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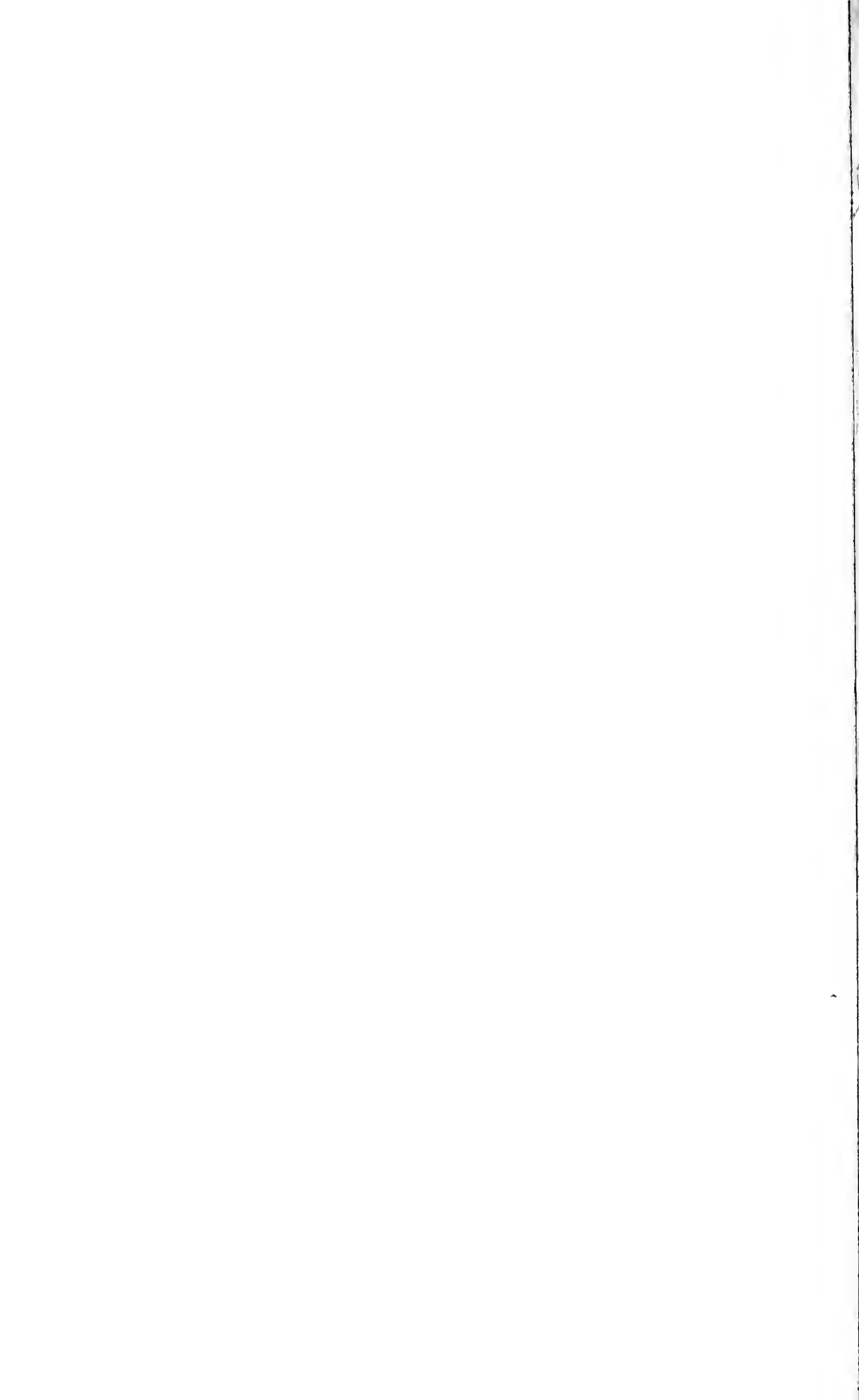
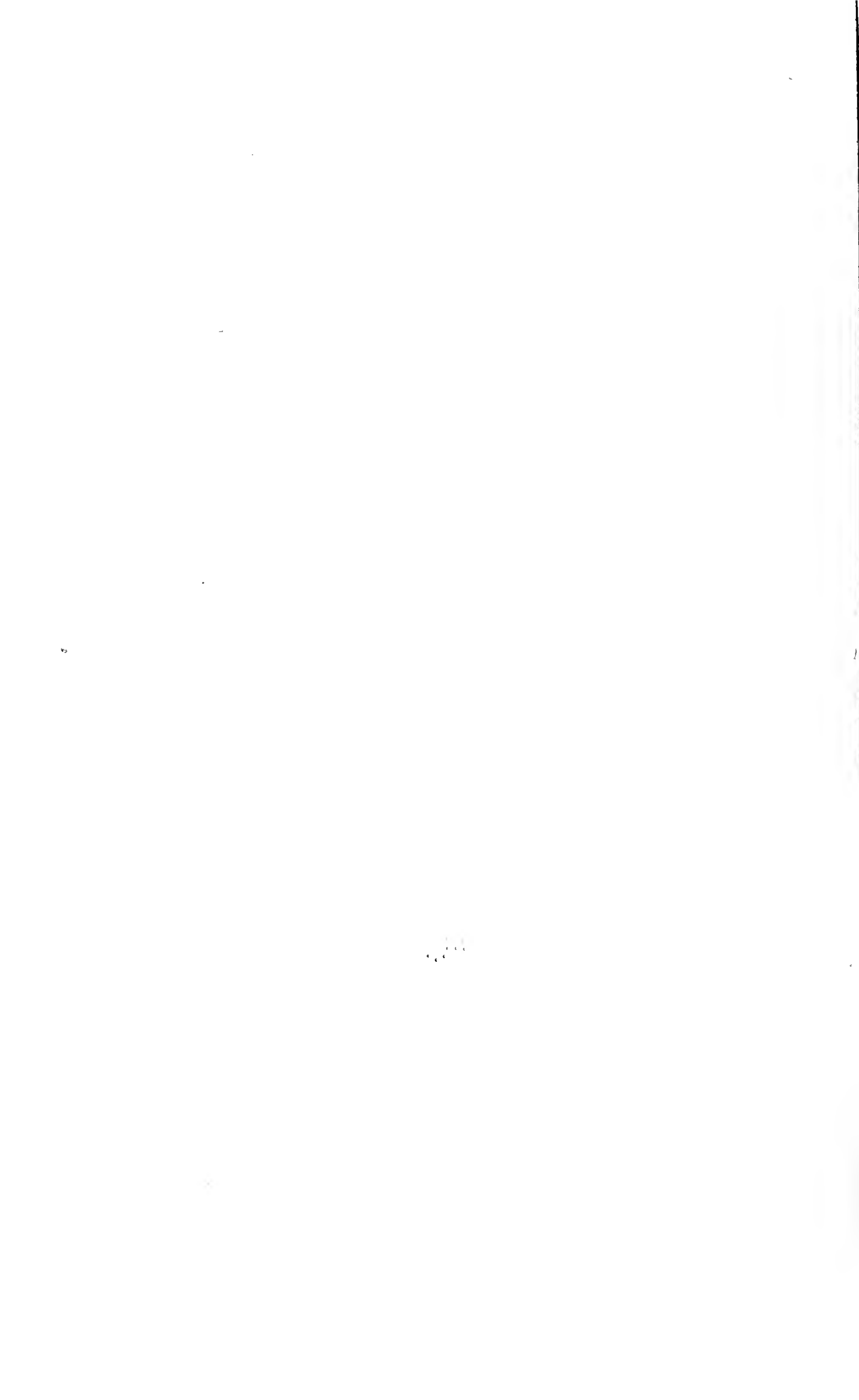


STRICTURES

ON

NULLIFICATION.



STRICTURES

ON

NULLIFICATION.

FROM THE NORTH AMERICAN REVIEW.

BOSTON:
STIMPSON AND CLAPP, 72 WASHINGTON STREET.
J. E. Hinckley & Co., Printers, 14 Water Street.

1832.

STRICTURES

ON NULLIFICATION.

The discontents on the subject of the Tariff, which have so long existed in several of the Southern States, and particularly in South Carolina, have at length reached a crisis. As soon as it was ascertained that the party in favor of Nullification had prevailed in that State at the late elections, the Governor immediately summoned an extraordinary session of the Legislature, which was held accordingly at Columbia, on the 22d of October. In calling together the new Legislature before the end of the current political year, as generally understood, the Governor exercised an authority, which may perhaps be fairly considered as doubtful, although it appears to have been sanctioned by the highest judicial authority of the State. This, however, is a secondary question, upon which we shall not enlarge. In the message which he transmitted to the Legislature at the opening of the extraordinary session, the Governor recommended to them to pass an act authorizing the meeting of a Convention, to deliberate upon the measures to be taken by the State for the purpose of obtaining relief from the operation of the Tariff. The act was accordingly passed by large majorities,—two thirds being required by the Constitution;—and the Convention, which was chosen in pursuance of it, opened its session at Columbia on the 19th of November.

This body proceeded at once and without much discussion to adopt what they call an 'Ordinance to nullify' the Revenue laws of the country, which we propose to copy in the course of our remarks. Having published this act, with an accompanying exposition of their motives in passing it, and addresses to the people of the United States and of South Carolina, the Convention adjourned without day, leaving it in charge to a committee appointed for that purpose to summon another meeting, if it should appear expedient. The composition of the Ordinance is attributed to Chancellor Harper; that of the exposition accompanying it to Mr. McDuffie; and that of the addresses to the people of the United States and of South Carolina respectively to General Hayne and Mr. Turnbull. The Legislature of the State have since assembled, and, agreeably to the tenor of the Ordinance, will doubtless pass such laws as may be thought necessary for carrying the measure into full effect.

These proceedings constitute a very serious crisis,—the most serious that has occurred in the history of our country since the establishment of the Government, with the exception of that which attended the close of the last war with Great Britain, and from which, by the fortunate intervention of the Peace, we escaped without injury. In the present instance, there seems to be no prospect of evading the difficulty in any such way. We must meet it in front, and either overcome it, or submit to all its consequences.

The general principles by which the statesmen of South Carolina undertake to support their views, have been already very fully discussed in various quarters. But, considering the great importance and urgent interest of the subject, it may not be wholly superfluous to take, once more, a calm, and as far as may be, impartial survey of the ground in dispute. In doing this, we shall of course leave out of view the topics of the constitutionality and expediency of the measures of the General Government, which are the motive or pretext for the present proceedings in Carolina. Believing, as we do, that the Protecting Policy is founded in a correct understanding of the principles of the Constitution, and of the true interest of the country, we still very cheerfully recognise in our fellow-citizens of all the States, the right to entertain a different opinion, and to act upon it in a legal

and constitutional way. The precise question now before us is, whether the present proceedings in South Carolina are legal and constitutional. The most authentic and elaborate exposition of the arguments that are urged in defence of them, is to be found in the letter of the Vice-President of the United States to Governor Hamilton, of August 28, 1832, to which we shall accordingly refer as the leading authority in their favor.

In the course of our remarks, we shall generally employ the term *annul*, in preference to the new-fashioned word *nullify*. The meaning of the two, as given in the dictionaries, is exactly the same, but the former is in better use, and presents to most minds a more distinct idea than the latter. It is well known that one of the most frequent sources of obscurity and confusion in reasoning, is the use of terms which, from whatever cause, are in any degree vague; and we have very little doubt that in the present controversy, the error of the Carolina statesmen may be attributed in part to the unfortunate substitution of the new-fangled terms *nullify* and *nullification*, for the corresponding good old English words *annul* and *annulling*. Many a professed *nullifier* would, we suspect, shrink from the assertion that a State has a right to *annul* an act of the General Government. Mr. Calhoun seldom employs the latter term, and states expressly, that he does 'not claim for a State the right to *abrogate*' an act of the General Government. Now, according to Johnson, the meaning of *abrogate* is to *take away from a law its force*, to *repeal*, to *annul*. To *annul*, according to the same authority, is to *make void*, to *nullify*, to *reduce to nothing:* and finally, to *nullify* is to *annul*, to *make void*. The meaning of the three words, in correct usage, is exactly the same; and Mr. Calhoun, in disclaiming the right of a State to *abrogate* an act of the General Government, really disclaims the right to *annul* or *nullify* such an act, in any proper sense of those terms, and abandons in a single sentence the doctrine which he is at so much pains to establish in the rest of his exposition. In disclaiming the use of the word *abrogate*, abstaining generally from that of *annul*, and taking refuge in what Governor Lumpkin very properly calls the *mystical* terms *nullify* and *nullification*, the Vice President has, we think, betrayed a secret consciousness of the weak point in his cause.

The controversy is, however, not about words, but things. The right which the Vice-President disclaims under the name of *abrogating*, but claims for a State under that of *nullifying* an act of the General Government, is thus stated by himself in the letter alluded to above.

1. 'A State has a right, in her sovereign capacity in Convention, to declare an unconstitutional act of Congress to be null and void; and such declaration is obligatory on her citizens, and conclusive against the General Government; which would have no right to enforce its construction of its powers against that of the State.'

2. Upon the exercise of this right by a State, 'it would be the duty of the General Government to abandon the power, at least as far as the nullifying State is concerned, and to apply to the States themselves, according to the form prescribed by the Constitution, to obtain it by a grant.'

3. If the power thus applied for be 'granted, acquiescence then would be a duty on the part of the State; and in that event, the contest would terminate in converting a doubtful constructive power into one positively granted: but should it not be granted, no alternative would remain for the General Government but its permanent abandonment.'

Such are the three leading points in the *doctrine of nullification*, as laid down by its principal champion. It will be perceived that they contemplate not a single act, but a long and complex course of proceedings, involving the agency not only of the nullifying State, but of the General Government and of all the other States. The discontented State *nullifies* an obnoxious act: it then becomes the duty of the General Government to cease to execute the act within that State, and to apply to the States for the power in dispute: if the power be obtained, it is the duty of the nullifying State to acquiesce: if not, the act is definitively annulled.

Now, if all this be legal and constitutional, why do we find no mention or hint of any part of it in the Constitution or the laws? As respects the first and third steps in the proceedings, it may be urged, with some plausibility, that the Constitution is silent, because it does not undertake to regulate in any way the action of the States, as bodies politic, or of their Governments. But what account can be given of the silence of the Constitution upon the second step in the proceedings? When

a State has exercised the power of annulling an act of Congress, it then becomes 'the duty of the General Government to abandon the power, (by which Mr. Calhoun doubtless means to discontinue executing the act) at least within the limits of the nullifying State, and to apply to the States themselves in the form prescribed by the Constitution, to obtain it by a grant.' Here is a two-fold duty of great delicacy and importance, which, according to the Vice-President, devolves, in a certain contingency, upon the General Government. The General Government is bound to discontinue the execution of one of its laws within a particular State, and the General Government is bound to apply to the States, in the form prescribed in the Constitution, for a grant of the power to pass such a law. Of all this the Constitution says not one word. If the passage which we have quoted from the exposition stood alone, we should, in fact, be entirely at a loss to know what the Vice-President means in this place by *the form prescribed in the Constitution*, as that in which the General Government is to apply to the States for a grant of new powers: but from other parts of the document, we gather that he alludes to the clause which prescribes a form for amending that instrument. Now it is undoubtedly true that the General Government might, if they should by constitutional majorities deem it expedient, recommend to the States an amendment, which, if carried, would have the effect of augmenting their powers; but it is equally certain that the clause, which provides a form for amending the Constitution, does not make it the duty of the General Government to recommend an amendment of this description in the case supposed by the Vice-President, or in any other. In this as in all its other parts, the Constitution is entirely silent upon the important duties which are supposed by the Vice-President to devolve upon the General Government, in consequence of the exercise by a State of its supposed right to annul an act of that Government. Are these duties to be imposed, and the rights and powers necessary to their execution conferred upon the General Government, by mere construction? Is it not a little singular, that the advocates of this very liberal construction are precisely the persons who are most decidedly opposed to all constructive powers, and whose principal object in all their present proceedings is to reduce, if necessary by

main force, the constructive powers of the General Government to the narrowest possible compass?

The Constitution, we repeat, is totally silent in regard to the powers attributed by the theory of nullification to the States and to the General Government. This fact might, perhaps, fairly be considered as of itself a sufficient and decisive objection to the whole system. Let us next inquire, how far these powers are in themselves susceptible of being exercised. If it shall appear that the duties which, according to this system, devolve respectively upon the States and the General Government are not only not prescribed in the Constitution, but are also physically and morally impracticable, there will arise a pretty strong presumption that it could not have been the intention of the framers of the Constitution that any such acts should be performed.

