prove any thing; if the plain text of the instrument itself, as well as the necessary implication from other provisions, prove any thing; if the early legislation of Congress, the course of judicial decisions, acquiesced in by all the States for forty years, prove any thing, then it is proved that there is a supreme law, and a final interpreter.

My fourth and last proposition, Mr. President, was, that any attempt by a State to arrogate or nullify acts of Congress, is an usurpation on the powers of the General Government, and on the equal rights of other States, a violation of the Constitution, and a proceeding essentially revolutionary. This is undoubtedly true, if the preceding propositions be regarded as proved. If the Government of the United States be trusted with the duty, in any department, of declaring the extent of its own powers, then a State ordinance, or act of legislation, authorizing resistance to an act of Congress, on the alleged ground of its unconstitutionality, is manifestly a usurpation upon its powers.

If the States have equal rights, in matters concerning the whole, then for one State to set up her judgment against the judgment of the rest, and to insist on executing that judgment by force, is also a manifest usurpation on the rights of other States.

If the Constitution of the United States be a Government proper, with authority to pass laws, and to give them a uniform interpretation and execution, then the interposition of a State, to enforce her own construction, and to resist, as to herself, that law which binds the other States, is a violation of the Constitution.

And if that be revolutionary which arrests the legislative, executive, and judicial power of Government, dispenses with existing oaths and obligations of obedience, and elevates another power to supreme dominion, then nullification is revolutionary. Or if that be revolutionary, the natural tendency and practical effect of which is to break the Union into fragments, to sever all connexion among the people of the respective States, and to prostrate this General Government in the dust, then nullification is revolutionary.

Nullification, sir, is as distinctly revolutionary as secession; but I cannot say that the revolution which it seeks is one of so respectable a character. Secession would, it is true, abandon the constitution altogether; but then it would profess to abandon it. Whatever other inconsistencies it might run into, one, at least, it would avoid. It would not belong to a Government, while it rejected its authority. It would not repel the burden, and continue to enjoy the benefits. It would not aid in passing laws which others are to obey, and yet, eject their authority as to itself. It would not undertake to reconcile obedience to public authority, with an asserted right of command over that same authority. It would not be in the Government, and above the Government at the same time. But however more respectable a mode of secession may be, it is not more truly revolutionary than the actual execution of the doctrines of nullification. Both, and each, resist the constitutional authorities; both, and each, would sever the Union, and subvert the Government.

Mr. President, having detained the Senate so long already, I will not now examine, at length, the ordinance and laws of South Carolina. These papers are well drawn for their purpose. Their authors understood their own objects. They are called a peaceable remedy, and we have been told that South Carolina, after all, intends nothing but a lawsuit. A very few words, sir, will show the nature of this peaceable remedy, and of the laws-suit which South Carolina contemplates.

In the first place the ordinance declares the law of last July, and all other laws of the United States laying duties, to be absolutely null and void, and makes it unlawful for the constituted authorities of the United States to enforce the payment of such duties. It is, therefore, sir, an indictable offence, at this moment, in South Carolina, for any person to be concerned in collecting revenue, under the laws of the United States. It being declared unlawful to collect these duties by what is considered a fundamental law of the State, an indictment lies of course against any one concerned in such collection, and he is, on general principles, liable to be punished by fine and imprisonment. The terms, it is true, are, that it is unlawful "to enforce the payment of duties;" but every custom house officer *enforces payment* while he detains the goods, in order to obtain such payment. The ordinance, therefore, reaches every body concerned in the collection of the duties.

This is the first step in the prosecution of the peaceable remedy. The second is more decisive. By the act commonly called the replevin law, any person whose goods are seized or detained by the collector for the payment of duties, may serve out a writ of replevin, and by virtue of that writ, the goods are to be restored to him.—A writ of replevin is a writ which the sheriff is bound to execute, and for the execution of which, he is bound to employ force, if necessary. He may call out the *posse*, and must do so, if resistance be made. This *posse* may be armed or unarmed. It may come forth with military array, and under the lead of military men. Whatever number of troops may be assembled in Charleston, they may be summoned, with the Governor, or commander in chief, at their head, to come in aid of the sheriff. It is evident, then, sir, that the whole military power of the State is to be employed, whenever necessary, in dispossessing the custom house officers, and in seizing and holding the goods without paying the duties. This is the second step in the peaceable remedy.

