar power, negrated by the Constitum, would just?; the interposition of the sted, which more would contend ought to all within that description; cases on the other hand, might with regial case, he stais sometimes used in a vague sense, and ted, so flagrant and so tatal, as to unite sign to expound certain general phrasis description.

But the resolution has done more than guard against misconsing tion, by express y referring to cases of all liberate, palpa hie, and dangerous causes. It successes open of the asterposite or which it contemplates, to be wilely that of arresting the conschidate the States, by degrees into the ther there be any errors of fact, of principliantly, it means the people composing those progress of the evil of a supportion, and of natintamong the authoraties, rights, and

parties to the Constitution.

less of consure or calumnatum. Lenst, made on the sentiments here represed. The Allien and Sedition Acts be led without the slightest positive mark of however, the silence of this Commonwealth. To continuous defend the Constitution of Federal Coverances result. all chet from usurped power, and a direct spintion, are of course to be understood as at was addressed.

> peachle to a not just objection can be charge, as the sole exposing a struction on which it is founded, strikes stantially be the same, in destrucing the discussion of the constitution, in the las res at; struction on which it is founded, strikes stantially be the same, in destrucing the the attention with singular force; and the import and force of the particular enumercommunity many to a declaration that the land it now be asked for what reason the the attention with singular force; and the remigned much to have the interpretation declaration by the General Assembly, sup. Carriage Tax, distinguished also by ciremm a manner.

colely because they are granted; and, if first; that there may be instances of usurpment. But the proper answer to the objection is, that the resolution of the Gen text under review. eral Assembly relates to those great and tial rights of the parties to it. The resoparties to the Constitution to judge wheelinto a monarchy. delagated authority, as well as by another: mon detence and general welfare." by the Judiciary, as well as by the Executive or the Legislature.

However true, therefore, it may be that the Judicial department is, in all questions see that shall be incurred for the common tution, to decide in the last resort, this re- by the United States in Congress assemsort must necessarily be deemed the last bled, shall be defrayed out of a common hold their delegated trusts. On any other shall be estimated, according to such mode

will not now, or ever hereafter, cease to unexceptionably true in its several post- | ted, that such a decision ought to be in | with the others in usurped powers, might footful and inferior occasions. Even to reach of any rightful remedy, the very Congress wall have power to be and colthe case of ordinary Conventions between Constitution which all were instituted to ject taxes, duties, imposts, and excises, 19

> The truth declared in the resolution bebeing doesned a condition of every other the declaration at the present day may part, and of the whole-of is always haid safely be left to the temperate considersdown that the breach must be both wilful tron and candid judgment of the American and material, to justify an application of public. It will be remembered, that a fre the rule. But in the case of an intimate quent recurrence to fundamental principles and Constitutional Union, like that of the is solemnly enjoined by most of the State United States, it is evident that the infer. Constitutions, and particularly by our own, capacity, can be called for by occasions ger of degeneracy to which Republics are only Jeeply essentially affecting the vital liable, as well as other Governments, The resolution has, accordingly, guarded a fair comparison of the political doctrines against any mesapprehension of its object, not unfrequent at the present day, with a country, and if such was the invited by expressly requiring for much an inter- those which characterized the epoch of our quentum attacked to these phraces in the position "the case of a deliberate, palpa. Revolution, and which form the basis of very instrument revised and re-accided by ble, and dangerous breach of the Constitu- our Republican Constitutions, will best de the present Constitution, it can gever be tion, by the exercise of powers and granted termine whether the declaratory recurs supposed that, when copied into this A on-It must be a case, not of a light rence here made to those principles ought statution, a different meaning ought to be and transient nature, but of a nature dan- to be viewed as unsequenable and improp attached to them. onstitution was established. It must be ant duty. The authority of Constitutions a case, mereover, not obscure or doubtful over Governments, and of the sovereignty has been indicated to expound these plant n its construction, but plant and palpable. of the people over Constitutions, are truths Lastly, it must be a case not resulting which are at all times necessary to be kept from a partial consideration, or basty de- in mind; and at no time, perhaps, more era by which it explains and hard- them,