The first step in the process is, as we have said, the annulling by the discontented State of the obnoxious act of the General Government. The State declares the act to be null and void, and takes measures to prevent the execution of it within its limits. How far this will be found a practicable operation we shall be better able to judge when we are informed of the proceedings of the Carolina Legislature. For the present, it may be sufficient to say that the various projects which have been successively recommended in the newspapers have been so obviously chimerical and visionary, as to render it altogether probable that no satisfactory scheme had suggested itself to the leaders, and very doubtful whether it would be possible to hit upon one. Without, however, anticipating what the wisdom of the Legislature may bring forth, let us proceed at once to the second step in the process; viz. the duties which devolve upon the General Government. This part of the theory, we may observe, though it has been less adverted to, is, in the opinion of the Vice-President, not less important and valuable than the other, and equally essential to the completeness of the system. If it be found impracticable, the whole theory must be given up.

A State having nullified an act of the General Government, it then becomes the duty of the General Government to abandon the power (of passing such an act), and to apply to the States, in the form of proposing an amendment of the Constitution, for the grant of such a power. Let us see how far these duties are practicable.

The General Government consists of three branches, the Executive, the Legislative, and the Judiciary, to each of which its peculiar and appropriate functions are assigned by the Constitution and the laws. What then is meant, when it is said that it becomes the duty of the General Government to abandon the power to pass a certain act, at least within the limits of a particular State? Is it meant that the Legislative department of the General Government is bound to repeal the obnoxious law, as respects that State or the Union at large? This is obviously impossible, because by the supposition the majority of the Legislature believe the act to be constitutional and expedient,—and therefore cannot conscientiously, in the ordinary exercise of the Legislative power, repeal it.

Is it meant, that the Executive and Judiciary departments of the General Government shall suspend the execution of the law within the limits of the State in question? This again is equally impossible. The functions of the Executive and Judiciary departments are entirely administrative. The persons entrusted with them have no discretionary power. They are bound by their oaths of office to execute the laws that are given to them by the Legislature, and have no more right to augment or diminish them by one jot or tittle, than they have to declare themselves dictators of the country. The abandonment by the General Government of the power to pass the act complained of by the nullifying State is therefore a thing in itself entirely impracticable. Even the omnipotent Parliament of England, which, according to Lord Coke, can do any thing but convert a man into a woman, could not repeal a law which was sustained by a majority of its members; nor could even the hereditary executive power of England or any other constitutional monarchy suspend for a moment the execution of a law, which is still in force. The thing is in its nature a moral impossibility.

So much for the first part of the two-fold duty, which, according to the Vice-President, devolves upon the General Government, in the event of the nullification by a State of a law of the United States. But the General Government is not only bound to abandon the disputed power, but also to apply to the States, in the form provided for amending the Constitution, for a grant of that power. We have seen that the first of these supposed duties is in its nature impracticable. It is obvious to the slightest reflection, that the other is not less so.

By the General Government the Vice-President must of course intend, in this connexion, the Legislative department of the Government, the Executive, as such, having nothing to do with the process of amendment. Now, independently of the objection to which we have already adverted, viz. that the Constitution imposes no such duty on the Legislature, it is plain that the operation is in itself impracticable, for the same reason which would prevent the repeal of the obnoxious act. The Legislature cannot recommend an amendment of the Constitution, giving to itself the power to pass such an act, for the plain reason, that by the supposition a majority of the members believe that the Legislature already possess the power, and that it is consequently impracticable for them to adopt, on their official responsibility, a measure which implies that they believe the contrary.

It is only necessary to consider for a moment how the plan would work in detail, in order to be convinced that it is utterly impracticable. It becomes the duty of the General Government, by which we will suppose the Vice-President to mean the Legislature, to apply to the States for a grant of the disputed power. But what is the Legislature? The Legislature is a complex being, composed of the President and two elective assemblies, comprehending two hundred and eighty-five persons. It is the duty, it seems, of these two hundred and eighty-five persons, in their political capacity, to apply to the States for a grant of new powers. But who is to move? What is the business of every body is the business of nobody. Shall it be the President? The Constitution makes it the duty of the President to recommend from time to time to the consideration of Congress such measures, as he shall judge necessary and expedient. But the President, by the supposition, believes that the General Government already possess the power in question. It is impossible, therefore, that he should recommend to Congress to propose an amendment conferring this power. For the same reason, the proposition cannot be made in Congress by a member of the majority of either House. The duty, such as it is, of making the proposition, might no doubt be performed by some member of the minority of one of the two branches. But how are the majority to vote for a proposition which they do not approve? How is the President to approve a law which he does not approve? Individuals occasionally support or oppose measures for particular reasons, which have no reference to their own

opinion upon their merits; but in arguing on general principles, it must of course be assumed that the members of the Government can only act on principle. The operation supposed is therefore in its nature essentially impracticable.

Indeed the supposition that it can in any case be the duty of one or more individuals to do an act which, if done by them at all, must be done in pursuance of their own free and unbiased belief in its expediency, is so obviously incongruous, that we really wonder how an acute logician, as the Vice-President unquestionably is, could have been led by any prepossession or political hallucination to admit it for a moment. If it be really the duty, under the Constitution, of the Legislature or of any branch or member of it to perform a particular act, there is no room for the exercise of discretion. The thing must be done. Thus it is the duty of the House to choose their speaker and other officers. This is accordingly done at the opening of every new Congress, as a matter of course, and it would be unconstitutional even to debate upon the propriety of so doing. But a proposition to amend the Constitution or any act performed in the ordinary exercise of the Legislative power, must be, from its nature, the result of the free and conscientious judgment of the President and a majority of the two Houses of Congress upon its merits; and it is impossible that it can be their duty, in any case, to decide in favor of a particular measure without reference to its merits, when their own free and conscientious judgment upon its merits is the precise and only rule which they are bound to follow, in the decision of every question that is brought before them.

The process of nullification is therefore, in its most important points, absolutely impracticable. This being the case, any consideration of its constitutionality or expediency is superfluous. It is unnecessary to inquire whether a plan, which cannot in the nature of things be carried into execution, would or would not be constitutional or expedient if it could. But the respect which we sincerely entertain for the talents and character of many of the citizens who are engaged in this project, seems to render it proper that it should be viewed under all its different aspects. Let us therefore suppose, for the sake of argument, that the project is practicable, and look at it in reference to its expediency. Passing over as before the first step in the process, the effect of which is less certain because the precise form in which it will be taken is not yet known, let us as be-

fore proceed at once to the second, and inquire how it will operate in the case immediately in question.

Let us suppose, then, that the State of South Carolina annuls the Tariff. On the theory of the Vice-President, it will then become the duty of the General Government to refrain from enforcing the Tariff within the limits of South Carolina, and to apply to the States for a grant of power to pass laws for the protection of domestic industry. We have shown that both parts of this duty are wholly impracticable; but let us imagine that they could be performed, and see what would be the result. Let us suppose that the General Government, at the present session of Congress, in defiance of their own opinion of the constitutionality and expediency of the Protecting Policy and of the express provision of the Constitution that all duties, imposts and excises shall be uniform throughout the United States, suspend the execution of the Tariff law within the limits of South Carolina.—Let us also suppose that the General Government, conscientiously believing, as they do, that they possess the power to pass laws for the protection of domestic industry, shall yet assure the people that they believe they do not possess it, and recommend an amendment of the Constitution which shall give it to them. What will be the result?

The suspension of the Tariff law, within the limits of South Carolina, would of course render the ports of that State entirely free. As soon as this fact became generally known at home and abroad, the whole foreign commerce of the country would centre in these ports, and the receipts of the custom-houses, which constitute nearly the whole revenue of the country, would be reduced at once to nothing. In the mean time, the process of amending the Constitution is notoriously a very slow one. We have supposed that the General Government, at the same session of Congress, at which they suspend the execution of the Tariff law in Carolina, propose to the States to adopt the amendment in question. The recommendation goes out to the Governors of the States, and is laid by them before their several Legislatures, as they come into session at various times in the course of the following year. Some of these Legislatures act upon it at once; some lay it on their tables never to take it up again; others refer it, as they habitually do all questions of an embarrassing description, to their next following session. In this way the affair drags along for a number of years, and it is even very doubtful whether any

returns at all would ever be received from half the States. Let us suppose, however, that in process of time, say in five years from the date of the proposal by the General Government, returns are received from all the States, and let it be granted for argument's sake, that the proposed amendment is not sanctioned by the number of States necessary under the Constitution to give it effect, which is three-fourths of the whole:—this is the supposition most favorable to the views of the Vice-President. What follows? Is the great object of settling the construction of the Constitution attained? Quite the contrary. Not a single step has been yet taken towards the attainment of it. The refusal of the States to sanction the proposed amendment, far from proving that the General Government does not, according to their construction of the Constitution, possess the disputed power, might be, and in many cases undoubtedly would be, the result of their belief that the General Government already possesses it. How, for example, could Pennsylvania, where the Legislature unanimously believe that the General Government possesses the power to protect domestic industry, sanction the proposal of an amendment intended to confer that power? The refusal of the States to sanction the amendment would therefore prove nothing at all as to their opinion upon the meaning of the Constitution, and would leave the whole subject exactly as it stood before. The Vice-President tells us, it is true, that if the proposed amendment were not sanctioned by the requisite number of States, no alternative would remain for the General Government, but the permanent abandonment of the disputed power. But, with all due deference to the judgment of Mr. Calhoun, we must be permitted to say that this is a conclusion entirely without premises, or, in less technical language, a naked assertion without proof, and we may add without even the appearance of plausibility. If the States refuse to amend the Constitution, it remains of course as it was before; and it is the duty of the General Government, as it was before, to act upon their own construction of its meaning, which is, by the supposition, in favor of the reality of the contested power. As honest men, acting on their official responsibility, they cannot possibly do otherwise; they would be obliged to re-enact the law which, by the supposition, had been repealed in reference to the nullifying State, and things would proceed exactly as they did before. At the end of the process, therefore,—supposing it even

to result in the manner most favorable to the Vice-President's view,—the whole subject would remain precisely as it stood at the beginning. The affair would afford a new example of what a foreign writer has called the system of *All Action and No Go.*

In the mean time, what would have been the state of the country during the five years which have been devoted to this tedious, complicated and ineffectual attempt to settle the construction of the Constitution? The revenue would have declined almost to nothing, and there would have been of course an annual deficit of nearly the whole amount necessary to defray the expenses of the Government, and pay the interest and principal of the debt. How would this have been covered? The ordinary resource in cases of deficit is a loan, but it may well be doubted whether, under the circumstances supposed, the credit of the Government would be particularly good. If loans could be obtained, which is the most favorable supposition, we should be saddled with a debt of about a hundred millions, probably at exorbitant interest, as the cost of this political experiment. Were this the only inconvenience, most judicious citizens would be disposed to say, with the Grecian philosopher who was offered, at a pretty high price, the favors of a frail beauty of some celebrity,—that they did not choose to buy repentance so dear. But this debt of a hundred millions would be the least part of the mischief. The importation of foreign goods free of duty for five years would of course destroy all our domestic manufactures, and ruin that part of our population which is employed in them. The value of the manufactures annually produced in this country is estimated by Mr. Gallatin at about $150,000,000,—probably a very low computation. Supposing the ordinary rate of profit in this branch of industry to be at from six to seven per cent., this amount of annual products represents a capital of a thousand million dollars, which would be swept at once into nothing. This is another trifling item to be added to the cost and charges of nullification. Omitting all consideration of the effect upon the happiness of the six or seven hundred thousand persons who depend for subsistence upon these manufactures, and looking merely at the financial results, we must needs say that this is a most expensive, as well as in our opinion unsatisfactory, mode of expounding the Constitution. And these, as we have said, are the results of the process on the most favorable sup-

position; for if loans could not be obtained, which is a more probable one, the immediate consequence would be a national bankruptcy, which would of course be followed instantaneously by domestic convulsions, a complete breaking up of the Government, and a dissolution of the Union.

Such, if the process of nullification, which, as we have seen, would be found utterly impracticable at every step, could be carried into effect, would be its practical results. Such would be its results, supposing it to proceed without opposition from any quarter, and to operate throughout in the manner most agreeable to the views set forth in Mr. Calhoun's exposition. Is it possible that a statesman of distinguished talents and patriotic feelings,—that a large majority of the citizens of a high-minded, generous and intelligent State, can look forward to such results with satisfaction?—that they can consider a course of measures which, waving any question of its constitutionality or practicability, and supposing it to go into quiet operation without opposition in any quarter, and to work to their heart's content in every particular, could still produce nothing better than the results which we have described,—as *expedient?*—Is it not more probable that the Vice-President and his political friends, by confining their attention exclusively to one partial view of the subject, and employing with fanatical earnestness all their energies in recommending this one view to the public favor, have entirely lost sight of all others, and are rushing forward, without even realizing its existence, to a precipice which is accurately and distinctly laid down by themselves in their own political charts?

However this may be, it is plain from the most cursory survey of the doctrine of nullification, that it is wholly unsanctioned by the Constitution, although it contemplates important proceedings, not only by the States but by the General Government, which of course can only act under constitutional authority: that it is in all its important points utterly impracticable, and that could it even be carried into effect, and that in the manner most agreeable to the views of its partisans, it would at once break up the Government, and spread desolation and ruin through the country. We now proceed to examine some of the arguments, by which this enormous political heresy is supported in the document before us. We have already quoted the passages containing the statement of the doctrine in Mr. Calhoun's own language. The leading argument by which he sustains it is as follows.

1. The General Government is an agent with limited powers,

constituted by the States as principals to execute their joint will, expressed in the Constitution.

2. But in private affairs, a principal has a right to revoke or modify the powers of his agent at discretion, to put his own construction upon them, and to disavow and annul any acts done by the agent upon a mistaken construction of his powers; while the agent, on his part, has no right to enforce his construction against that of his principal.

3. In the same way, *any one State* has a right to put its own construction upon the Constitution, by which the States create the General Government their common agent, and to disavow and annul any acts done by the General Government upon a mistaken construction of these powers, while the General Government, on its part, has no right to enforce its own construction of the Constitution against that of its principal.

The correctness of this reasoning, says the Vice-President, in its application 'to the ordinary transactions of life, no one will doubt, *nor can it be possible to assign a reason, why it is not as applicable to the case of a Government as to that of individuals.*' Not anticipating the nature of the objections that may be made to his reasoning, the Vice-President of course does not attempt to refute them, nor does he think it necessary to illustrate, explain or enforce his own theory, but, under the comfortable assurance that in its application to the ordinary transactions of life *no one will doubt it*, and that it *cannot be possible* to assign a reason why it should not be applied in the case of Governments, he jumps at once to his conclusion, that it is and ought to be applicable to that of the United States. Now it is obvious to us, that this reasoning, far from commanding the universal assent which the Vice-President seems to expect for it, will be considered by most intelligent and unprejudiced readers as open to various weighty and decisive objections. Admitting that the General Government may, in a certain sense of the term, be properly described as the agent of the States, the other proposition, that a principal has an unlimited right to construe the powers and disavow the acts of his agent is, even in private affairs, far from being equally clear; and were this even true in private affairs, it would by no means follow that *any one State* has an equally good right to annul at discretion the acts of the General Government. We shall enlarge a little upon each of these points.

1. It is not true that a principal has, in the ordinary transactions of life, an unlimited right to construe

the powers and disavow the acts of his agent. Although an agent may have construed his powers in a different manner from that in which his principal intended that they should be understood, yet if he can make it appear that he has exercised ordinary diligence and acted with good faith, he has a right to enforce his construction against that of his principal, and the law will sustain him in it. A merchant, for example, addresses a letter of instructions to a shipmaster or supercargo, and the latter in consequence makes contracts which the principal did not intend that he should make; the principal will nevertheless be bound by them, unless he can show that the agent has been guilty of neglect or fraud; for it is his own fault if he has not made his instructions intelligible, or has chosen his agent so badly that he cannot understand plain language.

The argument from analogy, and it is the only one by which the Vice-President undertakes to support his main position, therefore fails entirely. If the attitude of the General Government toward the States be the same as that of an agent in relation to his principal, it then follows that the General Government has a right to enforce its construction of the Constitution against that of the States, provided always that it act with good faith, and in the exercise of all the diligence and attention which the case requires.

2. But admitting even that, in private affairs, a principal has an unlimited right to construe the powers and disavow the acts of his agent, we cannot agree with the Vice-President, that it is impossible to assign a reason why *any single State* has not an equally good right to annul at discretion the acts of the General Government. We think that at least two very sufficient reasons may be given, why this conclusion would not follow.

The first reason is that the General Government, if it be regarded as an agency, is an agency for a joint concern, comprehending four and twenty principals. Now if we admit that principals have an unlimited right to construe the powers and disavow the acts of their agents, it is quite obvious that, in the case of a joint concern, this right cannot belong to any one of the partners acting separately from the others, but must belong to the whole firm, expressing their intentions for this purpose through the organs and in the form which they habitually employ for all other purposes. But the proposition of the Vice-President is, that any one State has a right, without consulting the other States, to nullify at discretion any act of the

General Government. That is, that any one partner in the joint concern has a right, without even consulting his co-partners, to construe the powers of the common agent in his own way, and to assume or avoid, at discretion, his share of responsibility for the acts which an agent may have performed in the name of the firm.

It is almost needless to say that this is not the principle on which partnership concerns are generally managed, and that a partnership concern, which should be managed on this principle, would not be likely to possess unlimited credit or to carry on for any length of time a very lucrative business.

