RALEIGH REGISTER,

AND NORTH-CAROLINA GAZETTE.

"OURS ARE THE PLANS OF FAIR DELIGHTFUL PEACE, UNWARP'D BY PARTY RAGE, TO LIVE LIKE BROTHERS."

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CONGRESS.

MR. WEBSTER'S SPEECH,

In reply to Mr. Calhoun,

On the Bill further to provide for the Collection of Duties on Imports.

CONCLUDED.

The Constitution, sir, regards itself as perpetual and immortal. It seeks to establish a union among the people of the States, which shall last through all time. Or, if the common fate of things human must be expected, at some period, to happen to it, yet that catastrophe is not anticipated.

The instrument contains ample provisions for its amendment, at all times; none for its abandonment, at any time. It declares that new States may come into the Union, but it does not declare that old States may go out. The Union is not a temporary partnership of States. It is the association of the people, under a constitution of Government, uniting their power, joining together their highest interests, cementing their present enjoyments and blending, in one indivisible mass all their hopes for the future. Whatsoever is steadfast in just, political principles—whatsoever is permanent in the structure of human society—whatsoever there is which can derive an enduring character from being founded on deep-laid principles of constitutional liberty, and on the broad foundations of the public will, all these unite to entitle this instrument to be regarded as a permanent constitution of Government.

In the next place, Mr. President, I contend that there is a supreme law of the land, consisting of the constitution, acts of Congress passed in pursuance of it, and the public treaties. This will not be denied, because such are the very words of the Constitution. But I contend further, that it rightfully belongs to Congress, & to the Courts of the United States, to settle the construction of this supreme law, in doubtful cases. This is denied: and here arises the great practical question, *Who is to construe finally the Constitution of the United States?* We all agree that the Constitution is the supreme law; but who shall interpret that law? In our system of the division of the powers between different Governments, controversies will necessarily arise, respecting the extent of the power, of each. Who shall decide these controversies? Does it rest with the General Government, in all or any of its departments, to exercise the office of final interpreter? Or may each of the States, as well as the General Government, claim this right of ultimate decision? The practical result of this whole debate turns on this point. The gentleman contends that each State may judge for itself of any alleged violation of the constitution, and may finally decide for itself, and may execute its own decisions by its own power. All the recent proceedings in South-Carolina are founded on this claim of right. Her Convention has pronounced the revenue laws of the United States unconstitutional; and this decision she does not allow any authority of the United States to overrule or reverse. Of course she rejects the authority of Congress, because the very object of the ordinance is to reverse the decision of Congress; and she rejects, too, the authority of the Courts of the United States, because she expressly prohibits all appeal to those Courts. It is in order to sustain this asserted right of being her own judge, that she pronounces the constitution of the United States to be a compact, to which she is a party, and a sovereign party.—If this be established, then the inference is supposed to follow, that, being sovereign, there is no power to control her decision, and her own judgment on her own compact is and must be conclusive.

I have already endeavored, sir, to point out the practical consequences of this doctrine, and to show how utterly inconsistent it is, with all ideas of regular government, and how soon its adoption would involve the whole country in revolution and absolute anarchy. I hope it is easy now to show, that a doctrine, bringing such consequences with it, is not well founded; that it has nothing to stand upon but theory and assumption; and that it is refuted by plain and express constitutional provisions. I think the Government of the United States does possess, in its appropriate departments, the authority of final decision on questions of disputed power. I think it possesses this authority, both by necessary implication, and by express grant.

It will not be denied, sir, that this authority naturally belongs to all Governments. They all exercise it from necessity, and as a consequence of the exercise of other powers. The State Governments themselves possess it, except in that class of questions which may arise between them and the General Government, and in regard to which they have surrendered it, as well by the nature of the case, as by clear constitutional provisions. In other and ordinary cases, whether a particular law be in conformity to the constitution of the State, is a question which the State Legislature or the State Judiciary must determine. We all know that these quesions arise daily in the State Governments, and are decided by those Governments; & I know no Government which does not exercise a similar power.

