JOHN CALHOUN: AGAINST THE FORCE BILL
February 5, 1833

Mr. President: -

I KNOW not which is most objectionable, the provisions of the bill, or the temper in which its adoption has been urged. If the extraordinary powers with which the bill proposes to clothe the Executive, to the utter prostration of the Constitution and the rights of the States, be calculated to impress our minds with alarm at the rapid progress of despotism in our country, the zeal with which every circumstance calculated to misrepresent or exaggerate the conduct of Carolina in the controversy is seized on with a view to excite hostility against her, but too plainly indicates the deep decay of that brotherly feeling which once existed between these States, and to which we are indebted for our beautiful federal system, and by the continuance of which alone it can be preserved. It is not my intention to advert to all these misrepresentations; but there are some so well calculated to mislead the mind as to the real character of the controversy, and to hold up the State in a light so odious, that I do not feel myself justified in permitting them to pass unnoticed.

Among them one of the most prominent is the false statement that the object of South Carolina is to exempt herself from her share of the public burdens, while she participates in the advantages of the Government. If the charge were true - if the State were capable of being actuated by such low and unworthy motives, mother as I consider her, I would not stand up on this floor to vindicate her conduct. Among her faults, - and faults I will not deny she has, - no one has ever yet charged her with that low and most sordid of vices, - avarice. Her conduct on all occasions has been marked with the very opposite quality. From the commencement of the Revolution - from its first breaking out at Boston till this hour, no State has been more profuse of its blood in the cause of the country; nor has any contributed so largely to the common treasury in proportion to wealth and population. She has, in that proportion, contributed more to the exports of the Union - on the exchange of which with the rest of the world the greater portion of the public burden has been levied - than any other State. No: the controversy is not such as has been stated; the State does not seek to participate in the advantages of the Government without contributing her full share to the public treasury. Her object is far different. A deep constitutional question lies at the bottom of the controversy. The real question at issue is: Has this Government a right to impose burdens on the capital and industry of one portion of the country, try, not with a view to revenue, but to benefit another? And I must be permitted to say that, after the long and deep agitation of this controversy, it is with surprise that I perceive so strong a disposition to misrepresent its real character. To correct the impression which those misrepresentations are calculated to make, I will dwell on the point under consideration for a few moments longer.

The Federal Government has, by an express provision of the Constitution, the right to lay on imposts. The State has never denied or resisted this right, nor even thought of so doing. The Government has, however, not been contented with exercising this power as she had a right to do, but has gone a step beyond it, by laying imposts, not for revenue, but protection. This the State considers as an unconstitutional exercise of power - highly injurious and oppressive to her and the other staple States, and has, accordingly, met it with the most determined resistance. I do not intend to enter, at this time, into the argument as to the unconstitutionality of the protective system. It is not necessary. It is sufficient that the power is nowhere granted; and that, from the journals of the convention which formed the Constitution, it would seem that it was refused. In support of the journals, I might cite the statement of Luther Martin, which has already been referred to, to show that the convention, so far from conferring the power on the Federal Government, left to the State the right to impose duties on imports, with the express view of enabling the several States to protect their own manufactures Notwithstanding this, Congress has assumed, without any warrant from the Constitution, the right of exercising this most important power, and has so exercised it as to impose a ruinous burden on the labor and capital of the State, by which her resources are exhausted, the enjoyments of her citizens curtailed, the means of education contracted, and all her interests essentially and injuriously affected. We have been sneeringly told that she is a small State; that her population does not much exceed half a million of souls, and that more than one-half are not of the European race. The facts are so. I know she never can be a great State, and that the only distinction to which she can aspire must be based on the moral and intellectual acquirements of her sons. To the development of these much of her attention has been directed; but this restrictive system which has so unjustly exacted the proceeds of her labor, to be bestowed on other sections, has so impaired her resources that, if not speedily arrested, it will dry up the means of education, and with it deprive her of the only source through which she can aspire to distinction.