The Vice-President anticipates this objection, and for the purpose of meeting it has introduced the second and third points in his theory, as stated at the commencement of this article. As the manner in which he treats this part of the subject is quite curious, we shall quote his own words.

'It may, however, be proper to notice a distinction between the case of a single principal and his agent, and that of several principals and their joint agent, which might otherwise cause some confusion. In both cases, as between the agent and a principal, the construction of the principal, whether he be a single principal, or one of several, is equally conclusive; but, in the latter case, both the principal and the agent bear a relation to the other principals, which must be taken into the estimate, in order to understand fully all the results which may grow out of the contest for power between them. Though the construction of the principal is conclusive against the joint agent, as between them, such is not the case between him and his associates. They both have an equal right of construction, and it would be the duty of the agent to bring the subject before the principal to be adjusted according to the terms of the instrument of association; and of the principal to submit to such adjustment. In such cases, the contract itself is the law, which must determine the relative rights and powers of the parties to it. The General Government is a case of joint agency,—the joint agent of the twenty-four sovereign States. It would be its duty, according to the principles established in such cases, instead of attempting to enforce its construction of its powers against that of the State, to bring the subject before the States themselves, in the only form in which, according to the provisions of the Constitution, it can be, by a proposition to amend, in the manner prescribed in the instrument, to be acted on by them in the only mode they can rightfully pursue, by expressly granting or withholding the contested power. Against this conclusion there can be raised but one objection, that the States have surrendered or transferred the right in question. If such be the fact, there ought to be no difficulty in establishing it.'

It seems from these remarks that, according to the Vice-President's notion of the proper mode of proceeding in a joint concern, if one of the principals suspect that the common agent is exceeding his powers, it forthwith becomes the duty—not of the principal, but—of the agent to submit the doubtful question in regard to the construction of his own powers, to the consideration of the other principals. The discontented partner begins by disclaiming publicly his share of responsibility for the acts of the agent. The agent then consults the other partners: if a majority of them approve the proceedings of the agent, the discontented partner is bound to submit: if not, the agent ceases to exercise the disputed power. Thus, when the President and Directors of the Bank of the United States employed Mr. Sergeant to perform a certain service for them at London, if one of the Directors had happened to hear that that gentleman was exceeding his powers, according to the construction put upon them by this Director, it would have been the duty of the latter to publish the fact in the newspapers, and to give notice to all the world that he, as one of the Directors, would not hold himself responsible for Mr. Sergeant's proceedings. The newspaper containing this notice would in process of time have reached London, and Mr. Sergeant on reading it would have been bound to write to the President of the Bank, informing him that he had seen a notice to a certain effect in a Philadelphia paper, and inquiring whether he had or had not mistaken the meaning of his instructions. The President, on receiving Mr. Sergeant's letter, would have been bound to call together the Board of Directors, and submit the subject to their consideration. If the Board, proceeding in the usual form of transacting business, had decided that Mr. Sergeant had not exceeded his powers, it would have been the duty of the discontented Director to withdraw his objections, and to give public notice that he was ready to resume his share of responsibility. On the other supposition, Mr. Sergeant would have ceased to exercise the disputed power.

Such is the notion entertained by the Vice-President of the proper and usual mode of proceeding in a partnership concern. Our readers, who are at all familiar with business, will, we think, agree with us in the opinion that he has mistaken the matter entirely. In the case supposed, a Director of the Bank, who had heard of any facts which led him to suppose that Mr. Sergeant was exceeding his powers, instead of publishing the intelligence in the newspapers, and making it an occasion for open

scandal, would have gone quietly to the Bank, and mentioned what he had heard in private to the President. The President would have submitted the facts to the Directors at their next meeting. If the Board, represented by the necessary number of members, were satisfied that Mr. Sergeant was in fact exceeding his powers, the President would have written to him to that effect, and the Board would have taken the proper measures for remedying any mischief that might have resulted from his mistake. In the other event, the discontented Director would have been relieved from his apprehensions. In either case, the affair would have passed off quietly, without scandal, and, according to our apprehension, in the ordinary and regular way of transacting business.

Reasoning therefore analogically, from the relation between an agent and his principal in a partnership concern,—the only semblance of an argument which the Vice-President offers in support of his main position,—we should draw a conclusion of a directly opposite character, viz. that instead of proceeding at once to *nullify* and throwing upon the General Government the responsibility of bringing the subject before the other States, it would be the duty of a discontented State to begin by addressing herself in the way of consultation to the other States, her co-partners in the great political firm of the Union. We have already shown that it would be wholly impracticable from the nature of the case for the General Government, believing itself, as it does by the supposition, to possess the disputed power, to adopt any measure implying a contrary opinion. We have shown that the General Government has no authority under the Constitution to adopt such a measure. But admitting that it were both constitutional and practicable, what propriety would there be in it? If Carolina conceive that she has a right to complain of the proceedings of the common agent of the political partnership to which she belongs, and think that her partners ought also to attend to the subject, is she not perfectly capable of saying to them herself all that is necessary or proper on the occasion? Is it not obvious that the agent, who is supposed to be in fault, is the very last person who can be depended on to bring the question before the tribunal which is to decide upon it? Is it reasonable to expect that he will intermeddle in a matter in which he has really no concern, for the mere purpose of denouncing himself as a usurper of power, not granted by his commission? Is there

not a wanton and almost ludicrous absurdity in the very idea of such a proceeding? And independently of all this, how ungraceful in the General Government to apply for an augmentation of its own powers, and this too at the very moment when it is accused of exceeding them! Is it not apparent, that such an application would come with infinitely greater propriety from any other quarter? We can hardly believe that, on cool reflection, the Vice-President himself would sanction with his final judgment a theory pregnant with so many and such various incongruities.

It would therefore be the duty of the discontented State, instead of proceeding to *nullify* and throwing upon the General Government the responsibility of bringing the subject before the other States, to *begin* by addressing herself directly to the other States in the way of consultation. But in what form is this to be done? The Vice-President tells us, that the subject must be brought before the States 'in the only form in which according to the Constitution it can be, by a proposition to amend in the manner prescribed by that instrument.' But how does it appear, that this is the only or the proper form in which the business can be done? The object is to *ascertain the meaning* of the Constitution. Why resort for this purpose to a process intended for a totally different one, and, as we have seen, wholly unsuitable and ineffectual for this? Suppose that all the insuperable preliminary objections to which we have adverted are overcome;—that the General Government has applied for a grant of the disputed power, and that the States, as the Vice-President would of course desire, have refused the application;—how would the case then stand? Precisely as it does now. The question would still be, what is the meaning of the Constitution as it is? And after all that had taken place, it would still be just as far from a solution as before. Instead of resorting to a process intended for another purpose, and wholly ineffectual for this, why not employ the one which the Constitution provided and organized for this special object? 'The judicial power,' says the Constitution, 'shall extend to all cases in law and equity arising under this Constitution, the laws of the United States and the treaties made or which shall be made under their authority.' Why not submit the question at once to the Supreme Court? This is the method by which the States, when they established the Constitution, intended that all questions respecting the con-

struction of it should be decided. Nor does a resort to this method involve, as some suppose, the inconvenience of making the General Government the judge of its own powers. The Judiciary department, though nominally a branch of the General Government, is, and was for this express purpose meant and made to be, wholly independent of the other branches of that Government. It is properly a separate agency, established for specific purposes by the same authority which for other purposes established the Executive and Legislative branches. It has no community of interest, direct or indirect, with these branches, and is in all respects the most competent and capable, as it is the proper constitutional judge of the extent of their powers, as defined by the great charter of the Union.

But waving this point, upon which we are aware that the Vice-President's views would not agree with ours, and admitting for the moment and for argument's sake, that the Supreme Court is not the proper tribunal to decide in this case, the question still returns, Why resort to the form provided for making amendments? This is a form, in which the States act for a certain purpose within the pale of the Constitution. But this whole process of *nullification*,—if not, as we believe it to be, *unconstitutional*,—is at least, and is admitted to be by those who approve it, *extra-constitutional*. The State of Carolina throws herself back, (such is the received phrase) upon her *reserved rights*, and undertakes to decide, in her capacity as an independent State and a party to the Union, which she considers as a confederacy of independent States, whether the compact has been faithfully observed. She satisfies herself that it has been violated, and she now wishes to ascertain whether the other States agree with her in opinion. But how are these States to be consulted and to act in this matter? Obviously in the same capacity in which Carolina proposes it. She appears in this affair as a sovereign and independent power; as such she must address herself to the other States, and it is only in their capacity as sovereign and independent powers, resting on their reserved rights, that they can receive and act upon her communication. The whole affair, reasoning of course on the principles of the Vice-President, is *extra-constitutional*. Why then resort to a process, intended for the direction of the States while acting within the pale of the Constitution for its ordinary purposes? The Vice-President, in proposing this course, obviously forgets his own principles. The true one, on his sys-

tem, would be very different. Having taken her stand upon her reserved rights and assumed the attitude of a sovereign power, Carolina should exhibit a little more of the lion port and awe-commanding face. Instead of resorting to a paltry humiliating process, which supposes throughout the subordination of all the parties concerned in it to the common authority of the Union, our *soi-disant* sovereign, in order to be consistent, should send ambassadors to all the other States to communicate the business in hand. These again, being thus called on, must in like manner throw themselves back upon their reserved rights, and assume, for the time, the attitude of independent States. If a consultative meeting be deemed expedient, it must be a congress of ambassadors held by arrangement among the States, and in which they will appear by their ministers as independent powers. At such a meeting, the rule of deciding questions according to the opinion of the majority has of course no application. Although three-fourths or even all the States, except Carolina, should agree that the compact had not been violated, she would still be at liberty as a sovereign power to adhere to her own construction, and to hold herself in future exempt from the obligation imposed by the articles of union. Such, as we conceive, is the only process consistent with the theory of nullification, which the Vice-President, with submission to his better judgment, does not follow out to its proper and natural conclusion. We find accordingly that Georgia, who, although she has said but little about nullification, has, to do her justice, practised it for two or three years past with a vigor and consistency that rather put to shame the Carolina doctors of the science,—having thought proper to consult the other Southern States upon the propriety of assembling an anti-Tariff Convention,—instead of depending upon the General Government to bring the subject before them in the form provided for amending the Constitution, forthwith despatches her ambassadors to their several seats of Government to communicate her sovereign intentions, where, for aught we know to the contrary, they have been carrying on their negotiations up to this day.

So much for the first reason, why the doctrine, that a principal has, in ordinary cases, an unlimited right to construe the powers, and disavow the acts of his agent,—were it even true, as we have shown that it is not,—would in no way help the Vice-President's argument. Carolina is one of a number of principals, composing a partnership concern ; and if

she have any doubts about the propriety of the proceedings of the common agent, her only course is to consult with her co-partners, and to acquiesce in the opinion of the majority. But there is another reason still more substantial, why the doctrine in question, even if true, would be of no service to the Vice-President:—a reason leading at once to the heart of the whole argument, of which the matters thus far touched upon are merely the 'limbs and outward flourishes;' and that is, that a Government, although it may in a certain sense be called an agency, is an agency of a peculiar kind, carrying with it rights and obligations, of which the nature and extent cannot be deduced by analogy from those which are incident to the relation of agent and principal in private life, and can only be determined by a correct analysis of the structure of society and the original principles of the human constitution.

That the Government of the United States, though described as an agency, is to all intents and purposes a real *Government*, is frankly admitted by the Vice-President himself. 'In applying the term *agent* to the General Government, I do not intend to derogate in any degree from its character as a Government. *It is as truly and properly a Government as are the State Governments themselves.* I have applied it simply because it strictly belongs to the relation between the General Government and the States, *as in fact it does also to that between a State and its own Government.* Indeed, according to our theory, *Governments are in their nature but trusts, and those appointed to administer them trustees or agents to execute the trust powers.* The sovereignty resides elsewhere,—in the people, and not in the Government.' 'The Constitution of the United States, with the Government it created, is truly and strictly the Constitution of each State, as much so as its own particular Constitution and Government, ratified by the same authority in the same mode, and having, as far as its citizens are concerned, its powers and obligations from the same source.'

In these principles we fully concur, but in laying them down in this distinct and unequivocal manner, the Vice-President has, as we humbly conceive, conceded the whole matter in controversy, and given up every inch of ground which he had to stand upon. If it could be made out that the two Houses of Congress, the President, and the various executive and judicial

officers acting under them, are not a proper Government, but a mere agency constituted by four and twenty mutually independent States for certain specific objects, it would follow, not precisely that the theory of nullification is true, for this, as we have seen, is, at least as stated by the Vice-President in the document before us, not merely unconstitutional, but in itself essentially impracticable, incongruous and absurd:—but that any State which might be, for any or no reason, tired of the arrangement, would have a perfect right, after such consultation and advisement with the other parties as might be necessary to secure their interests, to revoke its powers. But the moment it is admitted that the two Houses of Congress, the President and the executive and judicial officers acting under them,—by whatever name they may be called,—are a *real Government:* —that the instrument by which they hold their powers is a *real Constitution*, the case changes. By the *Constitution of Government*, is meant, in every community, the great *social compact* which binds together the individual members into one body politic or political society. Whatever may be its form, character, or origin,—whether it be written or unwritten;—free, limited, or despotic;—whether founded in force, fraud, or voluntary association;—whether created by a number of previously independent States or by a number of previously independent individuals, so long as it is and is admitted to be a real *Constitution of Government*, it carries with it certain incidents which belong to it as such, and which are inseparable from its nature. Of these incidents, essential properties or characteristics of the *social compact*, the first in order are that the parties to it have not a moral right to withdraw from it at discretion, or to construe at discretion the powers of the Government created by it, but are bound to remain parties to it, and to acquiesce in the acts of the Government created by it, excepting in those extreme cases which justify open rebellion. These are principles universally acknowledged. No one has ever questioned them; no one has ever undertaken to maintain that the members of a political society have a right to withdraw from it at discretion, or that the laws of the land are not in ordinary cases binding on the citizens. The principle is equally true under all forms of government, as the Vice-President himself very correctly intimates, when he states that the relation between the General Government and the States is the same with that between the States

and their own Governments, or in general between all Governments and the societies in which they are established.

Such are the principles which, by *universal acknowledgment,* determine the relations between Governments and the political societies in which they exist. When therefore the Vice-President fully and formally admits that the two Houses of Congress, the President, and the executive and judicial officers acting under them are a *real Government;*—that the instrument by virtue of which they hold their powers is a real *Constitution* or *social compact,* he admits,—if he choose at the same time to describe them as an agency,—that they are an agency which the parties that constituted it, whether States or individuals, have not a right to revoke at discretion; an agency which construes its own powers, and has a right to enforce its own construction of them upon its principals, excepting in the extreme cases which justify a *violent resistance to the law:* he admits that nullification is either wholly unjustifiable or justifiable only as *resistance:* he admits, in a word, that nullification, if it have any proper and intelligible meaning at all, is only another name for *rebellion.* This is, in fact, the real truth of the whole business.

And this being the case, it is apparent that, even if the acts which the nullifiers propose to perform were justifiable, it would be on principles other than those which they profess; that their theory would still be erroneous, and their language incongruous and absurd. In certain extreme cases, the citizen is justified in resisting the execution of the law; but even then he has neither the right nor the power to *annul* or *repeal* it. This is an operation, which from its nature can only be performed by the same authority which enacted the law, viz: the Government of the country. The supposition made by the nullifiers, that in certain cases a citizen or a certain number of citizens have a right to annul or repeal the law of the land, is not merely an error, but a manifest absurdity, involving a contradiction in terms. In the cases which justify resistance, the principle upon which the citizen proceeds, is not that he has a legal or constitutional right to annul or repeal the offensive law,—which is the doctrine of the nullifiers,—but that he has a right, which he admits to be illegal and unconstitutional, but which he claims as a natural one, to make a violent opposition to its execution.

Such is the second reason, why the doctrine that a principal has, in ordinary cases, an unlimited right to construe the powers and disavow the acts of his agent,—were it even true, as we have shown that it is not,—would in no way help the Vice-President's argument. The General Government, if it be an agency, is an agency of a peculiar kind, which, from its nature, is not revocable at the discretion of the parties that constituted it, which construes its own powers, and which has a right to enforce its construction of them against that of its principals, excepting in those extreme cases that authorize rebellion.

This, as we have said, is the principal and leading consideration which governs the whole subject. Once admit, what the Vice-President fully recognises, and what no man in his senses can deny, that the General Government, call it agency or what you will, is a real Government;—that the instrument from which it derives its power is a real *Constitution* or *social compact*, and the argument is brought to a close: there is not a word more to be said about the matter. The acts of the Government are, as such, the law of the land. This results from the nature of the case, and is also affirmed in the Constitution, which, in order to avoid all doubt or difficulty about the point immediately in controversy in the present instance, expressly provides that the acts of the General Government shall be the Supreme Law of the land, *any thing in the Constitution or laws of any State to the contrary notwithstanding.* But to say that a citizen, or any number of citizens, can *annul* or *repeal* the law of the land, is, we repeat, a manifest absurdity. *Resist* it they *can*, and in certain extreme cases *may*: but that they should *annul* or *repeal* it, is a thing not illegal or unconstitutional, but impossible and unimaginable. The repeal of a law is as much an exercise of legislative power as the enactment of it, and from its very nature cannot be performed, unless by some person or persons invested with that power, in other words, by the Government. To assert the contrary, is in substance to assert that the same person can be sovereign and subject, or in a free State, in and out of office, at one and the same time.