Upon general principles, then, the Government of the United States possesses this authority; and this would hardly be denied, were it not that there are other Governments. But since there are State Governments, and since these, like other Governments, ordinarily construe their own powers, if the Government of the United States construes its own powers also, which construction is to prevail, in the case of opposite constructions? And again, as in the case now actually before us, the State Governments may undertake, not only to construe their own powers, but to decide directly on the extent of the powers of Congress. Congress has passed a law as being within its just powers; South-Carolina denies that this law is within its just powers, and insists that she has the right so to decide this point, and that her decision is final. How are these questions to be settled?

In my opinion, sir, even if the Constitution of the United States had made no express provision for such cases, it would yet be difficult to maintain that, in a constitution existing over four and twenty States, with equal authority over all, *one* could claim a right of construing it for the whole. This would seem a manifest impropriety—indeed an absurdity. If the constitution is a government existing over all the States, though with limited powers, it necessarily follows that, to the extent of those powers, it must be supreme. If it be not superior to the authority of a particular State, it is not a national Government. But as it is a Government, as it has a legislative power of its own, and a judicial power co-extensive with the legislative, the inference is irresistible, that this Government, thus created *by* the whole, and *for* the whole, must have an authority superior to that of the particular Government of any one part.—Congress is the Legislature of all the people of the United States; the Judiciary of the General Government is the Judiciary of all the people of the United States. To hold, therefore, that this Legislature and this Judiciary are subordinate in authority to the Legislature and Judiciary of a single State, is doing violence to all common sense, and overturning all established principles. Congress must judge of the extent of its own powers so often as it is called on to exercise them, or it cannot act at all; and it must also act independent of State control, or it cannot act at all.

The right of State interposition strikes at the very foundation of the legislative power of Congress. It possesses no effective legislative power, if such right of State interposition exists; because it can pass no law not subject to abrogation. It cannot make laws for the Union, if any part of the Union may pronounce its enactments void and of no effect. Its forms of legislation would be an idle ceremony, if, after all, any one of four and twenty States could bid defiance to its authority. Without express provision in the Constitution, therefore, sir, this whole question is necessarily decided by those provisions which create a legislative power and a judicial power. If these exist, in a Government intended for the whole, the inevitable consequence is, that the laws of this legislative power, and the decisions of this judicial power, must be binding on and over the whole. No man can form the conception of a Government existing over four and twenty States, with a regular legislative and judicial power, and of the existence at the same time, of an authority, residing elsewhere, to resist, at pleasure or discretion, the enactments and the decisions of such a Government. I maintain, therefore, sir, that from the nature of the case, and as an inference wholly unavoidable, the acts of Congress, and the decisions of the national Courts, must be of higher authority than State laws and State decisions. If this be not so, there is, there can be, no General Government.

But, Mr. President, the Constitution has not left this cardinal point without full and explicit provisions. First, as to the authority of Congress. Having enumerated the specific powers conferred on Congress, the Constitution adds, as a distinct and substantive clause, the following, viz: "*To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.*" If this means any thing, it means that Congress may judge of the true extent and just interpretation of the specific powers granted to it; and may judge also of what is necessary and proper for executing those powers. If Congress is to judge of what is necessary for the execution of its powers, it must of necessity, judge of the extent and interpretation of those powers.