There is another misstatement as to the nature of the controversy, so frequently made in debate, and so well calculated to mislead, that I feel bound to notice it. It has been said that South Carolina claims the right to annul the Constitution and laws of the United States; and to rebut this supposed claim the gentleman from Virginia [Mr. Rives] has gravely quoted the Constitution, to prove that the Constitution, and the laws made in pursuance thereof, are the supreme laws of the land - as if the State claimed the right to act contrary to this provision of the Constitution. Nothing can be more erroneous: her object is not to resist laws made in pursuance of the Constitution, but those made without its authority, and which encroached on her reserved powers. She claims not even the right of judging of the delegated powers, but of those that are reserved, and to resist the former when they encroach upon the latter. I will pause to illustrate this important point.

All must admit that there are delegated and reserved powers, and that the powers reserved are reserved to the States respectively. The powers, then, of the system are divided between the General and the State governments; and the point immediately under consideration is, whether a State has any right to judge as to the extent of its reserved powers, and to defend them against the encroachments of the General Government. Without going deeply into this point at this stage of the argument, or looking into the nature and origin of the Government, there is a simple view of the subject which I consider as conclusive. The very idea of a divided power implies the right on the part of the State for which I contend. The expression is metaphorical when applied to power. Every one readily understands that the division of matter consists in the separation of the parts. But in this sense it is not applicable to power. What, then, is meant by a division of power? I cannot conceive of a division, without giving an equal right to each to judge of the extent of the power allotted to each. Such right I hold to be essential to the existence of a division; and that to give to either party the conclusive right of judging, not only of the share allotted to it, but of that allotted to the other, is to annul the division and to confer the whole power on the party vested with such right.

But it is contended that the Constitution has conferred on the Supreme Court the right of judging between the States and the General Government. Those who make this objection overlook, I conceive, an important provision of the Constitution. By turning to the tenth amended article, it will be seen that the reservation of power to the States is not only against the powers delegated to Congress, but against the United States themselves, and extends, of course, as well to the judiciary as to the other departments of the government. The article provides that all powers not delegated to the United States, or prohibited by it to the States, are reserved to the States respectively, or to the people. This presents the inquiry: What powers are delegated to the United States? They may be classed under four divisions: First, those that are delegated by the States to each other, by virtue of which the Constitution may be altered or amended by three-fourths of the States, when, without which, it would have required the unanimous vote of all; next, the powers conferred on Congress; then, those on the President; and, finally, those on the judicial department - all of which are particularly enumerated in the parts of the Constitution which organize the respective departments. The reservation of powers to the States is, as I have said, against the whole, and is as full against the judicial as it is against the executive and legislative departments of the government meet. It cannot be claimed for the one without claiming it for the whole, and without, in fact, annulling this important provision of the Constitution.

Against this, as it appears to me, conclusive view of the subject, it has been urged that this power is expressly conferred on the Supreme Court by that portion of the Constitution which provides that the judicial power shall extend to all cases in law and equity arising under the Constitution, the laws of the United States, and treaties made under their authority. I believe the assertion to be utterly destitute of any foundation. It obviously is the intention of the Constitution simply to make the judicial power

commensurate with the law-making and treaty-making powers; and to vest it with the right of applying the Constitution, the laws, and the treaties, to the cases which might arise under them, and not to make it the judge of the Constitution, the laws, and the treaties themselves. In fact, the power of applying the laws to the facts of the case, and deciding upon such application, constitutes, in truth, the judicial power. The distinction between such power and that of judging of the laws will be perfectly apparent when we advert to what is the acknowledged power of the court in reference to treaties or compacts between sovereigns. It is perfectly established that the courts have no right to judge of the violation of treaties; and that in reference to them their power is limited to the right of judging simply of the violation of rights under them; and that the right of judging of infractions belongs exclusively to the parties themselves, and not to the courts: of which we have an example in the French treaty, which was declared by Congress null and void, in consequence of its violation by the government of France. Without such declaration, had a French citizen sued a citizen of this country under the treaty the court could have taken no cognizance of its infraction; nor, after such a declaration, would it have heard any argument or proof going to show that the treaty had not been violated.