We have thus endeavored, by a few plain considerations, to show, first, that the doctrine of nullification is not only unsanctioned by the Constitution, but wholly impracticable, and that

its results, if it could be carried into effect, would be of the most disastrous character:—secondly, that the only semblance of argument, by which the Vice-President attempts to sustain it in the document before us, is entirely without foundation. It follows from the view which we have taken of the subject, that the controversy respecting the origin of the Constitution, which has been often agitated in connexion with this question, is in a great measure foreign to it. Whether the General Government had its origin in the will of the State Governments, of the *people* of the States, or of the *people* of the United States is a point of no importance in the present inquiry, for those who admit that it is the real and rightful *Government of the country.* For those, if any such there be, who wish to establish the proposition that the Union is a confederacy of independent States, *subject to no common Government*, the question of the origin of the Constitution is an essential one, because it is in the circumstances attending it, that they must look for the proofs of their theory. But for those who believe that that instrument is a *social compact*, and the Government created by it a real Government, it is unnecessary, for the present purpose, to go beyond that fact, which proves, of itself, that its acts are the law of the land, and that in respect to them there is no middle course between obedience and rebellion.

As respects the origin of the Constitution, we will therefore merely remark, without enlarging on the subject, that we agree with the Vice-President in the opinion that it derives its authority from the States acting as distinct communities, and not from the aggregate mass of the people of the United States. The latter theory receives some countenance from the opening words of the preamble:—*We the people of the United States;*—but is obviously inconsistent with the facts attending the formation and adoption of the Constitution. Throughout the whole proceedings, the States appeared as distinct communities. Those States, which did not at first approve the Constitution, considered themselves and were considered by the other States as at liberty to remain without the pale, and actually did so remain for some years. This could not have happened if all the States had previously constituted one people, that is, one body politic. In that case the decision of the body, in whatever form it might have been collected, must have been obligatory upon all the members. Indeed, the preceding instru-

ment of Union, commonly called the Old Confederation, expressly recognises the sovereignty and independence of the States, and describes the Union as a league. The Congress which assembled under this Confederation was not a General Government, but a meeting of delegates or ambassadors, in which each State had an equal vote, and which merely recommended to the States the adoption of certain measures, which being adopted by them and in that case only, obtained the character and force of *laws*. It is obviously impossible to reconcile this condition of things with the theory, that the States, at the period immediately preceding the adoption of the Constitution, constituted one people. We find accordingly, that President J. Q. Adams, who, in his late Fourth of July Oration, professes the doctrine that the acts of Union which preceded the declaration of Independence combined the States into one people, and that they never existed as separate sovereignties, treats the old Confederation as a temporary departure from the true political system of the country. In other words, he admits that the character of it is inconsistent with his theory. But this Confederation, whatever may be thought of its value, undoubtedly determined for the time being the *actual* relation of the parties to it. There is reason to suppose, from the tenor of another late publication by Mr. Adams, that he considers the union of Great Britain and Ireland as a departure from the true political system of those countries; but he would probably not think of maintaining, as a consequence of that opinion, that Ireland is at this moment an independent State. On our view of the subject, therefore, the States, from the period of the Declaration of Independence to that of the establishment of the Constitution, existed, in form at least, as distinct communities, independent of each other, and, though confederated for certain purposes, not subject to a common Government. The Constitution, by which they subjected themselves to a common Government, was the act which gave them the character of *one people*. The form of distinct communities, under which they existed during the period alluded to, may have been, as we agree with President Adams that it was, an unfortunate expression of the substantial condition of the population of this continent; but this is a question not of substance but of form, and such undoubtedly was, for the time being, the form of their political existence.

We are therefore disposed to agree with the Vice-President in the opinion, that the parties to the great social compact, entitled the Constitution, were not the individual citizens composing the whole people of the United States, but the several distinct communities into which they are divided, and which were at that time,—to use the ordinary language,—sovereign and independent States. We may remark *en passant* that the phrase *Sovereign State*, which certain persons employ so frequently and appear to consider as pregnant with important political conclusions, though it may, perhaps, be sufficiently authorized by usage to be received as good English, is not, in the strict and proper use of language, admissible, and is therefore better avoided in all precise and scientific discussion. The word *sovereign* has the same etymology with *supreme*, of which it is another form, and properly implies, as that does, comparison with something else. Thus the *Supreme* Being is the highest of all beings: the *Supreme* Court is the highest of all the Courts: the *Sovereign* power in a State is the highest political authority. But States, being as such politically independent of each other, cannot in the nature of things stand towards each other in the relation of superiority or inferiority, and can of course be neither *sovereign* nor *subject*. We find, accordingly, that in the Declaration of Independence,—a document remarkable throughout for great propriety in the use of language,—although it was once quoted by Governor Hamilton, on some public occasion, as saying that the United Colonies are, and of right ought to be, free, sovereign and independent States, the word *sovereign* is not employed. The language used is that the colonies are, and of right ought to be, free and independent States. As applied to States, the word *sovereign*, if it have any meaning at all, can only mean *independent*. In this sense it is no longer applicable to the several States composing the Union, which, since the adoption of a common Government, are not politically independent of each other. This is not a merely verbal criticism. Words are things; and we strongly suspect that the frequent use of this incorrect, ambiguous, and,—to recur again to the language of Governor Lumpkin,—*mystical* phrase *Sovereign State*, has created a good deal of embarrassment, which the substitution of the more correct and intelligible term *independent* would have in part prevented.

To return, however, from this digression:—although we

agree with the Vice-President in the opinion, that the Constitution had its origin in the will of the States acting as distinct communities, we cannot acquiesce in the conclusions which he deduces from this fact, or admit that, for the present purpose, it makes any difference whatever in the case. Independent States may form themselves into a body politic, as well as independent individuals. Such is in fact the historical origin of most of the communities now existing throughout the world. They are in general aggregations of smaller communities, previously existing in an independent form. Where the States, so forming themselves into one body politic, retain for certain purposes a distinct name and character, their position in the body politic, of which they form a part, is precisely the same with that of the individual citizens in an ordinary community. This, as we have seen, is fully and distinctly admitted by Mr. Calhoun himself. He admits that the General Government is as fully and properly a Government as are the State Governments themselves, and that the relation between the General Government and the States is precisely the same with that between the Governments and citizens of the States, or in general between the Governments and citizens of any other community. How then can he possibly claim for the States a right of annulling the acts of the General Government, when he certainly would not think of claiming such a right for the citizens of the several States, or of any other political societies, in reference to their respective Governments?

It may be true, as Mr. Calhoun intimates, that a State Government has no right to enforce its construction of the Constitution of the State against the people of the Stare, appearing in their sovereign capacity; or, more generally, that in our theories of government the people of any country, acting in their sovereign capacity, have a right to construe, alter or totally destroy the Constitution at discretion. But supposing this to be true, would it follow that every individual citizen has a right to annul the Constitution, or any part of it, at discretion? Would Mr. Calhoun himself think of drawing such a conclusion, in reference to the individual citizens of the States, or of other communities?—Undoubtedly not. How then can he with the least regard for consistency draw it in reference to the individual States, which, as he tells us himself, stand in precisely the same relation to the General Government, in which the

individual citizens of the States and of other communities stand in relation to their respective Governments?

The right claimed for the States of annulling the Constitution and laws of the United States, must, says the Vice-President, belong to them, unless they have expressly surrendered or transferred it. We have already seen, that no member of a body politic, whether composed of States or individuals, does or can possess a right to annul or repeal the law; and that the contrary proposition involves a contradiction in terms. Were the Constitution wholly silent on the subject, the mere fact that they had formed themselves, by a solemn social compact, into one great people, subject to a common Government, though retaining, as distinct communities, no inconsiderable share of the legislative power,—this fact alone, we say, would have carried with it a peremptory obligation upon the States to obey the law as construed by the courts of justice, excepting in the extreme cases that justify resistance. It would, however, be natural enough for independent States, in forming a compact of this description, to introduce an expression of this obligation; and it may be a matter of curiosity to consider for a moment what language could have been used, in order to express the idea in the most direct and unequivocal manner. To one who was seeking for such an expression, some such phrase as the following would probably occur. *No State shall have a right, either in the exercise of the sovereign (constitution-making) or the ordinary legislative (law-making) power, to annul or arrest the execution of this Constitution, or any law made in pursuance of it by the General Government.* This, we say, or something like it would probably be the language, which would occur to any one who was seeking for the most direct and unequivocal expression of the idea, that the States have no right to set up their authority against that of the General Government. Now the language of the Constitution on this subject is still more decisive, because it expresses the same ideas conveyed by that here supposed in two forms, the one positive and the other negative. *This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land.* This positive declaration carries with it, as we have said, by implication, the full import of the negative one which we have supposed above: but in order to make assur-

ance *doubly* sure, the framers of the Constitution added a negative declaration, which, though more concise than the one we have supposed, is of precisely the same meaning; *and the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding.* This declaration, we repeat, though more concise, is equivalent in meaning to the more extended expression of the same idea, which we have imagined as the most direct and unequivocal that could possibly be used.—*Any thing in the laws of any State to the contrary notwithstanding.*—No State, in the exercise of its ordinary law-making power, shall have a right to annul or arrest the execution of this Constitution, or the laws made in pursuance thereof by the United States. *Any thing in the Constitution of any State to the contrary notwithstanding.* —No State, in the exercise of her sovereign or constitution-making power; no State, acting in her sovereign capacity, shall have a right to annul or arrest the execution of this Constitution, or the laws made in pursuance thereof by the United States. Any act that may be done for this purpose is to be, *ipso facto*, null and void. *The judges shall not be bound by it.* Will the Vice-President or any person of plain common sense undertake to say, that this is not a correct paraphrase of the negative clause in the Constitution? If it be admitted that it is, will the Vice-President or any man of plain common sense undertake to say, that if the framers of the Constitution had employed the language of this paraphrase instead of the concise equivalent phrase which they used, there could be any doubt respecting the character of the present proceedings in Carolina? There is, in fact, no doubt about it.

It is painful to see a person so distinguished for talent, and, as we have hitherto been willing to believe, for uprightness of purpose, as Mr. Calhoun is, attempting to escape by a side path from the plain and obvious meaning of this clause, which he shrinks from meeting in the face. He alludes to several propositions that had previously been submitted to the Convention which framed the Constitution, for the purpose of making the acts of the General Government paramount to those of the States; and because these were rejected, he concludes, that the one which was adopted is not to be carried into effect according to its plain and natural sense. Is this fair argument? Is it even plausible? It is impossible, within the narrow compass

of an article, to go fully into every part of this vast subject; but any one, who will take the trouble to examine the proceedings of the Convention, will readily see why they rejected the first propositions, and why they adopted the last. As the States retain a very considerable portion of the legislative power, and remain, for many purposes, distinct communities, it was thought important that, in regard to the exercise of the powers so retained, they should not be under the formal control of the General Government:—in other words, that so far as they were sovereign, they should not be subject. Hence the rejection of the proposal of General Hamilton to give the President a negative on all State laws; and hence subsequently the amendment of the Constitution, by which it was ordained that no State should be sued at law. This was all perfectly proper: but it was also essential that the paramount authority of the acts of the General Government should be secured, and the object was attained by the proposition finally adopted, which declares distinctly, both in a positive and negative form, that such is the understanding of the Convention, and leaves it to *the Courts of Justice* to enforce the provision. This plan is just as effectual as the other would have been, because the decisions of the courts may and must be sustained, if the occasion require it, by the whole military force of the country; while at the same time it removes the possibility of any actual collision between the two law-giving powers, in the regular performance of their functions. Each exercises a complete and uncontrolled discretion as to the objects and extent of its own legislation;—puts its own construction upon its own powers;—passes, in short, any laws which it deems constitutional and expedient. Neither, in this form of action, has any control over the proceedings of the other.—The General Government has no more right to annul an act of the State of South Carolina, than the State of South Carolina has to annul an act of the General Government. But when the proceedings of the two powers come into collision,—as it may well be supposed that, under such circumstances, they occasionally will,—the silent operation of the Courts of Justice gives the ascendancy, where the Constitution declares that it belongs, to those of the General Government. The provision, like most others in the Constitution, is obviously the simplest and best that could have been adopted. The rejection of other propositions of similar tendency only proves that the Convention considered the sub-

ject very maturely, and successively laid aside the several imperfect and inexpedient methods of effecting the great object in question, which were proposed to them, until they finally hit upon one that was satisfactory.

In alluding to this decisive clause in the Constitution, the Vice-President omits entirely the negative part of it, and quotes it in the following form:—*This Constitution and the laws made in pursuance thereof shall be the supreme law of the land.* He then adds that he shall not go into a minute examination of its effect, the subject having been already so frequently and so ably investigated, that he deems it unnecessary. This might have been a good reason for not discussing it at all; but if it was expedient to discuss it at all, it seems hardly proper that the most material point in the argument should be passed over in silence. The omission looks very much like conscious weakness. For ourselves, we have met with no suggestion, whether made on this or any former occasion, which, according to our views, has thrown even the shadow of a doubt upon the meaning of the passage. The pretext for a question would probably be sought in the qualification, *made in pursuance of the Constitution.* It may be said that, under this qualification, laws not made in pursuance of the Constitution are not paramount to those of the States. But this phrase has obviously no bearing on the point in question. The meaning is, that the Constitution and the laws of the United States, made *in the manner prescribed by it*, or *for the purpose of carrying it into effect*, shall be the paramount law of the land, just as in the other part of the phrase it is said, that treaties made *under the authority of the United States* shall also form a part of this paramount law. In both cases, there is no reference to the question, whether the law or the treaty has been made in a rightful or wrongful exercise of the legislative or treaty-making power. It is merely affirmed that the acts of the General Government, performed in the exercise of their powers under the Constitution, are paramount to those of the States. The same language is used in the Ordinance of Nullification, which declares that 'this Ordinance and the laws *made in pursuance thereof* by the legislative power of the State, shall be binding on the citizens.' It is obviously not intended, that the citizen shall judge for himself whether the laws so made are or are not agreeable to the tenor of the Ordinance, but merely that the laws which the assembly,—acting under

this Ordinance or in consequence of the recommendation contained in this Ordinance,—may pass, shall be obligatory.

This qualification, which has sometimes, we believe, been regarded as very significant, has therefore no bearing on the point in question, nor is it, as Mr. Calhoun imagines, by the clause conferring on the Supreme Court the power of deciding in all cases arising under the Constitution, that the States are supposed to be deprived of their right of putting their own construction upon the powers of the General Government. The right of deciding on the constitutionality of the laws of the United States, belongs, from the nature of the case, to the courts, and is expressly given to the Supreme Court by the Constitution; but the possession of this right by the courts does not carry with it that of deciding, that an act of the General Government is of paramount authority to one of a State. On this subject, we are quite surprised at the looseness of the Vice-President's reasoning, and its apparent inconsistency with the general scope of his doctrine. 'Where there are two sets of rules,' he remarks, 'prescribed in reference to the same subject, *one by a higher and the other by an inferior authority*, the judicial tribunal called on to decide the case, must unavoidably determine, should they conflict, which is the law; and that necessarily compels it to decide that the rule prescribed by the *inferior power*, if, in its opinion, inconsistent with that of the higher, is void.'—This doctrine is strange indeed in the mouth of the Prince of nullifiers and great champion of State Sovereignty. Where, we would ask, has the Vice-President learned that the State Governments are inferior and the General Government a superior power?—We must inform him, that without being nullifiers, and without believing in the doctrine of State Sovereignty, we make no such admission for Massachusetts. The State and General Governments, each of which exercises, independently of the other, a portion of the sovereign or legislative power of the people, are neither superior nor inferior to each other: they are precisely on a level. The right of deciding on the constitutionality of the acts of the General Government would no more of itself authorize the judges to decide that they are paramount to those of the States, than it would authorize them to decide that the acts of the States are paramount to those of the General Government. The two Governments, considered as distinct legislative powers, are on a footing of perfect equality. The question, which shall

prevail when their acts come into collision, must be decided by the nature of the case, and by the specific provisions of the Constitution. It follows, from the nature of the case, that the acts of the General Government, which represents the body politic of which all the States are members, must have an authority paramount to any other existing in the community; and this conclusion is confirmed by the letter of the Constitution, which expressly declares, in so many words, that the acts of the General Government are paramount to those of the States. It was by forming themselves into one body politic, and by expressly stipulating with each other in the compact by which this body politic was formed, that the acts of the General Government representing it should be paramount to their own, that the States surrendered the right of putting their own construction on the powers of the General Government; and this is the foundation of the authority possessed by the judges, when, by virtue of a different clause, they take cognisance of cases arising under the Constitution, to decide, as they undoubtedly must and would do, that any act of a State, whether in its sovereign or legislative capacity, pretending to annul an act of the General Government, is of itself, *ipso facto*, null and void.