And in regard, sir, to the judiciary, the Constitution is still more express and emphatic. It declares that the judicial power shall extend to all *cases* in law or equity arising under the Constitution, laws of the United States, and treaties; that there shall be *one* Supreme Court, and that this Supreme Court shall have appellate jurisdiction of all these cases, subject to such exceptions as Congress may make. It is impossible to escape from the generality of these words. If a case arises under the Constitution, that is, if a case arises depending on the construction of the Constitution, the judicial power of the United States extends to it. It reaches the *case, the question*: it attaches the power of the national judicature to the *case* itself, in whatever court it may arise or exist; and in this *case* the Supreme Court has appellate jurisdiction over all courts whatever. No language could provide with more effect and precision, than is here done, for subjecting constitutional questions to the ultimate decision of the Supreme Court. And, sir, this is exactly what the Convention found it necessary to provide for, and intended to provide for. It is, too, exactly what the people were universally told was done when they adopted the Constitution. One of the first resolutions adopted by the Convention was in these words, viz: "that the jurisdiction of the national judiciary shall extend to cases which respect *the collection of the national revenue*, and questions which involve the national peace and harmony." Now, sir, this either had no sensible meaning at all, or else it meant that the jurisdiction of the national judiciary should extend to these questions *with a paramount authority*. It is not to be supposed that the Convention intended that the power of the national judiciary should extend to these questions, and that the judicatures of the States should also extend to them, *with equal power of final decision*. This would be to defeat the whole object of the provision. There were thirteen judicatures already in existence. The evil complained of, or the danger to be guarded against, was contradiction and repugnance in the decisions of these judicatures. If the framers of the Constitution meant to create a fourteenth, and yet not to give it power to revise and control the decisions of the existing thirteen, then they only intended to augment the existing evil, and the apprehended danger, by increasing, still further, the chances of discordant judgments. Why, sir, has it become a settled axiom in politics, that every Government must have a judicial power co-extensive with its legislative power? Certainly, there is only this reason, viz: that the laws may receive a uniform interpretation, and a uniform execution. This object can be no otherwise attained. A statute is what it is judicially interpreted to be; and if it be construed one way in New-Hampshire, and another way in Georgia, there is no uniform law. One Supreme Court, with appellate and final jurisdiction, is the natural and only adequate means, in any Government, to secure this uniformity. The Convention saw all this clearly; and the resolution which I have quoted, never afterwards rescinded, passed through various modifications, till it finally received the form which the article now wears in the constitution. It is undeniably true, then, that the framers of the constitution intended to create a national judicial power, which should be permanent, on national subjects. And after the constitution was framed, and while the whole country was engaged in discussing its merits, one of its most distinguished advocates, [Mr. Madison] told the people that it *was true that, in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the General Government.* Mr. Martin, who had been a member of the Convention, asserted the same thing to the Legislature of Maryland, and urged it as a reason for rejecting the constitution. Mr. Pinckney, himself, also a leading member of the convention, declared it to the people of South-Carolina. Every where, it was admitted, by friend and foes, that this power was in the constitution. By some is was thought dangerous, by most it was thought necessary; but, by all, it was agreed to be a power actually contained in the instrument. The Convention saw the absolute necessity of some control in the National Government over State laws. Different modes of establishing this control were suggested and considered. At one time it was proposed that the laws of the States should, from time to time, be laid before Congress, and that Congress should possess a negative over them. But this was thought inexpedient and inadmissible; and in its place, and expressly as a substitute for it, the existing provision was introduced: that is to say, a provision by which the federal Courts should have authority to overrule such State laws as might be in manifest contravention of the constitution. The writers of the Federalist, in explaining the Constitution, while it was yet pending before the people, and still undecided, give this account of the matter in terms, and assign this reason for the article as it now stands. By this provision Congress escaped from the necessity of any revision of State laws, left the whole sphere of State legislation quite untouched, and yet obtained a security against any infringement of the Constitutional power of the General Government. Indeed, sir, allow me to ask again, if the national Judiciary was not to exercise a power of revision, on constitutional questions, over the judicatures of the States, why was any national judicature erected at all? Can any man give a sensible reason for having a judicial power in this Government, unless it be for the sake of maintaining a uniformity of decision, on questions arising under the Constitution and laws of Congress, and ensuring its execution? And does not this very idea of uniformity necessarily imply that the construction given by the national Courts is to be the prevailing construction? How else, sir, is it possible that uniformity can be preserved?

Gentlemen appear to me, sir to look at but one side of the question. They regard only the supposed danger of trusting a Government with the interpretation of its own powers. But will they view the question in its other aspect; will they show us how it is possible for a Government to get along with four and twenty interpreters of its laws and powers? Gentlemen argue, too, as if, in the cases these State would be always right, and the General Government always wrong. But, suppose the reverse; suppose the State wrong, and, since they differ, some of them must be wrong, are the most important and essential operations of the Government to be embarrassed and arrested, because one State holds a contrary opinion? Mr. President, every argument which refers the constitution duty of acts of Congress to State decision, appeals from the majority to the minority; it appeals from the common interests to a particular interest; from the councils of all to the council of one; and endeavors to supersede the judgment of the whole by the judgment of a part.

