NORTH CAROLINA SENTINEL.

LIBERTY....THE CONSTITUTION....UNION.

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BY AUTHORITY.

LAWS OF THE UNITED STATES PASSED AT THE FIRST SESSION OF THE TWENTY-SECOND CONGRESS.

AN ACT explanatory of the act entitled "An act for the relief of the officers and soldiers of the Virginia line and Navy, and of the Continental Army, during the revolutionary war," approved thirteenth of May, one thousand eight hundred and thirty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the act, entitled "An act for the relifef of certain officers and soldiers of the Virginia Line and Navy, and of the Continental Army, during the revolutionary war," approved thirtieth of May, one thousand eight hundred and thirty, shall not be construed to extend to any Land Warrants heretofore issued, which have been located, surveyed, or patented, on the lands reserved and set apart for the satisfaction of the Military Bounty Lands, due to the Officers and Soldiers of the Virginia line upon Continental establishment, or for the satisfaction of the Officers and Soldiers of the Continental Army.

Sec. 2. And be it further enacted, That the provisions of the third section of the act, entitled, "An act to extend the time for locating Virginia Military Land Warrants, and returning surveys theron to the land office," approved twentieth May, one thousand eight hundred and twenty-six, be, and the same is hereby continued in force for seven years, from and after the first day of June, one thousand eight hundred and thirty two; and the proprietors of any location, survey, or patent, contemplated by the aforesaid section, may avail themselves of the provisions of the said section in the cases therein enumerated.

A. STEVENSON,
Speaker of the House of Representatives.
J. C. CALHOUN,
Vice President of the United States, and President of the Senate.

APPROVED, March 22, 1832.
ANDREW JACKSON.

AN ACT to add a part of the Southern to the Northern District of Alabama.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all that part of the Country lying within the limits of Alabama, and now in the occupancy of the Cherokee and Chickasaw tribes of Indians, shall be added to, and constitute a part of, the Northern Judicial District of Alabama, instead of the Southern District of said State, as now arranged.

APPROVED, March 31, 1832.

From the Banner of the Constitution.

RIGHTFUL REMEDIES FOR THE REDRESS OF GRIEVANCES—No. 3.

We shall now undertake to show that the Constitution of the United States is a Federal compact.

Now, the Constitution is either *Federal*, or it is *National*. We are aware it has been said, by Mr. Livingston and others, to be a mixture of both; but we deny that any such mixture can exist. A mixture of death and life might as well exist in the animal body, as a mixture of Federal and National qualities in the political body: for the several States, in forming the Constitution, have either reserved to themselves the uncontrolled right of sovereignty, or they delegated it. They are either sovereign, or they are not sovereign. If they are sovereign, then is the Government *Federal*—if they are not sovereign, then is the Government *National*.

We are aware that Mr. Rawle denies that the Constitution is *Federal*. He says: "The States do not enter into the Union upon Federal principles."—p.26. And again he says, that very little of a pure federative quality was meant to be retained in the Constitution of the United States,—p.243.

We will now proceed to lay down a few propositions, and we shall proceed to their establishment.

1. The several States forming the Constitution of the United States, were free, sovereign, and independent, at the time of the formation and adoption of the Constitution of the United States.

2. They delegated certain powers, in forming their compact, to be exercised by the Government they were about to constitute, and reserved all others to themselves: And,

3. They reserved to themselves an uncontrolled right of sovereignty, freedom, and independence,

If these positions are true, then is the Constitution *Federal*, and the States the only proper parties to that instrument.

First. The several States forming the Constitution were free, sovereign, and independent, at the time of the formation and adoption of the Constitution of the United States. Let us examine this matter a little.

The Declaration of American Independence, on the 4th of July, 1776, was *the act* which gave birth to the American State sovereignties. This was an act of a *Federal* body. This Declaration of Independence sets forth that "We, the Representatives of the *United States*, in General Congress assembled, do solemnly publish and declare these United Colonies are, and of right ought to be, *free, sovereign, and independent States*; and that, as free, sovereign, and independent States, *they* have full power to levy war, conclude peace, contract alliances, establish commerce, *and do all other acts and things which independent States may of right do.*"

Judge Tucker says: "Whatever political relation existed between the American Colonies antecedent to the Revolution, as constituent parts of the British Empire, or as dependancies upon it, that relation was completely dissolved and annihilated from that period. From the moment of the Revolution, they became, *severally, independent and sovereign States*, possessing all the rights, jurisdictions, and authority, that other sovereign States, however constituted, or by whatever title denominated, possess; and bound by no ties but of their own creation, except such as all other civilized nations are equally bound by, and which together constitute the customary law of nations." 1 *Tuck. Black. App.* 150.