Finally, says the Vice-President, 'it belongs to the authority which imposes an obligation, to declare its extent, as far as those are concerned on whom the obligation is placed. The obligation upon the individual citizens of the United States to obey the laws, results from the acts of their respective States, by which they became parties to the Union; and a similar act of the same authority declaring the extent of the obligation must be of equal authority, and of course releases the citizen from the obligation which he came under, by the effect of the former one.'

This is a point of great importance. It is here admitted, that the individual citizens are under an obligation to obey the law which the State is attempting to annul; but it is affirmed, that they may be discharged from this obligation by an act of the State annulling the law, *because* the same authority which imposed the obligation upon them has a right to release them from it. It is a matter of high concern for all who wish to know, and knowing, mean to perform their *duties*, to inquire how far this principle is true, or, if true, applicable to the present case.

The same authority which imposes an obligation must of

necessity possess the right of dispensing with it, or declaring its extent. This principle, properly explained, may be received as true. But what is the authority which imposes the obligation,—for example, to execute a contract? Does the Vice-President suppose that it is the *will* of the parties who make the contract, and that the same will which brought each of them under the obligation, can, at any time, release him from it? Does he suppose, for example, that it is the will of the two parties to a contract of marriage which imposes upon them the obligations incident to that contract, and that either party can, by a mere act of the will, exempt him or herself from these obligations? We are quite sure, that Mr. Calhoun would not himself think of maintaining a doctrine so monstrous. What then is the authority which imposes the obligation? The answer is plain. The authority imposing the obligation is the one which makes the law, from which the obligation results. In ordinary cases, when the obligation results from the laws of the land, the authority imposing it is the Government of the country. In the case of contracts between parties not subject to the same Government, the obligation results from the moral law, and is imposed by the will of the great Lawgiver of the Universe. The present is the case of an obligation resulting from the law of the land. The citizens of South Carolina are bound to pay the duties required by the existing Tariff, because it is a part of the law of the land. They were brought under the obligation to obey the laws of the United States, by the act of the State of South Carolina, by which she and twelve other States formed themselves into one body politic, under a common Government, just as an individual is brought under the obligations resulting from a contract of marriage, by his own will to enter into it. But the authority imposing the obligation is in both cases not the will of the party, but the Government of the country. The Government has the same right to repeal or alter the law which it had to enact it, and in this sense the principle is true, that the same authority which imposes the obligation, has a right to dispense with it or to declare its extent. But the citizens of South Carolina, whether in their individual or joint capacity, have no more right to exempt themselves, by any act of their own, from the obligation to obey the laws which they have come under by adopting the Constitution, or to declare its extent, than they have to exempt themselves by their own act from the obligation to support their wives and children, which they have come under by entering

into contracts of marriage. Nor does it make any difference that the act, by which the citizens of Carolina became parties to the social compact, was performed by them in their joint and not in their individual capacity. There are many cases, in which individuals are brought under obligations of various kinds by acts partly or entirely independent of their own will. A child is brought under the obligations which he owes to his parents by an act of theirs, over which he had no control. Will it be pretended that they have a right to relieve him from these obligations, or to determine their extent? A husband is liable for his wife's debts,—a principal is bound by the acts of his agents,—a ward by those of his guardian:—will it be pretended that the wife, the agent, the guardian has, either in law or morals, a dispensing or interpreting power over the obligations which they have brought upon other individuals by their acts? No person of sound mind could hazard so extravagant an assertion. Just as preposterous would it be to imagine, that because the citizens of Carolina were brought under their obligation to obey the laws by an act of the State, that is, of themselves in their joint capacity, they have therefore a right, acting in their joint capacity, to exempt themselves individually from this obligation. Common sense revolts at the suggestion. It is really wonderful, that principles so palpably erroneous should be depended on by a man like Mr. Calhoun, as a justification for measures of such transcendent importance and fearful tendency.

The principle that the same authority which imposes an obligation may dispense with or determine its extent is therefore, rightly understood, a true and salutary one: but instead of sustaining the Vice-President's doctrine, it completely refutes the very point which it was employed to establish. The authority which imposes upon the citizen the obligation to pay the duties is the Government of the country; and the same authority only can, by repealing or modifying the law, release him from this obligation, or in any way affect its character.

We have thus adverted, somewhat in detail, to the principal points in the Vice-President's exposition, and have endeavored to show that the doctrine of nullification is, upon the face of it, unconstitutional, impracticable and of ruinous tendency, and that there is no solid foundation for the few considerations of an argumentative character, by which Mr. Calhoun has endeavored to support it. Before taking leave of the subject, it may be proper to notice some views of a rather more general

description which occupy a considerable portion of his letter, and are evidently regarded by its author as highly interesting and important.

It has often been objected, and as we conceive with great justice, to the pretensions of the Carolina politicians, that they contradict the acknowledged principle of republican Government, that the will of the majority should govern. That one State should undertake to annul the proceedings of the whole twenty-four, is a thing plainly at variance with this received and salutary axiom. In attempting to reply to this objection, the Vice-President takes a distinction between what he calls *absolute* and *concurring majorities*. By the former, he understands the numerical majority of the citizens taken in the aggregate; by the latter, a majority of the different sections, classes or interests into which they are divided. The absolute majority has, as he conceives, a constant disposition to encroach upon the rights of the minority; and in order to protect the sections or interests of which the minority is composed, it is important that each of these sections or interests should have a voice, as such, in the administration of the Government. In this country the distinct sections or interests are chiefly the States; and the doctrine of nullification, in authorizing a single State to arrest the action of all the rest, although it contravenes the principle of the absolute, is in perfect accordance with that of the concurring majority. This latter principle is recognised, according to the Vice-President, in the political institutions of most of the free States of all periods. He cites particularly the case of Rome, where the tribunes, representing the Plebeian class, had a negative upon the acts of the Senate. In this country, he conceives it to have been the intention of the framers of the Constitution, that the principle of the absolute majority should prevail in the ordinary business of administration, and that of the concurring majority in all questions belonging to the formation, amendment or construction of the Constitution. This is the great secret of the 'solidity and beauty of our admirable system;' and the doctrine of nullification, which proceeds upon this principle, instead of having a tendency to weaken this system, on the contrary confirms and carries it into effect in one of its most essential and salutary provisions.

To reasoning of this kind,—were it even more specious and plausible than this in our opinion is,—it would be a sufficient

answer, that it is entirely of an abstract and speculative character, and affords of course no proper basis for important political action. It is, in fact, one of the most curious circumstances in this affair, that the leading Southern politicians have throughout founded their pretensions, and predicated the measures they recommend on principles, economical and political, not only wholly theoretical and vague, but before unheard of, broached by themselves for the first time, and repugnant to the received opinions of the whole practical and scientific world. Such is their doctrine, that the producer and not the consumer pays the taxes:—such is this of absolute and concurring majorities. The very language employed is entirely new. The phrase *concurring majority*, which, taken separately, is wholly unintelligible, and when explained as it is, involves a contradiction in terms, was, as far as we are informed, invented by Mr. Calhoun. Now we put it in perfect sincerity to the conscience of that gentleman and his political friends to say, whether it is fair and reasonable to expect, that the people of the United States will adopt instantaneously as a rule of action in the most important concerns, the new theories that may occur to a few citizens, however distinguished, in their abstract speculations on the sciences of politics and political economy. We cheerfully give full credit to the discoverers of these hitherto unheard of principles, for their talents, ingenuity and research, and should always listen with great attention to the suggestions they might make; but we cannot consent to receive them at once, and without reflection or examination, as infallible guides for conduct or even opinion. Before an abstract principle, however plausible it may appear, can be safely adopted as a basis of action in important matters, whether public or private, it must for a long time be canvassed, examined, opposed and defended, until it is finally admitted into the number of acknowledged and popular truths. We find, accordingly, that in the British Parliament, which affords the most illustrious example of deliberative legislation, no appeal is ever made to abstract principles, even such as are generally admitted. The argument turns entirely upon precedent and plain common sense. During the last fifteen or twenty years, propositions have been repeatedly made in the House of Commons of measures predicated on the pretended discoveries of Malthus, in regard to the law of population. But, although the belief in his

doctrines was at one time nearly universal, and was probably shared by most of the members of Parliament, no measures predicated upon them could ever be got through. The event has fully justified this caution, the doctrine in question being now almost as universally rejected as it was at one time admitted. In the French Chambers, there is a greater disposition to abstract speculations, but the reference is always, in form at least, to acknowledged and received principles. No individual, as far as we are informed, ever undertook even there to broach an entirely new theory upon any subject, and demand, at the same moment, that it should be made the basis of immediate proceedings of the highest moment. To do this was reserved for the statesmen of the Carolina school, and they have done it at every stage in the progress of this business. At the very outset, Mr. McDuffie one fine morning rises in the House of Representatives, and, after entertaining his colleagues with a dissertation on the abstract principles of political economy, concludes by saying to them,—'Gentlemen, all this is entirely new: nobody ever heard of it before; it is directly opposed to all the received opinions on this subject; Adam Smith, Say, Ricardo, Hamilton, Gallatin know nothing about it, but so it is;—*ipse dixi;*—I have said it, and you will of course act upon it, and change at once the whole basis of your economical legislation.' The majority, as might naturally have been expected, decline complying with this polite proposal. This refusal is the intolerable grievance, of which the Carolina gentlemen are now complaining. What shall be the remedy?—At this point Mr. Calhoun in his turn takes the field, with an entirely new theory on the principles of the Constitution; for the very statement of which he is obliged to invent new forms of language, and which goes to nothing less than giving to one member of the body politic a right of controlling the action of all the rest. Novel, dangerous as, on the face of it, it is, this speculation too must be made the basis of immediate action: and sorry we are to say, that its author has found, in his own State, a majority of the community prepared to act upon it. For ourselves, we cannot recognise such a mode of proceeding as judicious, customary, or at all admissible in the practical administration of a wise and great people.

This being the true answer to this part of Mr. Calhoun's argument, it is unnecessary to go at length into an examination of the doctrine of absolute and concurring majorities.

We shall therefore merely remark that it is, as far as we have considered it, as incorrect and unsubstantial, as it is novel. It is important, no doubt, that the respective interests of the various territorial, professional, religious and other sections of society should be, as far as may be convenient, represented in the administration of the Government. This was the first rude form, in which the great modern discovery of the principle of *Representation* in Government dawned upon the minds of our European ancestors. The idea was acted upon in the political assemblies of the middle ages, denominated States General and Parliaments, in which the nobles, the clergy, the cities, the commons, and in some cases the peasants had each a separate representation. But in these and all other similar cases, the object was to obtain a concurrence of the different classes of society in *making* the law: nor do we believe that any example can be produced, either from ancient or modern history, with perhaps the single exception of the *Confederations* of Poland, in which the Constitution, written or unwritten, that is, the form prescribed by express agreement or usage for *making* the law, expressly authorizes any individual citizen or class of citizens to *break* the law. The idea is obviously self-contradictory and absurd. The case of the tribunes at Rome, to which the Vice-President alludes, is not in point. The tribunes possessed, by law, a negative upon the acts of the Senate, precisely as the President of the United States and the Governors of all the States possess a qualified negative upon the acts of Congress, and the State Legislatures. An act of the Roman Senate, which was negatived by a tribune, never became a law, and of course could not be *nullified*.

In our Constitution, the idea of representing different interests in the machinery for making the law, has been retained in favor of the States. These, independently of their representation on the principle of the numerical amount of their population in the House of Representatives, have a distinct representation on a footing of perfect equality in the Senate. A bill, which has obtained the sanction of the two Houses of Congress, has *ipso facto* been approved by a representation of the *absolute majority* of the whole people of the Union, and of what the Vice-President is pleased to call the *concurring majority*, that is, a majority of the representatives of the States, considered as distinct communities. The arrangement is one, which the Vice-President, reasoning consistently upon his own

theory, ought to consider as perfect. But this does not satisfy him. Not content with obtaining for each of and all the States a full representation, on the principle both of the absolute and concurring majorities,—the very thing which he professes to wish for,—he insists that each shall have *in addition* for itself a right to *break* the law, which it has itself concurred in making:—that each State, after co-operating by its presence in imposing upon the other States the obligations resulting from a law, has a right to exempt itself by its own separate act from bearing its own share of these burdens; and,—as the rights of all the States in this respect are of course the same,—that the law, which is in form binding upon every body, is in fact and in reality binding upon nobody, since each of the parties supposed to be bound by it possesses individually a right to break it. —A right to break the law!

This is really too extravagant, and were it not for the respect which we have heretofore been disposed to entertain for the talents and character of Mr. Calhoun, we should find some difficulty in believing that he can be honest in expressing such opinions. The case furnishes a very strong example of the extent, to which party feeling and disappointed personal ambition can bewilder the conceptions of a naturally acute and powerful mind. If the Vice-President will review his principles, with only a small portion of the sagacity and correctness of judgment which he could bring to any other subject, he will see at once that the right which he claims for the States, is not that of being represented as distinct interests in the making of the law, (which they are by the Constitution) but that of *resisting* the execution of it, when made; and that the proceedings in which he is engaged, whether justifiable or not, are essentially *revolutionary*.

The Vice-President indulges in another course of remarks of considerable extent, which, though not directly applicable to the leading points of the argument, are of too serious a cast to be passed over without notice. He undertakes to show, that the Government of the Union would not be authorized to employ force against a State which should annul one of their acts; and, anticipating the objection that nullification is equivalent to a secession from the Union, which would place the seceding State in the attitude of a foreign one, he proceeds to reply to it by pointing out what he considers the distinction between *nullification* and *secession*. Secession is the actual

retirement of one of the partners to a common concern; nullification is the refusal of the same partner to be bound by an act of the common agent. The object of the former is to dissolve the partnership,—of the latter, to confine it to its proper object. The right to secede, that is, to avoid the obligation of all the acts of the partnership, supposes the right to nullify, that is, to avoid the obligation of one: and there is therefore an obvious inconsistency in the theory of those, who, as the Vice-President tells us is the case with many persons, admit the former and deny the latter. For himself, he liberally concedes both: a State, according to him, has a right at discretion either to exempt itself by its own act from the obligation to obey any particular act of the General Government, or to nullify the whole, Constitution and all, at one fell swoop, and secede entirely from the Union.

Presented in this crude, unsophisticated and unqualified shape, the system of the Vice-President becomes almost ludicrous; but when we recollect the respectability of the quarter from which it proceeds, and the serious aspect which the practice upon it is assuming at the South, a painful feeling irresistibly predominates. Did Mr. Calhoun, when he was entering on these forbidden speculations, recollect the impressive language in which the Father of his country, forty years ago, pointed out their danger? 'It is of infinite moment, that you should properly estimate the value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual and immoveable attachment to it; accustoming yourselves to think and speak of it as the palladium of your political safety and prosperity; *discountenancing whatever may suggest even a suspicion that it can in any event be abandoned;* and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together its various parts.' Is it *discountenancing whatever may suggest even a suspicion that the Union can in any event be abandoned*, to affirm explicitly and without qualification, that every State has a right at its own discretion to secede from the Union? Is it *frowning indignantly upon the first dawning of every attempt to enfeeble the sacred ties which link together the United States*, to maintain that these links are a mere cobweb, which any one of the States has a right to break through or shake off at its own discretion? Is this a fit and proper lesson to come from the high places of

the Federal Government, from the second in rank of the citizens who have been selected from the whole country, as the immediate executors of the great charter of the Union? We agree with Mr. Calhoun, that of the two heresies to which he alludes, the greater includes and supposes the less:—that it would be inconsistent for any one, who admits the right of nullifying at once, by secession, the Constitution and all the laws, to deny the right of nullifying one; but we utterly deny that either can be reconciled with the letter or spirit of the Constitution. The social compact,—like the contract of marriage,—is one in which the parties take each other for better or worse, for sickness or health, for life and for death. It is one from which they have no right to retire at discretion. They can have no right, as States or individuals, to avoid, either wholly or in part, the obligations of this compact, and the laws made under it, for the plain and unanswerable reason, that this compact and the laws made under it are the rule which determines for them what is right, and that opposition to the rule of right must of course be wrong. Extreme cases may undoubtedly occur, in which the obligation may, either wholly or in part, be innocently avoided; but they cannot, from the nature of the subject, be either contemplated in or reconciled with the law. The patriot shrinks from dwelling upon the circumstances under which they would happen, as he would from imagining a case, that should justify him in lifting his hand against his own father. His heart sickens at the thought that any such contingency can possibly occur. If forced to meet it, he makes no vain attempt to reconcile his conduct with the rule which he violates; no pretension to obey and break the law at one and the same time:—he boldly avows that his act is unconstitutional, and appeals for its justification to the Supreme Governor of the Universe, who has engraved upon the heart of man a law which, in some extreme cases, he is permitted to regard as paramount to every other.