The declaration, of itself, is conclusive on the court. But it will be asked how the court obtained the power to pronounce a law or treaty unconstitutional, when it comes in conflict with that instrument. I do not deny that it possesses the right; but I can by no means concede that it was derived from the Constitution. It had its origin in the necessity of the case. Where there are two or more rules established, one from a higher, the other from a lower authority, which may come into conflict in applying them to a particular case, the judge cannot avoid pronouncing in favor of the superior against the inferior. It is from this necessity, and this alone, that the power which is now set up to overrule the rights of the States against an express provision of the Constitution was derived. It had no other origin. That I have traced it to its true source will be manifest from the fact that it is a power which, so far from being conferred exclusively on the Supreme Court, as is insisted, belongs to every court - inferior and superior - State and general - and even to foreign courts.

But the Senator from Delaware [Mr. Clayton] relies on the journals of the convention to prove that it was the intention of that body to confer on the Supreme Court the right of deciding, the last resort between a State and the General Government I will not follow him through the journals, as I do not deem that to be necessary to refute his argument. It is sufficient for this purpose to state that Mr. Rutledge reported a resolution providing expressly that the United States and the States might be parties before the Supreme Court. If this proposition had been adopted, I would ask the Senator whether this very controversy between the United States and South Carolina might not have been brought before the court? I would also ask him whether it can be brought before the court as the Constitution now stands? If he answer the former in the affirmative, and the latter in the negative, as he must, then it is clear, his elaborate argument to the

contrary notwithstanding, that the report of Mr. Rutledge was not, in substance, adopted as he contended, and that the journals, so far from supporting, are m direct opposition to the position which he attempts to maintain. I might push the argument much further against the power of the court, but I do not deem it necessary, at least in this stage of the discussion. If the views which have already been presented be correct, and I do not see how they can be resisted, the conclusion is inevitable, that the reserved powers were reserved equally against every department of the Government, and as strongly against the judicial as against the other departments, and, of course, were left under the exclusive will of the States.

There still remains another misrepresentation of the conduct of the State, which has been made with the view of exciting odium. I allude to the charge that South Carolina supported the tariff of 1816, and is, therefore, responsible for the protective system. To determine the truth of this charge, it becomes necessary to ascertain the real character of that law - whether it was a tariff for revenue or for protection - and, as involved in this, to inquire, What was the condition of the country at the period? The late war with Great Britain had just terminated, which, with the restrictive system that preceded it, had diverted a large amount of capital and industry from commerce to manufactures, particularly to the cotton and woolen branches. There was a debt at the same time of one hundred and thirty millions of dollars hanging over the country, and the heavy war duties were still in existence. Under these circumstances, the question was presented, as to what point the duties ought to be reduced. This question involved another - at what time the debt ought to be paid? which was a question of policy, involving in its consideration all the circumstances connected with the then condition of the country. Among the most prominent arguments in favor of an early discharge of the debt was, that the high duties which it would require to effect it would have, at the same time, the effect of sustaining the infant manufactures, which had been forced up under the circumstances to which I have adverted. This view of the subject had a decided influence in determining in favor of an early payment of the debt. The sinking fund was, accordingly, raised from seven to ten millions of dollars, with the provision to apply the surplus which might remain in the treasury as a contingent appropriation to that fund; and the duties were graduated to meet this increased expenditure. It was thus that the policy and justice of protecting the large amount of capital and industry which had been diverted by the measures of the Government into new channels, as I have stated, were combined with the fiscal action of the Government, and which, while it secured a prompt payment of the debt, prevented the immense losses to the manufacturers which would have followed lowed a sudden and great reduction. Still, revenue was the main object, and protection but the incidental. The bill to reduce the duties was reported by the Committee of Ways and Means, and not of Manufactures, and it proposed a heavy reduction on the then existing rate of duties. But what of itself, without other evidence, is decisive as to the character of the bill is the fact that it fixed a much higher rate of duties on the unprotected protected than on the protected articles. I will enumerate a few leading articles only. Woolen and cotton above the value of