Sir, whatever pretences may be set up to the contrary, this is the direct application of force, and of military force. It is unlawful, in itself, to replevy goods in the custody of the collectors. But this unlawful act is to be done, and it is to be done by power. Here is a plain interposition, by physical force, to resist the laws of the Union. The legal mode of collecting duties is to detain goods till such duties are paid or secured. But force comes and over-powers the collector, and his assistants, and takes away the goods, leaving the duties unpaid.—There cannot be a clearer case of forcible resistance to law. And it is provided that the goods thus seized, shall be held against any attempt to retake them, by the same force which seized them.

Having thus dispossessed the officers of the government of the goods, without payment of duties, and seized and secured them by the strong arm of the State, only one thing more remained to be done, and that is, to cut off all possibility of legal redress; and that, too, is accomplished, or thought to be accomplished. The ordinance decrees, that *all judicial proceedings foun ded on the revenue laws*, (including, of course, proceedings in the courts of the United States,) *shall be null and void*. This nullifies the judicial power of the United States.—Then comes the test oath act. This requires all State judges and jurors in the State courts to swear that they will execute the ordinance, and all acts of the Legislature, passed in pursuance thereof. The ordinance declares, that no appeal shall be allowed from the dicision of the State Courts to the Supreme Court of the United States; and the replevin act makes it an indictable offence for any clerk to furnish a copy of the record, for the purpose of such appeal.

The two principal provisions on which South Carolina relies, to resist the laws of the United States, and nullify the authority of this Government, are, therefore, these:

1. A forcible seizure of goods before the duties are paid or secured, by the power of the State, civil and military.

2. The taking away, by the most effectual means in her power, of all legal redress in the courts of the United States; the confining all judicial proceedings to her own State tribunals; and the compelling of her judges and jurors of these her own courts, to take an oath beforehand, that they will decide all cases according to the ordinance, and the acts passed under it; that is, that they will decide the cause one way. They do not swear to *try* it, on its own merits; they only swear to *decide* it as nullification requires.

The character, sir, of these provisions, defies comment. Their object is as plain as their means are extraordinary. They propose direct resistance, by the whole power of the State, to laws of Congress, to cut off, by methods deemed adequate, any redress by legal and judicial authority. They arrest legislation, defy the Executive, and *banish* the Judicial power of this Government. They authorize and command acts to be done, and done by force, both of numbers and of arms, which if done, and done by force, are clearly acts of rebellion and treason.

Such, sir, are the laws of South Carolina; such, sir, is the peaceable remedy of nullification. Has not nullification reached, sir, even thus early, that point of direct and forcible resistance to law, which I intimated, three years ago, it plainly tended?

And now, Mr. President, what is the reason for passing laws like these? What are the oppressions experienced under the Union, calling for measures which thus threaten to sever and destroy it? What, invasions of public liberty, what ruin to private happiness, what long list of rights violated, or wrongs unredressed, is to justify to the country, to posterity, and to the world, this assault upon the free constitution of the United States, this great and glorious work of our fathers? At this very moment, sir, the whole land smiles in peace; and rejoices in plenty. A general and a high prosperity pervades the country; and, judging by the common standard, by increase of population and wealth; or judging by the opinions of that portion of her people not embarked in those dangerous and desperate measures, this prosperity overspreads South Carolina herself.