We have now finished what we thought it necessary to say in the way of direct commentary upon Mr. Calhoun's exposition. On the leading points of the question, we have argued chiefly from his admission, which is made in the fullest and most explicit manner, that the United States are under a common Government, holding the same relation towards them that the Governments of the several States and all others hold to the communities over which they are respectively established.

From the fact thus admitted, it follows, of necessity, as we have repeatedly remarked, that the Constitution is not a league or treaty, but a social compact, and that the Union is not a cluster of twenty-four independent States, but one body politic composed of twenty-four members,—each exercising a certain portion of the legislative or sovereign power, but having no pretension to independence. If this admission had been made unguardedly by Mr. Calhoun, and were not assented to by other champions of the same creed, it would be unfair to take advantage of it in the argument; but this is not the case. This exposition by the Vice-President is recognised by the nullifiers as the most authentic statement that has yet appeared of their sentiments, and is constantly referred to as the standard and symbol of the true nullifying faith. Other writers of high authority on the same subject hold the same language with the Vice-President, particularly the authors of the addresses issued by the late Columbia Convention. The Report, attributed to Mr. McDuffie, declares that 'the States entered into a *solemn compact* with each other, by which they established a *General Government*,' and quotes in support of his position the remark of Mr. Jefferson, that the States, by a *compact*, under the style and title of the Constitution of the United States, constituted a *General Government*. In like manner Mr. Turnbull, in his address to the people of South Carolina, tells them that 'the Constitution of the United States is admitted by contemporaneous writers to be a *compact* between (formed by) sovereign States, and that the subject matter (object) of that compact was a *Government*.' Finally, General Hayne, in the address to the people of the United States, remarks that the 'Constitution is a *compact* formed between the several States, acting as distinct communities, and that the *Government* created by it is a joint agency of the States.' They all pursue the same line of reasoning with the Vice-President, frequently quote his language, and evidently consider his writings as the creed of the party.

So far, indeed, is the admission to which we have alluded from being made by the Vice-President unguardedly or unintentionally, that in other parts of his exposition he in fact goes by necessary implication a great deal farther. He not only recognises the existence of a common Government, and consequently of one body politic, but lays it down as one of the leading points of his doctrine, that this body politic has *unlimited power* over its members, the States. Strange as it may

appear to readers who have not looked attentively at the subject, it is actually one of the leading articles of the nullification creed, as expounded by the Vice-President in the document before us, that the United States are a body politic, possessing under the Constitution unlimited power over all its members. A State nullifies an act of the General Government; the General Government is then bound to apply to the States for a grant of the disputed power, in the form prescribed for amending the Constitution.—If three-fourths of the States grant the power,—what follows? *The nullifying State is bound to acquiesce.* 'If granted,' says the Vice-President, 'acquiescence would then become a duty on the part of the State.' No matter how large the concession,—no matter how important the alteration made in the character of our institutions,—should the General Government even claim a right to exercise all the powers of an unlimited military despotism, let but the change be proposed and carried through in the form of an amendment of the Constitution, and the individual States are *bound to acquiesce!*

And yet these States, who have not only formed themselves into one body politic under a common Government, to which they have delegated the most important powers that are exercised by other Governments, but who have bound themselves to each other to acquiesce in any extension of these powers that may be agreed upon by three-fourths of the number, remain nevertheless as completely sovereign and independent, since the conclusion of the compact containing these provisions, as they were before!

In what way the characters of sovereignty and independence are to be reconciled with the obligation, not only to obey a Government possessing certain specified powers, but to acquiesce in any extension of these powers that may be agreed upon by certain other parties, without the consent of the supposed sovereign and independent State, neither the Vice-President, nor Gov. Hamilton, nor Gen. Hayne, nor Mr. McDuffie, nor Mr. Turnbull, nor any other writer on the subject of nullification has condescended to inform us. They all freely admit, that the States are bound in ordinary cases to obey the laws made by the General Government:—that even in the particular cases where they have a right to nullify these laws, they are bound to submit to the decision of three-fourths of the States; and that in general they are bound to acquiesce in any extension of the powers of the General Government, that

may be agreed upon without or against their consent by three-fourths of the States; but still maintain with one voice and an air of honest wonder that any body can differ from them, that each State is still, to all intents and purposes, as completely sovereign and independent, as before the adoption of the Constitution. 'The several States,' says the Report of the Columbia Convention, 'retain their sovereignty unimpaired.' 'The States are as sovereign now,' says the address to the people of Carolina, 'as they were prior to entering into the compact.' It is admitted that 'a *foreign* or inattentive reader, (*Qu:* Is Mr. Turnbull a native citizen?) unacquainted with the origin, progress and history of the Constitution, would be very apt, from the phraseology of the instrument, (a pretty good ground, one would think, for argument upon its meaning) to regard the States as having divested themselves of their sovereignty, and to have become (*regard to have become*, is not good English, Mr. Turnbull) great corporations, subordinate to one Supreme Government.' 'But this,' it seems, 'is (would be) an error.' 'The Federal Constitution is a treaty, a confederation, an alliance,' the parties to which are 'so many sovereign States.' General Hayne, in like manner, describes the States, in the address to the people, as 'the sovereign States of the confederacy.' 'The Constitution,' says the Vice-President in the exposition before us, 'is as strictly and as purely a confederation, as the one which it superseded.' 'The case of a treaty between sovereigns is strictly analogous to it.' '*At the bottom* of almost every misconception as to the relation between the States and the General Government, *lurks the radical error* that the latter is a national, and not, as in reality it is, a confederated Government.'

In other times, when other doctrines were fashionable in South Carolina, we were told by one of her distinguished statesmen of a very different *radical* error, which was *lurking at the bottom* of a doctrine which he then thought it his duty to oppose. 'The States, as political bodies,'—said Mr. McDuffie in his well-known pamphlet, *The Trio*, published about ten years ago,—'the States, as political bodies, have no original inherent rights. That they have such rights, is a false, dangerous and anti-republican assumption, which *lurks at the bottom* of all the reasoning in favor of State rights.'—Is there not room to apprehend that the error, which really lurks at the bottom in both these cases, is not precisely the one alluded to by ei-

ther of these distinguished statesmen, but another which was also signalised by Mr. McDuffie on the same occasion and in the same pamphlet? 'Ambitious men of inferior talents, finding that they have no hope to be distinguished in the councils of the national Government, naturally wish to increase the power and consequence of the State Governments, the theatres in which they expect to acquire distinction. It is not, therefore, a regard for the rights of the people, and a real apprehension that those rights are in danger, that have caused so much to be said on the subject of prostrate State sovereignties and consolidated empire. It is the ambition of that class of politicians who expect to figure only in the State Councils, and of those States who are too proud to acknowledge any superior.'

This quotation was too provokingly apposite to be omitted; but we frankly own that the question preceding it must, in reference to the present case, be answered in the negative. The leading nullifiers, though sufficiently ambitious, are not men 'of inferior talents, who can have no hope of distinguishing themselves in the councils of the national Government.' They possess talents of a high order, and had already reached the most elevated stations in the National Government, before their judgments, previously sound and acute, had given way to the strange delusion which has now got possession of them. It is therefore necessary to look for the motives of their present proceedings in other quarters. Perhaps we may find them pretty satisfactorily accounted for, in the following passage of the same publication by Mr. McDuffie. 'He must have read the lessons of history to little purpose, who does not perceive that the people of particular States are liable to fall occasionally into a dangerous and morbid excitement upon particular subjects; and that, under this excitement, they will impel their rulers into the adoption of measures in their tendency destructive to the Union.'

But without undertaking to scrutinize the motives of the leading statesmen of South Carolina, we repeat that none of them have yet condescended to inform us, how they reconcile their admissions as to the authority of the General Government in ordinary cases, and that of the United States under the amending clause, with their doctrine of 'unimpaired sovereignty.' Mr. Calhoun, in the document before us, appears to be aware of the difficulty, but does not meet it in the full and frank manner which we had a right to expect from a man of his character. He takes refuge in vague and indefinite forms of language.

'Previous to the adoption of the present Constitution,' says he, 'no power could be exercised over any State, by any other or all of the States, without its own consent.' In other words, the States were then independent of each other, and, in the common phrase, sovereign. How are they now?—'The present Constitution,' continues Mr. Calhoun, 'has made in this particular *a most important modification in their condition.* I allude to the provision which gives validity to amendments of the Constitution, when ratified by three-fourths of the States, a provision which has not attracted as much attention as its importance deserves.'* It appears, then, that although the sovereignty of the States is *unimpaired*, their condition in this particular has undergone *a most important modification.* Now the long word *modification*, though it be, like Bardolph's *accommodated*, 'a soldier-like word, and a word of exceeding good command,' means, with all its six syllables, neither more nor less than the old-fashioned English monosyllable *change.—Modification*, says Johnson, is the act of *modifying;* and to *modify* is to *change.* It seems, then, that the condition of the States has undergone in this particular a most important *change.* It is no longer what it was. But they were before independent: of course they are now not independent. Such appears to be the plain English of the vague term *modification.*

But to what extent has this modification been carried? Before the adoption of the Constitution no power could be exercised over a State without its own consent. Now, by the admission of Mr. Calhoun, the United States can exercise unlimited power over a State without its own consent. This is indeed a most important *modification* of the sovereignty of the State. Such, however, is the virtue of this valuable word, that it prevents all the effect that would otherwise ensue to the sovereignty of the State from the change signified by it. 'To understand correctly the nature of this *concession*, (the *modifi-*

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* It is, in fact, rather singular, that until this mention of it by Mr. Calhoun, the amending clause of the Constitution had, as far as we are informed, never been alluded to in connexion with the much-debated subject of *State Sovereignty.* It is obviously, of itself, decisive against any such pretension. There were originally two specific limitations to the amending power, one of which expired in the year 1808; the other, which is still in force, provides that no State shall in this way 'be deprived, without its consent, of its equal suffrage in the Senate.' Of every other political power, privilege, liberty and franchise, a State may be constitutionally deprived, *without its consent.* And yet the States retain their *Sovereignty* unimpaired! ! !

cation is after all a *concession,*) we must not confound it with the power conferred upon the General Government, and to be exercised by it as the joint agent of the States. They are essentially different. The former is in fact but a modification of the original sovereign power, residing in the people of the several States.' It seems, then, that this *most important modification* is in fact *a modification.* '*Accommodated* is when a man is, as they say, *accommodated*, or when a man is being —whereby he may be thought to be *accommodated.*' 'But,' continues the Vice-President, 'the original sovereign power residing in the people of the several States, though modified, is not delegated. It still resides in the States, and is still to be exercised by them, and not by the Government.' He had just told us, that the condition of the several States had undergone in this particular a most important modification, by the concession of power made in the provision for amending the Constitution:—now there is no delegation,—no concession,—the sovereignty is modified, but the condition of the State remains as it was before. Did the Vice-President himself understand exactly what he meant to say?

'It still resides in the States, and is to be exercised by them, and not by the Government.' How is this?—Before the adoption of the Constitution, the whole political power of each State resided in the State: now, a large portion of it has been transferred, by the provision for amending the Constitution, to the United States. How then can it be said, that the whole still resides in the State? Of what consequence is it whether the power has been conceded to the General Government, or to the United States? Provided it be gone from the State, it is obvious that the sovereignty of the State is equally impaired, whether it now belongs to one or the other. The point which Mr. Calhoun wishes to make out is, that each State now possesses all the political power which it possessed before the adoption of the Constitution. It is admitted that a large concession has been made. But, says Mr. Calhoun, the power thus granted has been granted to the United States, and not to the General Government,—therefore, it still remains in the possession of the granting State! The owner of a tract of land conveys away a part of it for a valuable consideration; but the sale being made to B. and not to C., it follows, says Mr. Calhoun, that the whole remains in possession of A.

If arguments like these were found in a document purporting to be a mere specimen of forensic ingenuity, or in the speech of a

legal advocate who might be supposed to defend his client, whether he thought his case a good one or not, we should conclude, at once, that the person employing them had, from a consciousness of the weakness of his cause, resorted expressly to ambiguous language, and loose sophistical reasoning. But the document before us is of a very different character and consequence. The subject which it treats is a great practical question. The author,—no less a person than the Vice-President of the United States,—has placed himself at the head of an enterprise, which, according to the degree of purity and singleness of heart with which he engages in it, must be regarded as in him the noblest exercise of patriotism, or the highest offence known to the law. Such is the individual, whom we find under such circumstances resorting for his justification to a sort of language, which, in ordinary cases, would be received as the obvious resource and undoubted evidence of *insincerity*. We shrink from characterizing such a course in the way which appears most natural, and gladly avail ourselves of the pointed and fearless denunciation of Mr. McDuffie.

'A man, who will contend that our Government is a confederacy of independent States, whose independent sovereignty was never in any degree renounced, and that it may be controlled or annulled at the will of the several independent States or sovereignties, can scarcely be regarded as belonging to the present generation. The several independent States control the General Government! this is anarchy itself.'

It is unnecessary, we trust, to pursue this discussion any farther. The nullifiers, we repeat, scarcely attempt to reconcile their full and express admissions, that the Constitution is a social compact, by which the States have formed themselves into a body politic under a common Government, which body politic possesses, under the amending clause, an unlimited power over the political condition of its members, with the assertion, openly and obviously inconsistent with these admissions, that each State still retains its independence and sovereignty entire and unimpaired. Their whole argument, such as it is, consists in the eternal repetition of two ideas. The States were independent at the time when they made the Constitution,—therefore they are independent now. A. and B. were single persons at the time when they entered into a contract of marriage, therefore they are single still. The precise and avowed object of the contract, in both cases, is to put an end to the relation which the parties pre-

viously held towards each other, and to substitute for it another and a different one. Yet it is sagely concluded, that because they held towards each other this relation, which it was intended to terminate, before, they must of necessity hold it afterwards; and this is the conclusion which the Vice-President and his followers declare themselves determined to enforce upon the people of the United States, if necessary, at the cannon's mouth!

What then, it may be asked, is in fact the situation of the States under the Constitution? Are they mere corporations, like our cities and towns, deriving all their powers from the acts of the Government under which they are placed? Assuredly not. The States are the original parties to the social compact, and are recognised in it as entitled to exercise a certain portion of the legislative power. In the exercise of this power, they are, as we have already remarked, just as independent of the General Government, as the General Government is of them in the exercise of the powers with which it is invested by the same Constitution. But although the General Government has no authority over the State Governments, the United States, besides the control which they exercise through the General Government over the citizens of the States, also possess, under the amending clause of the Constitution, an almost unlimited control over the political situation of the States themselves. Under these circumstances, it is obvious, that the States, though holding, not by law, but by an original right recognised in the Constitution, the legislative power which they are entitled to exercise, have yet no pretensions to sovereignty or absolute political independence, and that, the only sovereign power, recognised in our institutions is that of the people or body politic of the United States.

In the quotations which we have made from the pamphlet of Mr. McDuffie, we have employed to a very moderate extent the *argumentum ad hominem*, which, as our readers are aware, might be carried without difficulty a great deal farther. There have probably been very few cases, in the history of this or any other country,—especially relating to matters of so much importance,—in which individuals have placed themselves before the public, in a position so diametrically opposite to that which they occupied but a short time before. Their inconsistency is equally glaring in reference to the nature of the evil of which they complain, and the means by which they propose to remedy it. But a few years ago, these very persons not only supported and professed to believe in the policy of protecting

domestic industry, but actually originated the plan, and employed the whole weight of their talents and influence in carrying it through Congress. At the same time, they denounced the claim of a right in the States to annul the acts of the General Government, as anarchy itself. Now, the protecting policy is not only not advantageous but utterly ruinous to the country; and not only ruinous but unconstitutional, and not only unconstitutional but so plainly and palpably unconstitutional, as to justify a resort to the most desperate extremities to get rid of it. Now, the right of the States to annul at discretion the acts of the General Government is not only not anarchy itself, but is the simplest and most beautiful part of the whole machinery of our political institutions. It would be easy to collect from the writings and speeches of these gentlemen at the two periods alluded to, whole pages of passages, presenting, on the same authority, exactly the *pro* and *con* of every prominent point in the argument. This has in fact been done to a considerable extent by Mr. Carey, and if the subject were not a serious one, the contrast would be irresistibly amusing. Our limits will not permit us to enlarge upon this point, and the strength of the direct argument renders it unnecessary. In general, we are not disposed to insist too rigorously upon formal party consistency, and are willing to allow to political men a reasonable latitude in reconsidering their opinions, and adapting their abstract principles to the circumstances under which they are called to act. But in a case so very peculiar as this, where the party is so clearly bound to put himself in the right in the great court of public opinion, he certainly gives his opponents a fearful advantage when he enables them, on every leading point, to *condemn* him unequivocally and peremptorily *out of his own mouth*.