twenty-five cents on the square yard, though they were the leading objects of protection, were subject to a permanent duty of only twenty per cent. Iron, another leading article among the protected, had a protection of not more than nine per cent. as fixed by the act, and of but fifteen as reported in the bill. These rates were all below the average duties as fixed in the act, including the protected, the unprotected, and even the free articles. I have entered into some calculation, in order to ascertain the average rate of duties under the act. There is some uncertainty in the data, but I feel assured that it is not less than thirty per cent. *ad valorem*: showing an excess of the average duties above that imposed on the protected articles enumerated of more than ten per cent., and thus clearly establishing the character of the measure - that it was for revenue and not protection.

Looking back, even at this distant period, with all our experience, I perceive but two errors in the act: the one in reference to iron, and the other the minimum duty on coarse cottons. As to the former, I conceive that the bill, as reported, proposed a duty relatively too low, which was still further reduced in its passage through Congress. The duty, at first, was fixed at seventy-five cents the hundredweight; but, in the last stage of its passage, it was reduced, by a sort of caprice, occasioned by an unfortunate motion, to forty-five cents. This injustice was severely felt in Pennsylvania, the State, above all others, most productive of iron, and was the principal cause of that great reaction which has since thrown her so decidedly on the side of the protective policy. The other error was that as to coarse cottons, on which the duty was as much too high as that on iron was too low. It introduced, besides, the obnoxious minimum principle, which has since been so mischievously extended; and to that extent, I am constrained in candor to acknowledge, as I wish to disguise nothing, the protective principle was recognized by the Act of 1816. How this was overlooked at the time, it is not in my power to say. It escaped my observation, which I can account for only on the ground that the principle was then new, and that my attention was engaged by another important subject - the question of the currency, then so urgent, and with which, as chairman of the committee, I was particularly charged. With these exceptions, I again repeat, I see nothing in the bill to condemn; yet it is on the ground that the Members from the State voted for the bill, that the attempt is now made to hold up Carolina as responsible for the whole system of protection which has since followed, though she has resisted its progress in every stage. Was there ever greater injustice? And how is it to be accounted for, but as forming a part of that systematic misrepresentation sensation and calumny which has been directed for so many years, without interruption, against that gallant and generous State? And why has she thus been assailed? Merely because she abstained from taking any part in the presidential canvass - believing that it had degenerated into a mere system of imposition on the people - controlled, almost exclusively, by those whose object it is to obtain the patronage of the government, and that without regard to principle or policy. Standing apart from what she considered a contest in which the public had no interest, she has been assailed by both parties with a fury altogether unparalleled; but which, pursuing the course which she believed liberty and duty

required, she has met with a firmness equal to the fierceness of the assault. In the midst of this attack, I have not escaped. With a view of inflicting a wound on the State through me, I have been held up as the author of the protective system, and one of its most strenuous advocates. It is with pain that I allude to myself on so deep and grave a subject as that now under discussion, and which, I sincerely believe, involves the liberty of the country. I now regret that, under the sense of injustice which the remarks of a Senator from Pennsylvania [Mr. Wilkins] excited for the moment, I hastily gave my pledge to defend myself against the charge which has been made in reference to my course in 1816: not that there will be any difficulty in repelling the charge, but because I feel a deep reluctance in turning the discussion, in any degree, from a subject of so much magnitude to one of so little importance as the consistency or inconsistency of myself, or any other individual, particularly in connection with an event so long since passed. But for this hasty pledge, I would have remained silent as to my own course on this occasion, and would have borne with patience and calmness this, with the many other misrepresentations with which I have been so incessantly assailed for so many years. The charge that I was the author of the protective system, has no other foundation but that I, in common with the almost entire South, gave my support to the tariff of 1816. It is true that I advocated that measure, for which I may rest my defense, without taking any other, on the ground that it was a tariff for revenue, and not for protection, which I have established beyond the power of controversy. But my speech on the occasion, has been brought in judgment against me by the Senator from Pennsylvania. I have since cast my eyes over the speech; and I will surprise, I have no doubt, the Senator, by telling him that, with the exception of some hasty and unguarded expressions, I retract nothing I uttered on that occasion. I only ask that I may be judged, in reference to it, in that spirit of fairness and justice which is due to the occasion; taking into consideration the circumstances under which it was delivered, and bearing in mind that the subject was a tariff for revenue, and not for protection; for reducing, and not raising the duties. But, before I explain the then condition of the country, from which my main arguments in favor of the measure were drawn, it is nothing but an act of justice to myself that I should state a fact in connection with my speech, that is necessary to explain what I have called hasty and unguarded expressions. My speech was an *impromptu*; and, as such, I apologized to the House, as appears from the speech as printed, for offering my sentiments on the question without having duly reflected on the subject. It was delivered at the request of a friend, when I had not previously the least intention of addressing the House. I allude to Samuel D. Ingham, then and now, as I am proud to say, a personal and political friend - a man of talents and integrity - with a clear head, and firm and patriotic heart; then among the leading Members of the House; in the palmy state of his political glory, though now for a moment depressed; - depressed, did I say? no! it is his State which is depressed - Pennsylvania, and not Samuel D. Ingham! Pennsylvania, which has deserted him under circumstances which, instead of depressing, ought to have elevated him in her estimation. He came to me, when sitting at my desk writing, and said that the House was falling into some confusion, accompanying it with a remark, that I knew how difficult it was to rally so