The fourth resolution stands as follows: "That the General Assembly doth also in sundry instances, been manifested by arties to a. As cases, might easily be the Federal Government, to enlarge its from these phrases, in their indefinite powers, by forced constructions of the constructions statutional character which defines them? and that indications have appeared of a dec. without looking burther, the officed Rep of every opinion to making them within the (which, briving been copied from the very limited grant of powers in the former Ar ticles of Confederation, were the less linble to be misconstructed,) so as to destroy the meaning and effect of the particular illust if the har tell court refer enumeration which necessarily explains and limits the general phrase, and so as to sovereignty; the obvious tendency and inevitable result of which would be to trans liberties, appartaining to the States, as form the present Republican system of the United States into an absolute, or at beat

produced by it when the true sense can be any just disapprobation from those who, is, whether a spirit has, in sundry instant spling of the National Councils, as for as laying aside all momentary impressions, ees been manifested by the Federal Gov. regards any application of money." these States who have done do or attempted to obtain the great truths contained in firm resolution to maintain and defend the whatever different constructions of the constitutions of the constructions of the constitutional charter. of power in the National Councils, and ap-

these resolutions, we have now only to Constitution of the United States and the term " and accurately interpret the mean. The General Assembly, having declar, plies it to the encouragement of Agricult. submit to a candid world. Faithful to the Constitution of this State against very ag benefit of the General Assembly. If the de ed their opinion merely by regretting in lure, by means of a society to be called by true principles of the Federal Union, un gression, either foreign or domestic, and that has required because powers, pal- general terms that forced constructions for each of Covernment. Afternish mony of that Union, and anxious only to the Smited States in all measures warrant 10 States in all measures ware warrant 10 States in all measures warrant 10 States in all meas escape the fangs of despotism, the good of by the former."

Red it: and in that sense of the term i management to accept the progressor me every instance to which the resolution may describe contained in both has passently accepted in the fangs of the former. The Allien and Sedition Acts be sed without the slightest positive mark of in the doctrines and principles advanced number every aggression, both fareign and attempted to be maintained by the domestic, and to support the Covernment to version of the rights specified or recognized in the allusion. Omitting others which have less occupied public attention, as said answers, or lest those of our fell of the United States in all measures are included in the allusion. Omitting others which have less occupied public attention, becomitted to authorise every house result in the state Constitutions, as which have less occupied public attention, becomitted to authorise every house relating to the common defends and or been less extensively regarded as in that compact." and "as no facility from us, on those important which the General Assembly ought always the particularly to the Bank ery measure only in which there are anthorised by the resolution of the fluid state of the particularly to the Bank ery measure only in which there are anthorised to the fluid state of the right of the resolution of the fluid state of the fluid st constitutional, the resolution may be pre- eral wellure, as contended by some, or eve-

> assag it to be theoretically true, could be comstances in its history having a similar ral phrases in the Constitution. For it is required at the present day, and in so so tendency. Those instances alone, if re-evident that there is not a single power om a manner.
>
> On this objection it might be observed, culated to enlarge the powers of the Pedence of the common defence or the generthe granted powers are valid, because ed power, which the forms of the Consti- not but conceive to be the case, sufficiently which, in its extresse, does not involve or trol of the Judicial department; secondly, Committee have not thought it incumbent erement, therefore, which possesses power that if the decision of the Judiciary be on them to extend their attention to laws in either one or other of these extents, is a raised above the authority of the sovereign which have been objected to, rather as va. Government without the limitations formparties to the Constitution, the decisions rying the constitutional distribution of ed by a particular enumeration of powers i of the other departments, not carried by powers in the Federal Government, than and, consequently, the meaning and effect the forms of the Constitution before the as an absolute enlargement of them; be- of this particular conmercion is destroyed who are parties thereto have the right, and Judiciary, must be equally authoritative cause instances of this sort, however im and final with the decisions of that depart- portant in their principles and tendencies, do not appear to fall strictly within the