Is it in fact to be endured, that men of talents, reputation, commanding stations in society, shall denounce as inexpedient, unconstitutional, intolerably oppressive, as furnishing legitimate motives for resistance, measures, which not ten years ago they openly supported, nay, themselves originated and pressed upon the country? That they shall claim and insist upon, as their dearest and most essential rights, pretensions, which not ten years ago they denounced as chimerical, unconstitutional, anarchical, involving in practice the destruction of all government? Can the people of the United States believe, that the persons by whom these diametrically opposite opinions have

been successively maintained with equal warmth and zeal, have been perfectly sincere in both? Or if, in the exercise of a perhaps excessive charity, they believe them to have been sincere, will they consider them as persons of a sufficiently sound and cool judgment to be followed with safety, through the dangerous paths into which they would lead us,—over the unfathomable precipices, to the brink of which they have already brought their deluded retainers?—We think not.

We have left ourselves but little room for direct remark upon the Ordinance of the Carolina Convention; and if the views which we take of its operation and character be correct, it does not necessarily call for any extended commentary. We copy the entire document, as a sort of political curiosity, and shall annex a few observations.

'*An Ordinance to nullify certain Acts of the Congress of the United States, purporting to be laws laying duties and imposts on the Importation of Foreign Commodities.*

Whereas the Congress of the United States, by various Acts, purporting to be Acts laying duties and imposts on foreign imports, but in reality intended for the protection of Domestic Manufactures, and the giving of bounties to classes and individuals engaged in particular employments, at the expense and to the injury and oppression of other classes and individuals, by wholly exempting from taxation certain foreign commodities, such as are not produced or manufactured in the United States, to afford a pretext for imposing higher and excessive duties on articles similar to those intended to be protected, hath exceeded its just powers under the Constitution, which confers on it no authority to afford such protection, and hath violated the true meaning and intent of the Constitution, which provides for equality in imposing the burdens of taxation upon the several States and portions of the Confederacy;—And, whereas the said Congress, exceeding its just power to impose taxes and collect revenue for the purpose of effecting and accomplishing the specific objects and purposes which the Constitution of the United States authorized it to effect and accomplish, hath raised and collected unnecessary revenues, for objects unauthorized by the Constitution:—

We, therefore, the People of the State of South Carolina in Convention assembled, do declare and ordain, and it is hereby declared and ordained, that the several Acts and parts of Acts of the Congress of the United States, purporting to be laws for the imposing of duties and imposts on the importations of the States, and more especially an Act entitled " an Act in alteration of the

several Acts imposing duties on imports," approved on the 19th day of May, one thousand eight hundred and twenty-eight, and also an Act entitled " an Act to alter and amend the several Acts imposing duties on imports," approved on the 14th day of July, one thousand eight hundred and thirty-two, are unauthorized by the Constitution of the United States, and violate the true meaning thereof, and are null, void, and no law, nor binding upon this State, its officers or citizens; and all promises, contracts and obligations made or entered into, or to be made or entered into, with the purpose to secure the duties imposed by the said Acts, and all judicial proceedings which shall be hereafter had in affirmance thereof are and shall be held utterly null and void.

And it is further ordained, That it shall not be lawful for any of the constituted authorities, whether of this State or of the United States, to enforce the payment of duties imposed by the said Acts within the limits of this State; but that it shall be the duty of the Legislature to adopt such Acts as may be necessary to give full effect to this Ordinance, and to prevent the enforcement and arrest the operation of the said Acts and parts of Acts of the Congress of the United States within the limits of this State, from and after the 1st day of February next, and the duty of all other constituted authorities, and of all persons residing or being within the limits of this State, and they are hereby required and enjoined to obey and give effect to this Ordinance, and such Acts and measures of the Legislature as may be passed or adopted in obedience thereto.

And it is further ordained, That in no case of law or equity, decided in the Courts of this State, wherein shall be drawn in question the authority of this Ordinance, or the validity of such Act or Acts of the Legislature as may be passed for the purpose of giving effect thereto, or the validity of the aforesaid Acts of Congress, imposing duties, shall any appeal be taken, or allowed, to the Supreme Court of the United States, nor shall any copy of the record be permitted or allowed for that purpose; and if any such appeal shall be attempted to be taken, the Courts of this State shall proceed to execute and enforce their judgments, according to the laws and usages of the State, without reference to such attempted appeal; and the person or persons attempting to take such appeal, may be dealt with for a contempt of the Court.

And it is further ordained, That all persons now holding any office of honor, profit or trust, civil or military, under this State, shall, within such time as the Legislature shall prescribe, take, in such manner as the Legislature may direct, an oath well and truly to obey, execute and enforce this Ordinance, and such Act or Acts of the Legislature as may be passed in pursuance thereof,

according to the true intent and meaning of the same; and on the neglect or omission of any such person or persons so to do, his or their office or offices shall be forthwith vacated, and shall be filled up, as if such person or persons were dead or had resigned; and no person, hereafter elected to any office of honor, profit or trust, civil or military, shall, until the Legislature shall otherwise provide and direct, enter on the execution of his office, or be in any respect competent to discharge the duties thereof, until he shall, in like manner, have taken a similar oath; and no juror shall be impannelled in any of the Courts of this State, in any cause in which shall be in question this Ordinance, or any Act of the Legislature passed in pursuance thereof, unless he shall first, in addition to the usual oath, have taken an oath, that he will well and truly obey, execute and enforce this Ordinance, and such Act or Acts of the Legislature as may be passed to carry the same into operation and effect, according to the true intent and meaning thereof.

And we, the People of South Carolina, to the end that it may be fully understood by the Government of the United States, and the People of the co-States, that we are determined to maintain this, our Ordinance and Declaration, at every hazard,—do further declare, that we will not submit to the application of force, on the part of the Federal Government, to reduce this State to obedience; but that we will consider the passage, by Congress, of any Act authorizing the employment of any military or naval force against the State of South Carolina, her constituted authorities or citizens, or any Act abolishing or closing the ports of this State, or any of them, or otherwise obstructing the free ingress and egress of vessels, to and from the said ports, or any other Act on the part of the Federal Government to coerce the State, shut up her ports, destroy her commerce, or to enforce the acts hereby declared to be null and void, otherwise than through the civil tribunals of the country, as inconsistent with the longer continuance of South Carolina in the Union: and that the people of this State will thenceforth hold themselves absolved from all further obligation to maintain or preserve their political connexion with the people of other States, and will forthwith proceed to organize a separate Government, and do all other acts and things, which sovereign and independent States may of right do.'

If, in a matter so serious as this, it were worth while to pay much attention to forms of expression, the language of this document would afford ample room for criticism. To begin with the very title: *an Ordinance.* It has been well observed, that the Convention could hardly have given to the paper

expressing their intentions a less auspicious name, than this obsolete vestige of the French *ancien regime*, the last example of which, known to us in this country, was the celebrated Ordinance to nullify the liberty of the press and the right of suffrage. The result of this attempt at nullification by Charles X. was hardly such as to encourage imitation, or to bring the phraseology employed by him into very good odor.—*An Ordinance to nullify*,—why substitute the affected term *nullify*, of which no one knows the real meaning, for the standard English word *annul*, which every body understands? Obviously for no other purpose, than to *mystify* the good people of Carolina into a course, which, if the true character of it were honestly presented to them, they would shrink from with horror. The use of this term is an improvement, at the suggestion of Mr. Turnbull, upon the title as originally reported by Mr. Harper, which ran thus:—*an Ordinance to provide for arresting the operation of certain acts, &c.* This was at least intelligible. Again: *an Ordinance to nullify certain acts of Congress purporting to be laws.* Why *purporting* to be laws?—They are laws. The Acts of the General Govern ment are, as such, laws. They may be inexpedient, oppressive, unconstitutional,—but they are still *laws.* This is their appropriate name as Acts of the Government, and has no connexion with the question of their validity. The phraseology of the first sentence of the Ordinance is still more singular:—*Whereas the Congress of the United States, by various Acts purporting to be Acts laying duties and imposts on foreign imports, but in reality intended for the protection of domestic manufactures.* Purporting to be acts laying duties and imposts on foreign imports! Can any one doubt that they are Acts laying duties on foreign imports? The objection to them is, that they lay duties for a purpose not recognised by the Constitution; but no man in his senses can pretend to doubt, that they do in fact lay duties on foreign imports.

The rest of the Ordinance is about as correctly drawn, as the title and the first sentence: but, without enlarging on mere phraseology, let us proceed to considerations of a more substantial character. The questions that naturally suggest themselves on a perusal of this extraordinary document are, What is its immediate operation? What measures will it call for, on the part of the General Government? What will be its ultimate effect upon the political situation of the country?

1. *What is its immediate operation?* In the view which we take of it, the Ordinance, standing by itself, is entirely inoperative. It pretends to release the citizens of South Carolina from the obligation to obey the Revenue laws, but it leaves the Government of the United States in possession of all the means which they had before to enforce them. If the importer refuse to pay the duties and give the usual bonds, the goods will of course be seized and sold without farther process. If he give bonds and refuse to pay them when due, the usual legal process will be had in the District Court; and, as the jurors serving in that Court are not called on to take the oath to obey the Ordinance, there will be no appearance even of a conflict of obligations. The Judge, whose duty it is to instruct the jury in the law, will of course tell them that the Ordinance, as far as it contradicts the laws of the United States, has no legal effect, and they will give their verdict accordingly. If, in some cases, juries, under the influence of the popular excitement, should undertake to judge of the law for themselves, and give verdicts in clear cases against the Government, there would be, no doubt, some practical inconvenience, but in theory the law would still have its course. There would be no collision between the authority of the General and State Governments, and no occasion for any interposition of force by the former. The situation of things would be substantially the same as it was in this city during the last war with Great Britain, where the juries habitually gave verdicts against the Government, in cases where the right was clearly on its side. Still the law ostensibly had its course, and the public peace was not broken. The Ordinance, therefore, standing by itself, is a mere dead letter.

2. *What measures does it call for, on the part of the General Government?* The Ordinance, being entirely inoperative, and having no legal or practical effect which the Government can or ought to notice, of course calls for no measures in the way of counteraction. Considered as an indication of the state of the public feeling in South Carolina, it calls undoubtedly for measures of precaution against the occurrence of a future state of things, which the adoption of this Ordinance by the Convention renders probable, and which would require the interposition of the military power of the Government. The Ordinance makes it 'the duty of the Legislature to adopt such measures and pass such acts, as may be necessary to give full

effect to the Ordinance, and to prevent the enforcement and arrest the operation of the Revenue laws.' The Legislature will probably do something in pursuance of this direction; and upon the character of the measures which they may adopt will depend, of course, the character of those with which the Government of the United States will be called on to meet them. Should they pass an act, making it penal for the officers of the General Government to perform their duties, and attempt to enforce it upon the person of the Marshal, there would then be a case of open insurrection against the Government of the country. In ordinary cases, the Marshal, when obstructed in the execution of his duty, calls for aid on the bystanders; but if this resource prove ineffectual, or if circumstances render it inexpedient to depend upon it, the particulars of the case are communicated in the form of a certificate from the District Judge to the President, who immediately employs the military force of the country, either the regular army or the militia, at his discretion, to suppress the insurrection, as he is authorized to do by the letter of the Constitution and various statutes. The militia would of course not be resorted to, unless the regular military and naval force should be found insufficient. This course was pursued by General Washington, in the case of the whisky insurrection in Pennsylvania, and was attended with complete success. The misguided persons, who might be taken and brought to trial for obstructing the execution of the laws, would probably plead in justification the law of the State; but the District Judge would of course instruct the jury, that 'the laws of the United States are the supreme law of the land, any thing in the Constitution or laws of any State to the contrary notwithstanding.' If the popular excitement should be so great, that juries should in clear cases acquit prisoners, the latter would of course escape the punishment they deserved, but no material inconvenience would be suffered by the country. The President, by a proper development of military force, would be able to execute the laws and preserve the public peace. Should Carolina, in pursuance of the threat held out in the Ordinance, undertake, in consequence of the employment of military force by the President, to place herself still more openly in opposition to the Government, by attempting to withdraw from the Union, and arraying an army against

that of the United States, the result would be civil war,—an occurrence every way deplorable, and one of which we shudder to contemplate the possibility, but of which we cannot permit ourselves to doubt the issue.

Such, however, being the state of things which may and probably will grow out of the adoption of this Ordinance, it is apparent that it calls imperiously for *measures of precaution.* Ample means should be in readiness to meet a crisis so serious and alarming. A seasonable display of energy and decision may, in this case, as it did in that of the whisky insurrection, save the country years of civil commotion, and probably decide the fate of the Union. We are, therefore, glad to learn that the President has already stationed in the disturbed district, as commander of the troops, an officer of the highest character for experience, talents and patriotism, and has made some other demonstrations for the same ultimate purpose. In general, the course of the Government, on this most important subject, as far as it has been developed, accords entirely with what we consider the true policy of the country. The tone of the President's Message to Congress, and of Mr. McLane's Report in relation to this topic, is temperate and judicious, and the view taken of the nature of the crisis correct: a promise is also made of farther and more energetic measures, should the occasion require them. If the General Government continue to pursue with discretion, but at the same time with firmness and energy, the course upon which they have thus entered, they will find themselves supported by the friends of the country of all parties, and in all quarters of the Union.

The only parts of the late communications of the Government, having any bearing upon this subject, which we have read with regret, have been those which recommend a reduction of the revenue. Independently of the ruinous tendency of a repeal of the protecting duties, considered as such, it appears to us that the moment is singularly unpropitious for the agitation of any plan, tending to diminish the receipts into the Treasury. In general, our statesmen have shown an unnecessary solicitude about the disposition of a future possible surplus revenue, which has thus far never existed for a single moment since the organization of the Government. Mr. Jefferson felt this solicitude to a very great degree, and looked forward to the payment of the then existing national debt, as a period when we should find ourselves not a little embarrassed by the amount

of our superabundant treasures. Long before the expected period came, a foreign war intervened, and instead of having any surplus wealth to dispose of, we were compelled to borrow at very high interest. The present Administration have shown a strong, and in itself very laudable and politic anxiety to extinguish the debt; and have also, for two or three years past, begun to look forward with alarm to the influx of an overwhelming flood of surplus revenue, which is to burst upon us after the debt shall be paid. In the mean time, however, before any surplus whatever is realized,—while a considerable portion of the debt still remains unpaid,—two States have taken such a position in relation to the General Government, as will probably lead to a development of military force. The proceedings of Carolina have been already noticed at length. Georgia, on her part, peremptorily refuses to permit the judgment of the Supreme Court in the Missionary case to be executed. A return of this refusal will be made this winter to the Court, which will then, in the regular course of law, direct the Marshal of the district to execute the judgment himself. In this he will probably be resisted, and upon the fact being certified to the President, it will be his duty to employ the military force of the country to give effect to the laws. Although the President, in pursuance of what we consider an erroneous construction of the Intercourse Act of 1802, did not undertake to prevent by force the irruption of Georgia into the Cherokee territory, we are bound to presume that he will feel no hesitation about enforcing a judgment of the Supreme Court, regularly rendered in due course of law, and of which he cannot question the validity, without assuming the functions of an appellate tribunal. The result will be open collision. With every appearance of the occurrence of civil commotions in two States within the next year, it seems to us to be scarcely expedient,—independently of any other consideration,—to think of measures for reducing the revenue. As no surplus has yet been actually realized, the very first movement of troops would make it necessary to resort to new loans, which, if the troubles should continue, must be increased to an indefinite extent, and would effectually prevent the so much dreaded evil of an eventual surplus. We are inclined in fact to doubt very much, whether it will ever be found practicable to bring down the revenue below its present amount, even supposing it to afford ten or fifteen millions more than is wanted

for the ordinary expenses of the Government. Such is the condition of human affairs, that periods of trouble of one kind or another must in the nature of things occur, at least as often as once in twenty or thirty years. These will, in general, render it necessary to resort to loans, which during the intervals of tranquillity must be extinguished. If, with taxes as light and as little felt as those which we now pay, we are able to defray the ordinary charges of the Government,—sustain the public credit,—meet the exigencies of foreign and civil war when they occur, and pay off the debts they impose upon us in time of peace, we shall do more,—far more,—than any other nation of ancient or modern times has done before us. At all events, the moment when we are about to enter on a period of civil commotion, of which the extent, duration and consequences cannot even be conjectured, is obviously the last that should be chosen for commencing a system of reduction.

3. *What will be the effect of the present troubles upon the political condition of the country?*

This will depend entirely upon the conduct of the General Government, and especially of the Executive branch, upon which, under present circumstances, the weight of responsibility principally falls. If the crisis be met with the necessary firmness and discretion, there can hardly be a doubt, that the resources of the Union are amply sufficient to secure the execution of the laws. If, from a want of firmness and discretion in the Executive, or of a disposition in Congress to sustain the Executive in the measures required by the crisis,—contingencies of which we cannot anticipate the possibility,—the nullifiers are permitted to carry their projects into effect, the Government is of course at an end. The state of things which would then ensue, has been described somewhat in detail in a preceding part of this article. The ports of Carolina would be free, and the country would be deluged through them, with foreign goods imported without duties. The revenue would fall off to nothing; the manufactures would all be destroyed; the public credit would cease, and the public service come to a stand for want of funds; a general bankruptcy of private fortunes would overspread the country, and the body politic would fall into a state of complete dissolution.