I think it clear, sir, that the Constitution, by express provision, by definite and unequivocal words, as well as by necessary implication, has constituted the Supreme Court of the United States the appellate tribunal in all cases of a constitutional nature which assume the shape of a suit, in law or equity. And I think I cannot do better than to leave this part of the subject, by reading the remarks made upon it by Mr. Ellsworth in the Convention of Connecticut; a gentleman, sir, who has left behind him, on the records of the Government of his country, proofs of the clearest intelligence and of the deepest sagacity, as well as of the utmost purity and integrity of character. "This Constitution," says he, "defines the extent of the powers of the General Government. If the General Legislature should, at any time, overleap their limits, the judicial department is a constitutional check.—If the United States go beyond their powers; if they make a law which the Constitution does not authorize, it is void, and the judiciary power, the national judges, who to secure their impartiality, or to be made independent, will declare it to be void. On the other hand, if the States go beyond their limits; if they make a law which is an usurpation upon the General Government, the law is void, and upright, independent judges, will declare it to be so."

And let me only add, sir, that, in the very first session of the first Congress, with all these well known objects, both of the convention and the people, full and fresh in his mind, Mr. Ellsworth reported the bill, as is generally understood, for the organization of the judicial department, and, in that bill, made provision for the exercise of this appellate power of the Supreme Court in all the proper cases, in whatsoever court arising; and that this appellate power has now been exercised for more than forty years, without interruption and without doubt.

As to the cases, sir, which do not come before the courts; those political questions which terminate with the enactments of Congress, it is of necessity that these should be ultimately decided by Congress itself. Like other Legislatures, it must be trusted with this power. The members of Congress are chosen by the people, and they are answerable to the people; like other public agents, they are bound by oath to support the Constitution. These are the securities that they will not violate their duty nor transcend their powers. They are the same securities as prevail in other popular governments; nor is it easy to see how grants of power can be more safely guarded, without rendering them nugatory. If the case cannot come before the courts, and if Congress be not trusted with its decision, who shall decide it? The gentleman says, each State is to decide it for herself. If so, then, as I have already urged, what is law in one State is not law in the other. Or, if the resistance of one State compels an entire repeal of the law, then a minority, and that a small one, governs the whole country.

Sir, those who espouse the doctrines of nullification, reject, as it seems to me, the first great principle of all republican liberty; that is, that the majority *must* govern. In matters of common concern, the judgment of a majority *must* stand as the judgment of the whole. This is a law imposed on us by the absolute necessity of the case; and if we do not act upon it, there is no possibility of maintaining any Government but despotism. We hear loud and repeated denunciations against what is called *majority government*. It is declared, with much warmth, that a *majority government* cannot be maintained in the United States. What then, do gentlemen wish? Do they wish to establish a *minority* government? Do they wish to subject the will of the many to the will of the few? The honorable gentleman from South Carolina has spoken of absolute majorities, and majorities concurrent; language wholly unknown to our Constitution, and to which it is not easy to affix definitive ideas. As far as I understand it, it would teach us that the *absolute majority* may be found in Congress, but the *majority concurrent* must be looked for in the States. That is to say, sir, stripping the matter of this novelty of phrase, that the dissent of one or more States as States, renders void the decision of a majority of Congress, so far as that State is concerned. And so this doctrine, running but a short career, like other dogmas of the day, terminates in nullification.