Thus, happy at home, our country, at the same time, holds high the character of her institutions, her power, her rapid growth, and her future destiny, in the eyes of all foreign States. One danger, only, creates hesitation; one doubt only exists to darken the otherwise unclouded brightness of that aspect, which she exhibits to the view, and to the admiration of the world.—Need I say, that that doubt respects the permanency of our Union; and need I say, that that doubt is now caused, more than by any thing else, by these very proceedings of South Carolina?—Sir, all Europe is, at this moment, beholding us, and looking for the issue of this controversy; those who hate free institutions, with malignant hope; those who love them, with deep anxiety and shivering fear.

The cause, then, sir, the cause!—Let the world know the cause which has thus induced one State of the Union to bid defiance to the power of the whole, and openly to talk of secession.

Sir, the world will scarcely believe that this whole controversy, and all the desperate measures which its support requires, have no other foundation than a difference of opinion, upon a provision of the constitution, between a majority of the people of South Carolina, on one side, and a vast majority of the whole people of the United States on the other. It will not credit the fact, it will not admit the possibility that, in an enlightened age, in a free, popular republic, under a Government where the people govern, as they must always govern, under such systems, by majorities, at a time of unprecedented happiness; without practical oppression, without evils, such as may not only be pretended, but felt and experienced; evils, not slight or temporary, but deep, permanent, and intolerable, a single State should rush into conflict with all the rest, attempt to put down the power of the Union by her own laws, and to support those laws by her military power, and thus break up and destroy the world's last hope. And well the world may be incredulous. We, who hear and see it, can ourselves hardly yet believe it. Even after all that had preceded it, this ordinance struck the country with amazement. It was incredible and inconceivable, that South Carolina should thus plunge headlong into resistance to the laws, on a matter of opinion, and on a question in which the preponderance of opinion, both of the present day and of all past time, was so overwhelmingly against her. The ordinance declares that Congress has exceeded its just power, by laying duties on imports, intended for the protection of manufactures.—This is the opinion of South Carolina; and on the strength of that opinion she nullifies the laws. Yet has the rest of the country no right to its opinions also? Is one State to sit sole arbitress? She maintains that those laws are plain, deliberate, and palpable violations of the constitution; that she has a sovereign right to decide this matter; and, that, having so decided, she is authorized to resist their execution, by her own sovereign power; and she declares she will resist it, though such resistance should shatter the Union into atoms.

Mr. President, I do not intend to discuss the propriety of these laws at large; but I will ask, how are they shown to be thus plainly and palpably unconstitutional? Have they no countenance at all in the constitution itself? Are they quite new in the history of the Government? Are they a sudden and violent usurpation on the rights of the States? Sir, what will the civilized word say; what will posterity say, when they learn that similar laws have existed from the very foundation of the Government; that for thirty years the power was never questioned; and that no State in the Union has more freely and unequivocally admitted it than South Carolina herself?

To lay and collect duties and imposts, is an *express power*, granted by the constitution to Congress. It is, also, an *exclusive power;* for the constitution as expressly prohibits all the States from exercising it themselves. This express and exclusive power is unlimited in the terms of the grant, but is attended with two specific restrictions; first, that all duties and imposts shall be equal in all the States; second, that no duties shall be laid on exports. The power, then, being granted, & being attended with these two restrictions, & no more, who is to impose a third restriction on the general words of the grant? If the power to lay duties, as known among all other nations, and as known in all our history, and as it was perfectly understood when the constitution was adopted, includes a right of discriminating, while exercising the power, and of laying some duties heavier, and some lighter, for the sake of encouraging our own domestic products, what authority is there for giving to the words used in the constitution a new, narrow, and unusual meaning? All the limitations which the constitution intended, it has expressed; and what it has left unrestricted, is as much a part of its will, as the restraints which it has imposed.