large a body when once broken on a tax bill, as had been experienced during the late war. Having a higher opinion of my influence than it deserved, he requested me to say something to prevent the confusion. I replied that I was at a loss what to say; that I had been busily engaged on the currency, which was then in great confusion, and which, as I have stated, had been placed particularly under my charge, as the chairman of the committee on that subject. He repeated his request, and the speech which the Senator from Pennsylvania has complimented so highly, was the result.

I will ask whether the facts stated ought not, in justice, to be borne in mind by those who would hold me accountable, not only for the general scope of the speech, but for every word and sentence which it contains? But, in asking this question, it is not my intention to repudiate the speech. All I ask is, that I may be judged by the rules which, in justice, belong to the case. Let it be recollected that the bill was a revenue bill, and, of course, that it was constitutional. I need not remind the Senate that, when the measure is constitutional, all arguments calculated to show its beneficial operation may be legitimately pressed into service, without taking into consideration whether the subject to which the arguments refer be within the sphere of the Constitution or not. If, for instance, a question were before this body to lay a duty on Bibles, and a motion were made to reduce the duty, or admit Bibles duty free, who could doubt that the argument in favor of the motion - that the increased circulation of the Bible would be in favor of the morality and religion of the country, would be strictly proper? But who would suppose that he who adduced it had committed himself on the constitutionality of taking the religion or morals of the country under the charge of the Federal Government? Again: suppose the question to be, to raise the duty on silk, or any other article of luxury; and that it should be supported on the ground that it was an article mainly consumed by the rich and extravagant - could it be fairly inferred that in the opinion of the speaker, Congress had a right to pass sumptuary laws? I only ask that these plain rules may be applied to my argument on the tariff of 1816. They turn almost entirely on the benefits which manufactures conferred on the country in time of war, and which no one could doubt. The country had recently passed through such a state. The world was at that time deeply agitated by the effects of the great conflict which had so long raged in Europe, and which no one could tell how soon again might return. Bonaparte had but recently been overthrown; the whole southern part of this continent was in a state of revolution, and threatened with the interference of the Holy Alliance, which, had it occurred, must almost necessarily have involved this country in a most dangerous conflict. It was under these circumstances that I delivered the speech, in which I urged the House that, in the adjustment of the tariff, reference ought to be had to a state of war as well as peace, and that its provisions ought to be fixed on the compound views of the two periods - making some sacrifice in peace, in order that less might be made in war. Was this principle false? and, in urging it, did I commit myself to that system of oppression since grown up, and which has for its object the enriching of one portion of the country at the expense of the other?