If this vehement invective against *majorities* meant no more than that, in the construction of government, it is wise to provide checks and balances, so that there should be various limitations on the power of the mere majority, it would only mean what the Constitution of the United States has already abundantly provided. It is full of such checks and balances. In its very organization, it adopts a broad and most effectual principle of restraint of the power of mere majorities. A majority of the people elects the House of Representatives, but it does not elect the Senate. The Senate is elected by the States, each State having, in this respect, an equal power. No law, therefore, can pass without the assent of a majority of the Representatives of the people, and a majority of the Representatives of the States also. A majority of the Representatives of the people must concur, and a majority of the States must concur in every act of Congress; and the President is elected on a plan compounded of both these principles. But, having composed one House of Representatives chosen by the people in each State, according to its numbers, and the other of an equal number of members from every State, whether larger or smaller, the Constitution gives to majorities in these Houses, thus constituted, the full and entire power of passing laws, subject always to the constitutional restrictions, and to the approval of the President. To subject them to any other power is clear usurpation. The majority of one House may be controlled by the majority of the other; and both may be restrained by the President's negative. These are checks and balances provided by the Constitution, existing in the Government itself, and wisely intended to secure deliberation and caution in legislative proceedings. But to resist the will of the majority in both Houses, thus constitutionally exercised; to insist on the lawfulness of interposition by an extraneous power, to claim the right of defeating the will of Congress, by setting up against it the will of a single State, is neither more nor less, as it strikes me, than a plain attempt to overthrow the Government. The constituted authorities of the United States, are no longer a Government, if they be not masters of their own will; they are no longer a Government, if an external power may arrest their proceedings; they are no longer a Government, if acts passed by both Houses and approved by the President, may be nullified by State vetoes or State ordinances. Does any one suppose it could make any difference, as to the binding authority of an act of Congress, and of the duty of a State to respect it, whether it passed by a mere majority of both Houses, or by three fourths of each, or by the unanimous vote of each? Within the limits and restrictions of the Constitution, the Government of the United States, like all other popular Governments, acts by majorities. It can act no otherwise. Whoever, therefore, condemns the Government of a majority, denounces the Government of his own country, and denounces all free Governments. And whoever would restrain these majorities, while acting within their constitutional limits, by an external power, whatever he may intend, asserts principles which, if adopted, can lead to nothing else than the destruction of the Government itself.

Does not the gentleman perceive, sir, how his argument against majorities might here be retorted upon him? Does he not see how cogently he might be asked, whether it be the character of nullification to practise what it preaches? Look to South Carolina at the present moment. How far are the rights of minorities there respected? I confess, sir, I have not known, in peaceable times, the power of the majority carried with a higher hand, or upheld with more relentless disregard of the rights, feelings, and principles of the minority: a minority embracing, as the gentleman himself will admit, a large portion of the worth and respectability of the State; a minority, comprehending in its numbers, men who have been associated with him, and with us, in these halls of legislation; men who have served their country at home, and honored it abroad, men who would cheerfully lay down their lives for their native State, in any cause which they could regard as the cause of honor and duty; men above fear, and above reproach; whose deepest grief and distress spring from the conviction that the present proceedings of the State must ultimately reflect discredit upon her; now is this minority, now are these men regarded? They are disfranchised by ordinances and acts of legislation, subjected to tests and oaths, incompatible, as they conscientiously think, with oaths already taken, and obligations already assumed; they are proscribed and denounced as recreants to duty and patriotism, and slaves to foreign power; both the spirit which pursues them, and the positive measures which emanate from that spirit, are harsh and proscriptive beyond all precedent within my knowledge, except in periods of professed revolution.

It is not, sir, on these proceedings, to complain of the power of majorities, I should think, for those who approve these proceedings, to complain of the power of majorities.

Mr. President, all popular governments rest on two principles or two assumptions:

First, That there is, so far, a common interest among those over whom the Government extends, as that it may provide for the defence, protection and good government of the whole, without injustice or oppression to parts.

Second, That the representatives of the people, and especially the people themselves, are secure against general corruption, and may be trusted, therefore, with the exercise of power. Whoever argues against these principles, argues against the practicability of all free governments. And whoever admits these, must admit, or cannot deny that power is safe in the hands of Congress as in those of other representative bodies. Congress is not irresponsible. Its members are agents of the people, elected by them, answerable to them, and liable to be displaced or superseded at their pleasure; and they possess as fair a claim to the confidence of the people, while they continue to deserve it, as any other public political agents.

If, then, sir, the plain intention of the Convention, and the contemporary admission of both friends and foes, 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 abrogate 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 or finance 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 right 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 connection 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 were to obey, and yet reject 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 law-suit. A very few words, sir, will show the nature of this peaceable remedy, and of the law-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 U. 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 issue 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 overpowers 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 founded 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 decision 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 before-hand 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; & 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 that she will resist it, though such resistance should scatter 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 a sudden and violent usurpation on the rights of the States? Sir, what will the civilized world 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, and attended with these two restrictions, and 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 laying some duties heavier,