But these laws, it is said, are unconstitutional on account of the *motive*. How, sir, can a law be examined on any such ground? How is the motive to be ascertained? One House, or one member, may have one motive; the other House, or another member, another. One motive may operate to-day, and another to-morrow. Upon any such mode of reasoning as this, one law might be unconstitutional now, and another law, in exactly the same words, perfectly constitutional next year. Besides, articles may not only be taxed, for the purpose of protecting home products, but other articles may be left free, for the same purpose and with the same motive. A law, therefore, would become unconstitutional from what it omitted as well as what it contained. Mr. President, it is a settled principle, acknowledged in all legislative halls, recognized before all tribunals, sanctioned by the general sense and understanding of mankind, that there can be no inquiry into the motives of those who pass laws, for the purpose of determining on their validity. If the law be within the fair meaning of the words in the grant of the power, its authority must be admitted until it is repealed. This rule, every where acknowledged, every where admitted, is so universal, and so completely without exception, as that even an allegation of fraud, in the majority of a Legislature, is not allowed as a ground to set aside a law.

But, sir, is it true, that the motive for these laws is such as is stated? I think not. The great object of all these laws is unquestionably, REVENUE. If there were no occasion for revenue, the laws would not have been passed; and it is notorious that almost the entire revenue of the country is derived from them. And as yet, we have collected none too much revenue. The treasury has not been more exhausted for many years than at the present moment. All that South Carolina can say, is, that in passing the laws which she now undertakes to nullify, *particular articles were taxed from a regard to the protection of domestic articles, higher then they would have been had no such regard been entertained.* And she insists that, according to the constitution, no such discrimination can be allowed; that duties should be laid for revenue, & for revenue only; and that it is unlawful to have reference, in any case, to protection. In other words, she denies the power of DISCRIMINATION. She does not, and cannot, complain of excessive taxation; on the contrary, she professes to be willing to pay any amount for revenue, merely as revenue; and up to the present moment there is no surplus of revenue. Her grievance, then, that plain and palpable violation of the constitution, which she insists has taken place, is simply the exercise of the power of DISCRIMINATION. Now, sir, is the exercise of this power of discrimination plainly and palpably unconstitutional? I have already said the power to lay duties is given by the constitution in broad and general terms. There is also conferred on Congress the whole power of regulating commerce in another distinct provision. Is it clear and palpable, sir, can any man say it is a case beyond doubt, that under these two powers Congress may not justly *discriminate* in laying duties *for the purpose of countervailing the policy of foreign nations, or of favoring our own home productions?* Sir, what ought to conclude this question forever, as it would seem to me, is, that the regulation of commerce, and the imposition of duties are, in all commercial nations, powers avowedly and constantly exercised for this very end. That undeniable truth ought to settle the question; because the constitution ought to be considered, when it uses well known language, as using it in its well known sense. But it is equally undeniable that it has been, from the very first, fully believed that this power of discrimination was conferred on Congress; and the constitution was itself recommended, urged upon the people, and enthusiastically insisted on, in some of the States, for that very reason. Not that, at that time, the country was extensively engaged in manufactures, especially of those kinds now existing. But the trades and crafts of the seaport towns, the business of the artizans, and manual laborers, these employments, the work of which supplies so great a portion of the daily wants of all classes, all these looked to the new constitution as a source of relief from the severe distress which followed the war. It would, sir, be unpardonable, at so late an hour, to go into details on this point; but the truth is as I have stated. The papers of the day, the resolutions of public meetings, the debates in the conventions, all that we open our eyes upon, in the history of the times, prove it.

The honorable gentleman, sir, from South Carolina, has referred to two incidents connected with the proceedings of the Convention at Philadelphia, which he thinks are evidence to show that the power of protecting manufactures, by laying duties, and by commercial regulations, was not intended to be given by Congress. The first is, as he says, that a power to protect manufactures was expressly proposed, but not granted. I think, sir, the gentleman is quite mistaken in relation to this part of the proceedings of the Convention. The whole history of the occurrence to which he alludes is simply this: Towards the conclusion of the Convention, after the provisions of the constitution had been mainly agreed upon, after the power to lay duties and the power to regulate commerce had both been granted, a long list of propositions was made, and referred to the committee, containing various miscellaneous powers, some or all of which it was thought might be properly vested in Congress. Among these, was a power to establish a university; to grant charters of incorporation; to regulate stage coaches on the post roads; and also the power to which the gentleman refers, and which is expressed in these words: "To establish public institutions, rewards, and immunities, for the promotion of agriculture, commerce, trades and manufactures." The committee made no report on this or various other propositions in the same list. But the only inference from this omission is, that neither the committee nor the Convention thought it proper to authorize Congress "*to establish public institutions, rewards and immunities*" for the promotion of manufactures, and other interests. The Convention supposed it had done enough, at any rate it had done all it intended, when it had given to Congress, in general terms, the power to lay imposts and the power to regulate trade. It is not to be argued, from its omission to give more, that it meant to take back what it had already given. It had given the impost power; it had given the regulation of trade; and it did not deem it necessary to give the further and distinct power of establishing public institutions.