"By this great measure," says Mr. Rawle himself, "the Congress of Provinces became at once the Congress of so many sovereign States, entitled to places in the catalogue of *Nations*."—p.21.

The Confederation of 1777 was formed by Delegates, not from the people of the United States in their national capacity, but from the several States in their *sovereign capacity*, independent of each other; and those Articles expressly recognized the sovereignty of the respective individual States. It styles itself "The United States of America." It declares, expressly, that each State *retains its right of sovereignty*, and that the Confederation was formed for "the common defence and general welfare" of the said Confederacy. It expressly declares that "*each State retains its sovereignty, freedom, and independence*, and every other power, jurisdiction, and right, which is not *expressly* delegated to the United States, in Congress assembled."

Mr. Rawle also admits, that, by the Articles of Confederation, "The United States were formed into a *Federal body*, with an express reservation, to each State, of its *freedom, sovereignty*, and *independence*, and of every power, right, and jurisdiction, not expressly delegated to the United States, in Congress assembled."—View p.21.

The Convention of 1787, which formed the Constitution of the United States, was not a delegation from the people of the United States in their *national capacity*, but a delegation from the *State Sovereignties*. This appears from the manner of their appointment, and the disproportion of representatives from the several States of which it was composed. The delegates were appointed by the State Legislatures, and the number of delegates was not proportioned to the population of the States which they represented. That the Convention was a delegation from the State *sovereignties*, and a *Federal body*, appears from the manner of proceeding: they voted, not by *personal representation*, but *by States*.

Mr. Rawle admits, that, in the formation of the Constitution of the United States, "It was not the simple act of a homogeneous body of men, either large or small: it was to be the act of *many independent States*, though in a greater degree the act of the people, set in motion by *these States*: it was to be the act of the people of *each State*, and *not of the people at large*.—p.13.

The Convention thus formed did not adopt a Consolidated National Government, with unlimited powers, which would annihilate the State Sovereignties. This form of government was proposed by General Alexander Hamilton, and advocated by Mr. Randolph, Mr. Butler, Mr. Governeur Morris, Mr. Charles Pinckney, Mr. Madison and other distinguished members of the Convention. But this plan of a Federal Government was thought by the majority too energetic. It was opposed by John Dickinson, of Pennsylvania, and William Paterson, of New Jersey, &c. who zealously advocated the cause of the State Sovereignties. It was solemnly discussed, and it was deliberately and formally rejected.

Therefore, after much discussion and solemn argument, the Convention adopted the present Constitution of *the U. States*—in which instrument, the powers delegated are *few and defined*, extending to a *few enumerated and specified objects*. All powers, not so delegated, the States have reserved to themselves, including an *uncontrolled right of freedom*, sovereignty, and independence. That this was at that time the opinion of the Convention, will appear by a statement made by Judge Wilson, who was one of the Federal Convention, in a speech, delivered on the 26th of November, 1787, in the Convention of Pennsylvania, assembled to take into consideration the Constitution framed by the Federal Convention for the United States. He thus explained their views, to the Pennsylvania Convention:

"The United States may adopt any one of four different systems. They may become consolidated into one Government, in which the separate existence of the States shall be entirely absorbed: they may reject any plan of union or association, & act as separate & unconnected States: they may form two or more Confederacies: they may unite in one Federal Republic. Which of these systems ought to have been proposed by the Convention? To support, with vigor, a single Government over the whole extent of the United States, would demand a system of the most unqualified and unremitting despotism. Such a number of separate States, contiguous in situation, unconnected and disunited in Government, would be, at one time, the prey of foreign force, foreign influence, and foreign intrigue—at another, the victims of mutual rage, rancour, and revenge. Neither of these systems found advocates in the late Convention—I presume they will not find advocates in this. Would it be proper to divide the U. States into two or more Confederacies? It will not be unadvisable to take a more minute survey of this subject. Some aspects under which it may be viewed, are far from being, at first sight, uninviting. Two or more Confederacies would each be more compact and more manageable than a single one extending over the same territory. By dividing the United States into two or more Confederacies, the great collision of interests, apparently or really different and contrary, in the whole extent of their dominion, would be broken, and in great measure disappear, in the several parts. But these advantages, which are discovered from certain points of view, are greatly overbalanced by inconveniences that will appear on a more accurate examination. Animosities and perpetual wars would arise from assigning the extent, the limits, and the rights, of the different Confederacies. The expense of Government would be multiplied by the number of Federal Governments. The dangers resulting from foreign influence and internal dissentions, would not, perhaps, be less great and alarming, in the instance of different Confederacies, than in the instance of different, though more numerous unassociated States. These observations, and many others that might be made on the subject, will be sufficient to evince that a division of the U. States, into a number of separate Confederacies, would probably be an unsatisfactory and an unsuccessful experiment. The remaining system which the American States may adopt, is, in a union of them under *one Confederate Republic*. It will not be necessary to employ much time, or many arguments, to show that this is the most eligible system that can be proposed. By adopting this system, the vigor and decision of a wide-spreading Monarchy may be joined to the freedom and beneficence of a contracted Republic. The extent of territory, the diversity of climate and soil, the number, and greatness, and connection, of lakes and rivers, with which the United States are intersected, and almost surrounded, all indicate an enlarged Government to be fit and advantageous for them. The principles and dispositions of their citizens indicate that, if this Government, liberty shall reign triumphant.—Such, indeed, have been the general opinions and wishes entertained since the era of our independence. If these opinions and wishes are as well-founded as they have been general, the late Convention were justified in proposing to their constituents *one Confederate Republic*, as the best system of a National Government for the United States."—[*Wilson's Lect.* 30, *p.*287.