The plain rule in all such cases is, that when a measure is proposed, the first thing is to ascertain its constitutionality; and, that being ascertained, the next is its expediency; which last opens the whole field of argument for and against. Every topic may be urged calculated to prove it wise or unwise: so in a bill to raise imposts. It must first be ascertained that the bill is based on the principles of revenue, and that the money raised is necessary for the wants of the country. These being ascertained, every argument, direct and indirect, may be fairly offered, which may go to show that, under all the circumstances, the provisions of the bill are proper or improper. Had this plain and simple rule been adhered to, we should never have heard of the complaint of Carolina. Her objection is not against the improper modification of a bill acknowledged to be for revenue, but that, under the name of imposts, a power essentially different from the taxing power is exercised - partaking much more of the character of a penalty than a tax. Nothing is more common than that things closely resembling in appearance should widely and essentially differ in their character. Arsenic, for instance, resembles flour, yet one is a deadly poison, and the other that which constitutes the staff of life. So duties imposed, whether for revenue or protection, may be called imposts; though nominally and apparently the same, yet they differ essentially in their real character.

I shall now return to my speech on the tariff of 1816. To determine what my opinions really were on the subject of protection at that time, it will be proper to advert to my sentiments before and after that period. My sentiments preceding 1816, on this subject, are a matter of record. I came into Congress in 1812, a devoted friend and supporter of the then administration; yet one of my first efforts was to brave the administration, by opposing its favorite measure, the restrictive system - embargo, nonintercourse, and all - and that upon the principle of free trade. The system remained in fashion for a time; but, after the overthrow of Bonaparte, I reported a bill from the Committee on Foreign Relations, to repeal the whole system of restrictive measures. While the bill was under consideration, a worthy man, then a Member of the House [Mr. McKim, of Baltimore], moved to except the nonimportation act, which he supported on the ground of encouragement to manufactures. I resisted the motion on the very grounds on which Mr. McKim supported it. I maintained that the manufacturers were then receiving too much protection, and warned its friends that the withdrawal of the protection which the war and the high duties then afforded, would cause great embarrassment; and that the true policy, in the meantime, was to admit foreign goods as freely as possible, in order to diminish the anticipated embarrassment on the return of peace; intimating, at the same time, my desire to see the tariff revised, with a view of affording a moderate and permanent protection.

Such was my conduct before 1816. Shortly after that period I left Congress, and had no opportunity of making known my sentiments in reference to the protective system, which shortly after began to be agitated. But I have the most conclusive evidence that I considered the arrangement of the revenue, in 1816, as growing out of the necessity of the case, and due to the consideration of justice. But, even at that early period, I was not

without my fears that even that arrangement would lead to abuse and future difficulties. I regret that I have been compelled to dwell so long on myself; but trust that, whatever censure may be incurred, will not be directed against me, but against those who have drawn my conduct into the controversy; and who may hope, by assailing my motives, to wound the cause with which I am proud to be identified.

I may add, that all the Southern States voted with South Carolina in support of the bill: not that they had any interest in manufactures, but on the ground that they had supported the war, and, of course, felt a corresponding obligation to sustain those establishments which had grown up under the encouragement it had incidentally afforded; whilst most of the New England land Members were opposed to the measure, principally, as I believe, on opposite principles.

I have now, I trust, satisfactorily repelled the charge against the State, and myself personally, in reference to the tariff of 1816. Whatever support the State has given the bill, originated in the most disinterested motives. There was not within the limits of the State, so far as my memory serves me, a single cotton or woolen establishment. Her whole dependence was on agriculture, and the cultivation of two great staples, rice and cotton. Her obvious policy was to keep open the market of the world, unchecked and unrestricted; - to buy cheap and to sell high: but from a feeling of kindness, combined with a sense of justice, she added her support to the bill. We had been told by the agents of the manufacturers that the protection which the measure afforded would be sufficient; to which we the more readily conceded, as it was considered a final adjustment of the question.