The other fact, sir, on which the gentleman relies, is the declaration of Mr. Martin, to the Legislature of Maryland. The gentleman supposes Mr. Martin to have urged against the constitution that it did not contain the power of protection. But, if the gentleman will look again at what Mr. Martin said, he will find, I think, that what Mr. Martin complained of was, that the constitution, by its prohibitions on the States, had taken away from the States themselves the power of protecting their own manufactures by duties on imports. This is undoubtedly true; but I find no expression of Mr. Martin intimating that the constitution had not conferred on Congress the same power which it had thus taken from the States.

But, sir, let us go to the first Congress; let us look in upon this and the other House, at the first session of their organization.

We see in both Houses men distinguished among the framers, friends, and advocates, of the constitution. We see in both those who had drawn, discussed, and matured the instrument in the Convention, explained and defended it before the people, and were now elected members of Congress to put the new Government into motion; and to carry the powers of the constitution into beneficial execution.

At the head of the Government was Washington himself, who had been President of the Covention, and in his cabinet were others most thoroughly acquainted with the history of the constitution, and distinguished for the part taken in its discussion.

If these persons were not acquainted with the meaning of the constitution; if they did not understand the work of their own hands, who can understand it, or who shall now interpret it to us?

Sir, the volume which records the proceedings and debates of the first session of the House of Representatives, lies before me. I open it, and I find that, having provided for the administration of the necessary oaths, the very first measure proposed for consideration is, the laying of imposts; and in the very first Committee of the Whole into which the House of Representatives ever resolved itself, on this its earliest subject, and in this its very first debate, the duty of so laying the imposts as to encourage manufactures was advanced, and enlarged upon by almost every speaker; and doubted or denied by none. The first gentleman who suggests this as the clear duty of Congress, and as an object necessary to be attended to, is Mr. Fitzsimons, of Pennsylvania; the second Mr. White of Virginia; the third Mr. Tucker, of South Carolina.

But the great leader, sir, on this occasion, was Mr. Madison. Was he likely to know the intentions of the convention and the people? Was he likely to understand the constitution?

At the second sitting of the committee, Mr. Madison explained his own opinions of the duty of Congress, fully and explicitly. I must not detain you, sir, with more than a few short extracts from these opinions, but they are such as are clear, intelligible, and decisive.

"The States," says he, "that are most advanced in population, and ripe for manufactures, ought to have their particular interest attended to, in some degree. While these States retained the power of making regulations of trade, they had the power to cherish such institutions. By adopting the present constitution, they have thrown the exercise of this power into other hands; they must have done this with an expectation that those interests would not be neglected here."

In another report of the same speech, Mr. Madison is represented as using still stronger language; as saying that the constitution, having taken this power away from the States, and conferred it on Congress, it would be a *fraud* on the States and on the people, were Congress to refuse to exercise it.

Mr. Madison argues, sir, on this early and interesting occasion, very justly and liberally in favor of the general principles of unrestricted commerce. But he argues also, with equal force and clearness, for certain important exceptions to these general principles.