New Jersey. SULPICIUS.

From the Richmond Enquirer.

THE QUESTION.

We lay before our readers this morning, the Speech of Judge Clayton in the House of Representatives—the commencement of Mr. Cass's able and unanswerable Review, and the following *Communication* from the pen of a Virginia Statesman, devoted to the rights of the States, and treading in the footsteps of the Fathers of the Constitution. He shows us what Henry foretold, and what Mason, and Madison, and *Marshall* thought, in times gone by. These historical authorities must now be called forth. If the Supreme Court can exercise the jurisdiction, which it now claims, of dragging *a State to its bar*, and there annulling the laws which she has enacted for carrying into effect those powers of sovereignty which she has never delegated to the Federal Government, then are the Rights of the States but an empty sound.

We respectfully offer these quotations of our Correspondent as a part of our offering to the Cause of Georgia. But it is not her cause alone—but the cause of every State in the Union. She is to fight the battle, as it were—but "Virginia has already been refactory," against the same judicial usurpation—and she may again be questioned about her sovereignty, by the same tribunal.

FOR THE ENQUIRER.
GEORGIA AND THE SUPREME COURT.

In the case of *Cohens*, vs. *The State of Virginia*, decided some few years since, it was held by the Supreme Court, (in its opinion delivered by the Chief Justice,) that the judicial authority of that tribunal embraced a case, where one of the *States was summoned to its bar* as *appellee*, to answer the complaint of one of its own citizens.

The counsel for the *State* of *Virginia*, were instructed to *question* the *jurisdiction* of *the Court alone*—and if overruled, to *decline further appearance* on the *part of Virginia*.

They did so. The Court *assumed* the *jurisdiction*, but upon the merits decided against the appellant.

In the late case from *Georgia*, that State (warned perhaps by the fortune of Virginia at the federal bar) declining appearing at all.

The jurisdiction, where a *State* is brought in as *appellee*, was again asserted—and a mandate has gone forth, whereby judgment is ordered against a *State*. It remains to be seen how that judgment is to be *enforced*—or in other words, how the *State* of Georgia, is to be *coerced* into *obedience* to *the mandate of the Supreme Court*.

The *sanction* of judicial authority, when exercised toward a citizen, is matter of every day experience. A fieri facias will strip him of his *property*. A capias will deprive him of his *liberty*—or by the fiat of the Judge, his *life* may be taken. What *sanction* there is to judicial authority when assumed toward a *State*, is a problem yet to be solved.

In the mean time, and while the question is pending, let me call the attention of your readers to the speculations of some of the sages and best statemen of Virginia, on this very subject:

On the question whether, under the Constitution of the U. States, a *State* could be brought into the Federal *Courts* as *defendant*—The question. I apprehend to be the same. when summoned as *appellee*—This being but a name for the defendant in error, as the Lawyers term it.

I quote from the debates in the Virginia Convention, called to consider the form of government proposed to the States, by the General Convention at Philadelphia—i. e., the present Constitution of the United States.

The Judiciary clause being under consideration, [Elliott's debates, vol. 2d, page 386]—GEORGE MASON, (objecting to so much of the Judiciary clause as extends the jurisdiction of the Federal Courts, "to controversies between a State, and citizens of another State.")—

"How will their jurisdiction in this case do? "Let gentlemen look at the westward-claims "respecting those lands. Every liquidated "account, or other claim against this State, "will be tried before the Federal Court. Is "not this disgraceful? *Is this State to be "brought to the bar of justice, like a delinquent "individual? Is the sovereignty of the State "to be arraigned like a culprit, or private of-"fender? Will the State undergo this mor-"tification?* I think this power perfectly unnecessary.