The other questions presenting them extraordinary cases in which all the forms selves, are-1. Whether indications have where the general in forms is beyond the of the Constitution may prove ineffectual appeared of a design to expound certain reach of separate provisions by the indiagainst infractions dangerous to the essen general phrases copied from the "Articles vidual States, and leaving to these their of Confederation," so as to destroy the efintion supposes that dangerous powers, not feet of the particular equineration explaindelegated, may not only be usurped and ing and houting their meaning 2. Whe the authority of the individual States must executed by the other departments, but ther this exposition would by degrees con- in all cases be incompetent to general rethat the Judicial department also may ex- solidate the States into one sovereignty. gulations operating through the whole, the presse or sanction dangerous powers, be- 3. Whether the tendency and result of authority of the United States would be exyoud the grant of the Constitution; and, this consolidation would be to transform tended to every object relating to the geconsequently, that the ultimate right of the the republican system of the United States neral welfare, which might, by any possis

ther the compact has been dangerously 1. The general phrases here meant, woulded, must extend to violations by one must be those "of providing for the com- therefore, would have little, if my tenden-

In the " Articles of Confederation," the purases are used as follows, in Article VIII: fare." " All charges of war, and all other expen submitted to it by the forms of the Consti- defence and general welfare, and allowed ing Federal compacts, appears to the Comin relation to the authorities of the other treasury, which shall be supplied by the vide money for the common defence and departments of the Government; not in several States in proportion to the value of general welfare. In both, a subjoined to relation to the rights of the parties to the all land within each State, granted to or this authority an name alon of the c.ses constitutional compact, from which the Ju- surveyed for any person, as such land and to which their powers shall extend Modicial as well as the other departments the buildings and improvements thereon ney cannot be applied to the general well-

In the existing Consummen, they make ony the debts and provide for the courmen defence and general weither of the United

This similarity in the use of these phoases, in the two great Federal charters, might well the considered as rendering their meaning less liable to be amconstrued in the latter : because it will scarcely be said that in the former they were ever understood to be either a general grant of power, or to nuthorme the requist a or application of money is the old Congress to the common defence and general welfare, though in a less degree than others. And except to the case afterwards enumerated, which explained and himited timer

I hat, notwithstanding this remarkable security against misconstruction, a design ses in the Constitution so as to destroy the effect of the particular enumeration of powmust have fallent under the observation of those who have attended toothe course of public transactions. Not to multiply proofe at this subject, it was suffice to reser to the Debates of the l'ederal Legislature, in xpress its deep regret that a spirit has, which arguments have on different occa-Stone been drawn, with apparent effect,

To these indications might be indied,

on Manufactures, by the late Se retail of the Treasury, made on the Str. Lincons. ber, 1791 : and the Report Committee of C agrees, in Junuary 1782 ... inc promotion of Agricultural In the heat of to the assertion of the Notional Legit inture to pronounce upon the objects of cir. meern the general welface, and for which under that description, an appropriative, of money is requarte and proper. And incre seems to be no room for a doubt that whatever concerns the general interests of mitted less diversity in the signification of Proin this view of the resolution is a mixed, monarchy?

The first question here to be considered Tunns, and of confidence, are within the

there are summers to be an a second but it is objected, that the Judicial aunarity is to be regarded as the sole expos | its passage, as well as the latitude of con- the caution of others—the effect must suite ation of powers which follow these geneeral Covernment, as the Committee can- al welfare; nor a power of any magnitude, warrant this part of the resolution. The admit an application of money. The Govby the exposition given to these general phrases.

This conclusion will not be affected by an attempt to qualify the power over the " general welfare," by reterring it to cases presdictions in cases to which the c separde provisions may be competent. Por, no bility, be provided for by the general thorsty. This qualifying construction, ev to circumscribe the power claused under the latitude of the terms " general wei-

The tree and fair construction of this expression, both in the original and existmittee toe obvicus to be mistaken. In both, the Congress is authorized to profare, otherwise than by an application of it to some particular measure conducive to part, will how to the laws of the Union, yet and they feel confidence in pronouncing, their construction, it is mately decide whether it has been viola and the concurrence of this department appoint."