Of these disastrous results we are, however, unwilling to admit the possibility, although they would necessarily follow from the success of the projects of the nullifiers. It has

been well observed, that the attempt of a State to place itself in direct opposition to the authority of the Federal Government, is one of the evils naturally incident to our political system;—that the occurrence of such an attempt is a sort of crisis, which we must have expected to go through at one time or another, as the individual, in his progress to maturity, is subject to the attacks of certain diseases, from which he can hardly hope to escape;—and that the circumstances, under which this attempt is now made, afford perhaps as favorable a prospect as any that could well be imagined for such a termination of it, as will at once prevent any immediate mischief, and discourage the renewal of similar attempts in future. The State which now places itself in open opposition to the law, however distinguished in other times for intelligence, patriotism, and generosity, is physically and politically one of the least effective in the Union.—With a white population of less than two hundred and fifty thousand souls, of whom at least a third are opposed to the project;—with a dangerous internal enemy in her bosom;—unsupported by the co-operation of any other State, her nearest neighbors being among the most determined opponents of her views;—it is apparent that Carolina takes the field against the Union under every disadvantage. The fanaticism with which the nullifying party are inspired may perhaps give occasion to some distressing scenes: but should the General Government meet the crisis in a proper manner, the odds on the first development of military force will be so desperate, that we incline to think there will be very little occasion for actual violence, and that tranquillity will be restored with hardly any injury to life or property. Should such be the event, the probability of future occurrences of a similar kind will be diminished; our institutions will acquire new force and stability; and the general result of the whole affair will be favorable, rather than adverse to the prosperity of the country. Had the experiment of a violent opposition to the authority of the General Government been tried for the first time by New-York, Pennsylvania, Virginia, New-England in a body, or any State or combination of States which would have been able to carry with it a great array of actual physical force, the crisis would have been of a very different character.

We may add, that it is difficult to conceive of any case in which the right could be more clearly with the General Government,

and against the discontented State, than it is in this: a circumstance, which adds to the vast preponderance of material power at the disposal of the former, the moral influence which is so important and even essential to the success of any cause. However the nullifiers may, under the influence of the enthusiasm which now possesses them, have wrought themselves up into a sincere belief in the justice of their cause, it is impossible but that in cooler moments they should feel its weakness. This conviction will press itself upon them with new force when the power of the Government is actually displayed, and will produce an indecision on their part, which will contribute very much to bring the struggle to a favorable issue.

Still, the crisis,—though as little dangerous as any one of the same description that could well be imagined,—is yet one of fearful importance, and the friends of the country cannot but look forward with deep and painful anxiety to its termination. The question of the continuance of our present form of Government,—of the existence on this continent of republican institutions of any description,—is now to be decided. The precise problem, as we understand it, is not whether the Union shall be preserved, but whether the Union shall be preserved under our present mild and beneficent system of polity, or whether, after a temporary dissolution of the bonds that now unite us,—we shall be brought together again into a new body politic, consolidated by the iron bands of military power. That the States composing this Union can ever remain for any length of time politically separate from each other, is in the nature of things impossible. The experiment was tried in the short interval between the Declaration of Independence and the adoption of the Constitution, and was found impracticable. If repeated, under whatever circumstances, the result would be the same. We have shown in a preceding part of this article that, by the present Constitution, the States formed themselves into one body politic under a common Government, and that they are now, in form, *one people.* If the Constitution were in this respect a false representation of their actual and substantial political condition;—if they were really separated from each other by important substantial differences, whether of geographical position, origin, language, physical conformation, or any others, there would then be a constant tendency to a dissolution of the Union; and

separation, being the natural state of the parties, would probably, when it had once taken effect, become the permanent one. Thus the attempt of the British Government to combine their European possessions and the colonies now composing the United States under one system of civil polity, was obviously at variance with the law of nature, and could only terminate sooner or later in the way in which it did. The same may be said of their present attempt to combine under the same political system with their European possessions, the northern part of this continent,—the vast peninsula of Hindostan with its hundred million inhabitants,—the southern termination of Africa, and half the islands on the face of the globe,—including the Australian Continent, with its dependencies, which, of themselves, may be said to constitute another *new world.* All these scattered limbs,—*membra disjecta*,—of the mighty Queen of the Ocean,—are destined to fall off successively from the parent body, and form themselves into independent States. With the members of this Union, the case is different. Descended from the same original stock; united by community of language, literature, manners, laws, religion and government; enclosed, notwithstanding the vast extent of their territory, by a border of unbroken geographical continuity;—brought up from their first plantation, through the long period of colonial infancy, to their present flourishing and glorious maturity, as sisters of one family;—bound together by the million various indissoluble ties of personal relationship, that have been created by a constant intercourse of more than two centuries,—the States composing this Union not only are, according to the form of the Constitution, but they are in fact and in feeling *one people.* They were united, before they framed the Constitution, by the high and paramount decree of the great Lawgiver of the universe: and whom God hath joined, man *cannot* put asunder. It is not enough to say, that the Union ought not to be dissolved,—that the States have no right to dissolve it,—that it is better that it should not be dissolved:—the truth is, that it *cannot* permanently be dissolved. Its members cannot exist for any length of time in a state of separation from each other. The present form of Union may, —should Providence intend to visit us with his severest judgments,—be temporarily broken up. What would be the consequence? The very act of its destruction would in all probability be attended by a development of military power and

a series of military movements, which would end in the recombination of the States into another Union, under a military Government. Should we even suppose,—what is next to impossible,—a peaceful temporary separation, what would still be the consequence? The continual relations between twenty-four neighboring States of kindred origin and civilization, would necessarily lead to collisions, which would grow into wars, and these would continue until conquest had again consolidated the whole country into a new Union, not as at present, under the quiet reign of constitutional liberty, but under the sway, in some of its various forms, of a lawless and sanguinary despotism.

The necessity of these results is apparent on the slightest reflection, and is confirmed by the examples of all the nations of which we know the history. To look only to the mother country:—a thousand years ago, the British islands were occupied by hundreds of independent communities, essentially different in their origin, languages, manners, laws, every thing that constitutes civilization. Continued wars gradually brought them under common Governments, until, at the close of the last century, the union of Great Britain and Ireland finally completed the consolidation of the whole into one political body. So it has been in France, in Holland, in Spain, in Germany, in Italy, in Russia. So it has been in ancient times and other regions;—in Egypt, China, Greece, Rome. So it has always been and always must be every where. The European nations have all arrived through centuries of carnage and confusion at their present condition; they are still tending violently to a more complete union, which, after other centuries of carnage and confusion, they will ultimately reach. It has been our blessed fortune to begin where they have ended or are likely to end; to grow up from the hour of our political birth, in those happy bonds of fraternal kindness, which have been forced upon all other great nations by a long experience of the sorest evils. If, in an hour of wild delusion,—of mad insensibility to the causes of our present prosperity,—of criminal ingratitude to the Giver of all good,—we should burst these flowery fetters, the only possible result would be, that after a period, more or less protracted, of that confusion and carnage which we have thus far escaped, we should exchange them for the chains, that are now clanking round the limbs of every other people on the globe,

and from which the enlightened and civilized nations of Europe are at this moment straining in agony to set themselves free.

The question, therefore, is not whether we shall maintain the Union, which must at all events exist, but whether we shall maintain our present republican institutions, or exchange them, after an intervening period of anarchy and civil war, for a Government of a different, probably an arbitrary character. The crisis, we repeat, though as little alarming as any one of the kind that could well be imagined, is nevertheless fraught with painful interest. But, though there is much in the present aspect of political affairs to create apprehension;—although we are certainly very far from considering the country as perfectly secure;—we are nevertheless inclined to look forward with hope rather than despondency. We derive consolation, as well from the circumstances already mentioned, which induce us to believe that, with the exercise of suitable firmness and discretion on the part of the Executive, the troubles in Carolina may be appeased without much difficulty, as from a general survey of the history and present situation of the country. It so happens in the progress of human affairs, that the secret principles, which determine the welfare of nations, appear to operate with much greater activity at particular times and places than they do at others, although it may not be in every case very easy to point out exactly the causes of the difference. Why, at the same period, and under nearly similar circumstances, some communities should be active, virtuous, civilized, prosperous and free, while others are roaming through the woods in the untamed wildness of barbarism, or bowing down like beasts of burden under the yoke of a taskmaster,—why the metropolis of civilization is to be found in one age upon the banks of the Ganges, the Euphrates or the Nile, and in another upon those of the Tiber, the Thames, or the Potomac; are questions, which philosophy has not yet brought to a quite satisfactory solution. An English lady, in a fine poetical fiction, has attributed the various fortunes of the different nations and races of men to the influence of a Spirit to whom she has not given a name, but whom she would probably have called the Genius of Civilization, if a word so long could have been conveniently compressed into one of her verses. The presence of this Genius in a country is described as the fruitful cause of every blessing, and his retirement as the signal of impending decay and ruin; but his origin is unknown, his progress

secret, and his movements are governed by caprice rather than by any obvious and assignable cause.* Without pursuing this train of thought, which would soon carry us very far beyond the limits of an article, it may be sufficient for our purpose to remark, that the presence of the most active principles of national prosperity, whatever they may be, has no where and at no time been more clearly perceptible than in the condition of this country, from the period of its

* We allude to the following passage in Mrs. Barbauld's Eighteen Hundred and Eleven.

There walks a Spirit o'er the peopled earth;
Secret his progress is, unknown his birth;
Moody and viewless as the changing wind,
No force arrests his foot, no chain can bind.
Where'er he turns the human brute awakes,
And, roused to better life, his sordid hut forsakes;
He thinks, he reasons, glows with purer fires,
Feels finer wants, and burns with new desires.
Obedient Nature follows where he leads,
The steaming marsh is changed to fruitful meads;
Then from its bed is drawn the ponderous ore;
Then Commerce pours her gifts on every shore;
Then kindles Fancy, then expands the Heart;
Then blow the flowers of Genius and of Art;
Saints, Heroes, Sages, who the land adorn,
Seem rather to descend than to be born;
While History, midst the rolls consigned to fame,
With pen of adamant inscribes their name.

The Genius now forsakes the favored shore,
And hates, capricious, what he loved before.
Then Empires fall to dust;—then arts decay,
And wasted realms enfeebled despots sway.
E'en Nature's changed:—without his fostering smile,
Ophir no gold, no plenty yields the Nile.
The thirsty sand absorbs the useless rill,
And spotted plagues from putrid fens distil.
In desert solitudes then Tadmor sleeps,
Stern Marius then o'er fallen Carthage weeps;
Then with enthusiast love the pilgrim roves
To seek his footsteps in forsaken groves,
Explores the fractured arch, the ruined tower,
Those limbs disjointed of gigantic power,
Still at each step he fears the adder's sting,
The Arab's javelin or the tiger's spring,
With doubtful caution treads the echoing ground,
And asks where Troy and Babylon are found.

first settlement to this day. When we look back to the handful of obscure adventurers and persecuted outcasts who formed our small beginnings, and compare their humble dwellings, scattered thinly along the coast, with the great and flourishing empire that now stretches in pride and beauty far and wide over half the continent, we cannot but feel that the history of the world offers no example, in any way parallel, of a rapid and extensive development of all the elements of national prosperity. When we contemplate the condition of the country at this very time; population proceeding in the same steady untiring progress,—wealth augmenting in a still more rapid ratio,—every branch of industry animated by the highest degree of activity and enterprise,—agriculture and commerce supplying the markets of the world with our products,—manufactures rapidly rivaling the most perfect establishments of Europe,—improvement in science and learning, education, morals, and religion, the object of general attention and solicitude;—when we contemplate this state of things, we cannot doubt, that the causes to which we have owed our prosperity are still as busily at work as they have ever been before. What they are, it might not be safe, even in reference to our own country with which we are most familiar, to attempt to say. When we venture to assign, as one of them, the character of our Government, the sages of Europe smile in conscious superiority at our simplicity, and assure us that we have become what we are in spite of our institutions, and not in consequence of them. When we hint at the fixed religious principles, the stern morality, the persevering industry of the pilgrim fathers of New-England, who have formed the kernel of the whole population of the Union, we are scornfully told that the mass of the original settlers were, after all, the refuse of the British jails. The only principle of our success, which is readily admitted by our friends abroad as real, (it being one which confers no credit upon us) is the immense extent of our territory; although, if this circumstance alone could make a people prosperous, it is not easy to see why civilization should not be as active on the vast central *plateaux* of Tartary and Mexico, as it is in the valley of the Mississippi. But whatever may be the cause, such at all events is the effect. We are undoubtedly at a period of our national existence corresponding with the youth of a vigorous and healthy individual, when the body is daily developing new resources in all its parts, and possesses an elasticity which enables it to throw off without difficulty

almost every principle of evil that may be introduced into it. We say not this to encourage a reckless confidence, or a disposition to bold and hazardous experiments on our political institutions. We are well aware that the strength and buoyant spirits, which betray to excess, may be themselves the very causes of ruin. We would rather in ordinary times allay than exalt the sentiment of national pride, which so easily runs into presumption. But when the crisis is actually upon us,—when the hour of danger has come, and many good and wise men are perhaps too prone to despond, and even despair of the Republic, it may then be well to remind them and ourselves, that if the trial is likely to be severe, our political Constitution, as we have reason to hope, is strong enough to enable us, with the favor of Providence, to go through this and many other trials of equal severity, should it be our fortune to encounter them, with safety.

Let the friends of the country, therefore, in their several spheres of action, meet the crisis with a cheerful, resolute spirit, and with the calm and steady courage that belongs to freemen and Christians. Let no differences of opinion upon minor questions,—no personal or sectional preferences be permitted to deter any one from a zealous and cordial co-operation in the great and good work of securing the Union. Among the private citizens, the Union party within the State of South Carolina occupy the post of peculiar honor and danger, and should receive our warmest sympathy. They have now a glorious opportunity of displaying in the face of the country, of the world, the noblest civic virtues. But whatever may be done by individuals within or without the State, the result will, after all, depend in a very great degree, as we have already said, upon the temper and conduct of the General Government. It is therefore with real satisfaction, that we find the Administration exhibiting, thus far, the union of firmness and discretion which the occasion requires. We are no partisans, political or personal, of General Jackson. We have in no way contributed to his elevation; and although, as journalists, we have taken no part in the recent contest, we have felt it to be our duty, as individuals, to oppose his re-election. But he is now the Chief Magistrate of the country. The people look to him to carry them safely through the present season of alarm and peril, and in all the suitable measures which he may take for this purpose, the friends of the country, without distinction

of party, will give him their support. The maxim which ought to direct his course was distinctly stated by himself three years ago, in terms which cannot be surpassed for precision or energy, and which ought at this period to be the watchword of every citizen. THE FEDERAL UNION,—IT MUST BE PRESERVED.

DEC 16 1912

NOTE.

Since this article was prepared, and while it was going through the press, new events have occurred, which render the crisis still more interesting. The Legislature of South Carolina, in pursuance of the recommendation contained in the Ordinance of the Convention, are engaged in passing several acts, the substantial purport of which is to make it a penal offence for the officers of the General Government to execute the Revenue laws within that State. On the other hand, the President of the United States, on the 10th of December, published a Proclamation, in which, after explaining at length his views of the relation established by the Constitution between the General and State Governments, he declares his determination to cause the laws to be executed, if necessary, by force. It is not probable that either party will recede, without a struggle, from the ground thus taken. The immediate occurrence of actual collision between the General and State Governments, however much to be deplored, seems, therefore, to be inevitable. The duration and results of this conflict will depend upon the degree of countenance which Carolina may receive from other States, particularly at the South. We look with some apprehension to the proceedings of Virginia, where the first movements are less satisfactory than we could have wished. We cannot now enlarge upon the President's Proclamation, and shall probably have occasion to return to the subject hereafter. This paper, the composition of which is attributed to the Secretary of State, is written with great ability and in a very bold and determined tone. In some of the doctrines, particularly those which represent the States as having never been politically independent of each other, and the Constitution as having been the work of the aggregate mass of the people of the United States, and not of the States as distinct communities, we do not concur, for the reasons which we have stated in the present article; and we consider it unfortunate that they were introduced, as they will naturally tend to alienate the Southern States from the General Government, and dispose them to countenance the pretensions of Carolina. In the doctrines of the Proclamation, so far as it affirms that the United States are *now* one people under a common Government,—that the acts of this Government are the supreme law of the land, and that this must at all events be executed, we heartily concur. The firm tone of this document suits the occasion as well as the personal character of the President; and if the measures by which it is to be followed up are conceived in a corresponding spirit, properly tempered with discretion, and an affectionate regard for our mistaken brethren of South Carolina, we cannot permit ourselves to doubt, that the ultimate effect of the struggle will be to confirm and perpetuate our institutions, rather than to bring them into danger.

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