"But let us pursue this subject further.—"*What is to be done, if judgment be obtained "against a State.*—Will you issue a fieri facias?—"It would be ludicrous to say, that you could "put the State's body in jail. *How is the "judgment then to be enforced?* A power "which cannot be executed, ought not to be "granted.

"Let us consider the operation of the last "subject of its cognizance—controversies be-"tween a State, or the citizens thereof, and a "foreign State, citizens, or subjects. There is "a confusion in this case—this much, however, "may be raised out of it—that a suit will be "brought against Virginia. She may be sued "by a foreign State. What reciprocity is there "in it? In a suit between Virginia and a for-"eign State, is the foreign State to be bound "by the decision? Is there a similar privilege "given to us in foreign States? Where will "you find a parallel regulation? *How will the "decision be enforced? Only by the ultima "ratio Regum.*"

JAMES MADISON, (defending this clause,) and in reply to Mr. Mason, page 390:—

"Its jurisdiction in controversies between a "State, and citizens of another State, is much "objected to, and perhaps without reason. *It "is not in the power of individuals to call any "State into court.* The only operation it can "have, is, that if a State should wish to bring "suit against a citizen, it must be brought be-"fore the Federal Court. This will give satis-"faction to individuals, as it will prevent citi-"zens, on whom a State may have a claim, "being dissatisfied with the State Courts. It "is a case which cannot often happen, and if "it should be found improper, it will be al-"tered."

"It appears to me that this" (the clause in "question) can have no operation but this—to "give a citizen a right to be heard in Federal "Courts—*and if a State should condescend to "be a party, this Court may take cognizance of "it.*"—(page 391.)

PATRICK HENRY (in reply to Mr. Madison, page 394):—

"Mr. Chairman: I have already expressed "painful sensations at the surrender of our "great rights, and I am again driven to the "mournful recollection. The purse is gone "—the sword is gone—and here is the only "thing of any importance that is to remain "with us—As I think, this is a more fatal de-"fect, than any we have yet considered, for-"give me if I attempt to refute the observations "made by the honorable member in the Chair, "and last up. It appears to me, that the pow-"ers in the section before you, are either *im-"practicable*, or if *reducible to practice, dange-"rous in the extreme.*"

(Page 397.)—"As to the controversies be-"tween a State and citizens of another State, "his construction of it, is to me, perfectly in-"comprehensible. He says, it will seldom "happen that a State has such demands upon "individuals. There is nothing to warrant "such an assertion. But he says, *that a State* "may be *plaintiff only.* If gentlemen pervert "the most clear expression, and the usual "meaning of the language of the people, there "is an end of all argument. What says the pa-"per? That it shall have cognizance of con-"troversies between a State, and citizens of "another State, without discriminating between "plaintiff and defendant. What says the honora-"ble gentlemen? The contrary—that the "*State can only be plaintiff.* When the State "is debtor, thereis no recipriocity. *It seems to "me that gentlemen may put what construc-"tion they please on it.* What! Is justice to "be done to one party, and not to the other? "*If gentlemen take this liberty* NOW, WHAT "WILL THEY DO, WHEN OUR RIGHTS AND LIB-"ERTIES ARE IN THEIR POWRR?"

JOHN MARSHALL (in reply to Mr. Henry, page 405:)

"With respect to disputes between a State, "and the citizens of another State, its jurisdic-"tion has been decried with unusual vehe-"mence. *I hope no gentleman will think that a "STATE will be* CALLED AT THE BAR OF THE "FEDERAL COURT.

"Is there no such case at present? Are "there not many cases in which the Legislature "of Virginia is party, and yet the *State is not "sued?* IT IS NOT RATIONAL TO SUPPOSE THAT "THE SOVEREIGN POWER SHALL BE DRAGGED "BEFORE A COURT.

"The intent is to enable States to recover "claims of individuals residing in other States. "I contend this construction is warranted by "the words. But, say they, there will be par-"tiality in it, if a *State cannot be defendant; if "an individual cannot proceed to obtain judg-"ment against a State*, though he may be sued "by a State. IT IS NECESSARX TOBE SO, AND "CANNOT BE AVOIDED—I SEE A DIFFICULTY IN "MAKING A STATE DEFENDANT, which does not "prevent its being plaintiff."