The first, sir, respects those manufactures which had been brought forward under encouragement by the State Governments. "It would be cruel," says Mr. Madison, "to neglect them, and to divert their industry into other channels, for it is not possible for the hand of man to shift from one employment to another without being injured by the change." Again: "There may be some manufactures which, being once formed, can advance towards perfection without any adventitious aid; while others, for want of the fost hand of Government will be unable to go on at all. Legislative pro therefore, will be necessary to c the proper objects for this purpos this will form another exception general principle." And again: next exception that occurs is which great stress is laid by some informed men, and this with great sibility; that each nation should within itself, the means of defen dependent of foreign supplies; that whatever relates to the operation war, no State ought to depend upo precarious supply from any part of world. There may be some truth this remark, and therefore it is pr for legislative attention."

In the same debate, sir, Mr. B from South Carolina, supported a on hemp, for the express purpose o couraging its growth on the strong of South Carolina. "Cotton," he "was also in contemplation am them, and if good seed could be cured, he hoped might succeed." terwards, sir, the cotton seed was tained, its culture was protected, did succeed. Mr. Smith, a very tinguished member from the same observed: "It has been said, and ly, that the States which adopted constitution expected its administra would be conducted with a favor hand. The manufacturing States ed the encouragement of manufac the maritime States the encourage of shipbuilding; and the agricul States the encouragement of culture."

Sir, I will detain the Senate by ing no more extracts from these bates. I have already shown a maj ty of the members of South Carolina this very first session, acknowledg this power of protection, voting for exercise, and proposing its extension their own products. Similar prop tions came from Virginia; and, indee sir, in the whole debate, at whatev page you open the volume, you find power admitted, and you find it app to the protection of particular arti or not applied, according to the disc tion of Congress. No man denied power—no man doubted it; the questions were, in regard to the seve articles proposed to be taxed, whe they were fit subjects for protect and what the amount of that protect ought to be. Will gentlemen, sir, answer the argument drawn from th proceedings of the first Congress Will they undertake to deny that Congress did act on the avowed p ciple of protection? Or, if they a it, will they tell us how those framed the constitution fell, thus e into this great mistake about its m ing? Will they tell us how it sh happen that they had so soon forgo their own sentiments, and their purposes? I confess I have seen answer to this argument, nor any spectable attempt to answer it. A sir, how did this debate termi What law was passed? There it sta sir, among the statutes, the second in the book. It has a *preamble*, that preamble expressely recites, the duties which it imposes are "for the support of Government, fo discharge of the debts of the Un States, and *the encouragement protection of manufactures.*" U sir, this early legislation, thus co with the constitution itself, thus full explicit, can be explained away, man can doubt of the meaning of instrument.

Mr. President, this power of *crimination*, thus admitted, avow and practised upon, in the first rene act, has never been denied or doub until within a few years past. It not at all doubted, in 1816, when became necessary to adjust the re nue to a state of peace. On the c trary, the power was then exerci not without opposition as to its ex diency, but, as far as I remembe have understood, without the slig opposition founded on any supp want of constitutional authority. C tainly, S. Carolina did not doub The tariff of 1816 was introduced, ried through, and established, u the lead of South Carolina. Even *minimum* policy is of South Ca origin. The honorable gentl himself supported, and ably suppo the tariff of 1816. He has infor us, sir, that his speech on that occa was sudden and off-hand, he h called upon by the request of a fr I am sure the gentleman so re bers it, and that it was so; but there nevertheless, much method, arra ment, and clear exposition, in extempore speech. It is very very, very much to the point, and decisive. And in another spe delivered two months earlier, on proposition to repeal the inte taxes, the honorable gentleman touched the same subject and declared, "*that a certain encou ment ought to be extended, at le our woollen and cotton manufactu* I do not quote these speeches, sir, the purpose of showing that the ho able gentleman has changed his o ion; my object is other, and higher do it for the sake of saying, that cannot be so plainly and palpably constitutional, as to warrant resist to law, nullification, and revolu which the honorable gentleman and friends have heretofore agreed to, acted upon, without doubt and w out hesitation. Sir, it is no answ say, that the tariff of 1816 was a venue bill. So are they all reve bills. The point is, and the truth that the tariff of 1816, like the rest, *discriminate*; it did distinguish