The debaters of this grave and momentous subject Mason, Madison, Henry and Marshall, were the ablest of Virginia's Statesmen. Two of them with forecast some what remarkable, suggested that the day might come when a Federal Court, under the *letter of the Constitution, might presume to summon a State to its Bar* and arrogate authority to sit the arbiter of its rights. The two others repudiated the idea—and one, even denounced it as an *irrational supposition, that the soverign power could be dragged before a Court.*

It has occurred to me, Mr. Editor, that the "*difficulty*" seen by Mr. Marshall in making a *State defendant*, was the very difficulty I have ventured to suggest, in introducing these extracts from the debate—the difficulty of compelling obedience to the mandate of the Court—*sed non notri tantas componere lites.*

Edmund Burke once said, that he could not frame an indictment against *a whole people.* What proportion will the difficulty of framing the indictment, bear to the difficulty of executing the sentence of that Court?

I understand the Supreme Court has overcome the difficulty of framing the indictment. Next comes the execution of its sentence—*hic labor—hoc opus.*

If there be a jurist, within the scope of your readers, who can solve this problem, he will confer a favor upon one in search of truth—And, perhaps, help the Supreme Court out of a dilemma, as we understand that the Court appealed from, and the State of Georgia, disregarding its mandate, this "*difficulty*" will arise on the return of the *postea.*

HENRY OF '88.

From the Baltimore Republican.

Mr. Clay and Mr. Gallatin.—Our readers have seen the attack which was made by Mr. Clay upon Mr. Gallatin, in his late speech upon the tariff, and are no doubt well satisfied that the attack was no less unjust than it was undignified; and that coming, as it did from a man who is held up before the nation as a candidate for the Presidency, it can have no effect to advance the object of his wishes.

In order, however, to show how very different was the opinion entertained for Mr. Gallatin by Mr. Jefferson, from that which was expressed of him in the speech referred to; and to present to the view of our readers, in its full force, the undignified and unjust conduct of Mr. Clay towards Mr. Gallatin, we lay before them the following letter to him from the sage of Monticello.

TO ALBERT GALLATIN.

MONTICELLO, Oct. 11, 1809.

Dear Sir:—I do not know whether the request of Monsieur Moussier explained in the inclosed letter, is grantable or not. But my partialities in favor of whatever may promote either the useful or liberal arts, induce me to place it under your consideration, to do in it whatever is right, neither more nor less. I would then ask you to favor me with three lines, in such form as I may forward him by way of answer.

I have reflected much and painfully on the change of dispositions which has taken place among the members of the cabinet, since the new arrangement, as you stated to me in the moment of our separation. It would be, indeed, A GREAT PUBLIC CALAMITY were it to fix you in the purpose which you seemed to think possible. I consider the fortunes of our republic as depending, in an eminent degree, on the extinguishment of the public debt before we engaged in any war: because, that done, we shall have revenue enough to improve our country in peace, and defend it in war, without recurring either to new taxes or loans. But if the debt should once more be swelled to a formidable size, its entire discharge will be despaired of, and we shall be committed to the English career of debt, corruption and rottenness, closing with revolution. The discharge of the debt, therefore, is vital to the destinies of our government, and it hangs on MR. MADISON and YOURSELF ALONE. We shall never see another President and Secretary of the Treasury making all other objects subordinate to this. Were *either of you to* be lost to the public, that great hope is lost. I had always cherished the idea that you would fix on that object the measure of your fame, and of the GRATITUDE WHICH OUR COUNTRY WILL OWE YOU. Nor can I yield up this prospect to the secondary considerations which assail your tranquility. For sure I am, they never can produce any other serious effect. *Your value is* TOO JUSTLY *estimated by our fellow citizens at large, as well as their functionaries to admit* any remissness in their support of you. My opinion always was, that NONE of us ever occupied stronger ground in the esteem of Congress *than yourself*, and I am satisfied there is *no one* who does not feel your aid to be still AS IMPORTANT FOR THE FUTURE *as it has been for the past.* You have nothing, therefore, to apprehend in the dispositions of Congress, and still less of the President, who, above all men, is the most interested and affectionately disposed to support you. I hope, then, you will abandon entirely the idea you expressed to me, and that you will consider the eight years to come as essential to your political career.—I should certainly consider any earlier day of your retirement, as the most inauspicious day our new government has ever seen. In addition to the common interest in this question, I feel particularly for myself the considerations of GRATITUDE *which I personally owe* you for your *valuable aid* during my administration of the public affairs, a JUST SENSE of the LARGE PORTION of the *public approbation which was* EARNED *by your labours and* BELONGS TO YOU, and the sincere friendship and attachment which grew out of our joint exertions to promote the common good; and of which I pray you now to accept the most cordial and respectful assurances.

TH: JEFFERSON.