Let us now turn our eyes forward, and see what has been the conduct of the parties to this arrangement. Have Carolina and the South disturbed this adjustment? No; they have never raised their voice in a single instance against it, even though this measure, moderate, comparatively, as it is, was felt with no inconsiderable pressure on their interests. Was this example imitated on the opposite side? Far otherwise. Scarcely had the President dent signed his name, before application was made for an increase of duties, which was repeated, with demands continually growing, till the passage of the Act of 1828. What course now, I would ask, did it become Carolina to pursue in reference to these demands? Instead of acquiescing in them, because she had acted generously in adjusting the tariff of 1816, she saw, in her generosity on that occasion, additional motives for that firm and decided resistance which she has since made against the system of protection. She accordingly commenced a systematic opposition to all further encroachments, which continued from 1818 till 1828; by discussions and by resolutions, by remonstrances and by protests through her legislature. These all proved insufficient to stem the current of encroachment: but, notwithstanding the heavy pressure on her industry, she never despaired of relief till the passage of the Act of 1828 - that bill of abominations - engendered by avarice and political intrigue. Its adoption opened the eyes of the State, and gave a new character to the controversy. Till

then, the question had been, whether the protective system was constitutional and expedient; but, after that, she no longer considered the question whether the right of regulating the industry of the States was a reserved or delegated power, but what right a State possesses to defend her reserved powers against the encroachments of the Federal Government: a question on the decision of which the value of all the reserved powers depends. The passage of the Act of 1828, with all its objectionable features, and under the circumstances connected with it, almost, if not entirely, closed the door of hope through the General Government. It afforded conclusive evidence that no reasonable prospect of relief from Congress could be entertained; yet, the near approach of the period of the payment of the public debt, and the elevation of General Jackson to the presidency, still afforded a ray of hope - not so strong, however, as to prevent the State from turning her eyes for final relief to her reserved powers.

Under these circumstances commenced that inquiry into the nature and extent of the reserved powers of a State, and the means which they afford of resistance against the encroachments of the General Government, which has been pursued with so much zeal and energy, and, I may add, intelligence. Never was there a political discussion carried on with greater activity, and which appealed more directly to the intelligence of a community. Throughout the whole, no address has been made to the low and vulgar passions; but, on the contrary, the discussion has turned upon the higher principles of political economy, connected with the operations of the tariff system, calculated to show its real bearing on the interests of the State, and on the structure of our political system; and to show the true character of the relations between the State and the General Government, and the means which the States possess of defending those powers which they reserved in forming the Federal Government.

In this great canvass, men of the most commanding talents and acquirements have engaged with the greatest ardor; and the people have been addressed through every channel - by essays in the public press, and by speeches in their public assemblies - until they have become thoroughly instructed on the nature of the oppression, and on the rights which they possess, under the Constitution, to throw it off.

If gentlemen suppose that the stand taken by the people of Carolina rests on passion and delusion, they are wholly mistaken. The case is far otherwise. No community, from the legislator to the plowman, were ever better instructed in their rights; and the resistance on which the State has resolved, is the result of mature reflection, accompanied with a deep conviction that their rights have been violated, and that the means of redress which they have adopted are consistent with the principles of the Constitution.

But while this active canvass was carried on, which looked to the reserved powers as the final means of redress if all others failed, the State at the same time cherished a hope, as I have already stated, that the election of General Jackson to the presidency

would prevent the necessity of a resort to extremities. He was identified with the interests of the staple States; and, having the same interest, it was believed that his great popularity - a popularity of the strongest character, as it rested on military services - would enable him, as they hoped, gradually to bring down the system of protection, without shock or injury to any interest. Under these views, the canvass in favor of General Jackson's election to the presidency was carried on with great zeal, in conjunction with that active inquiry into the reserved powers of the States on which final reliance was placed. But little did the people of Carolina dream that the man whom they were thus striving to elevate to the highest seat of power would prove so utterly false to all their hopes. Man is, indeed, ignorant of the future; nor was there ever a stronger illustration of the observation than is afforded by the result of that election! The very event on which they had built their hopes has been turned against them; and the very individual to whom they looked as a deliverer, and whom, under that impression, they strove for so many years to elevate to power, is now the most powerful instrument in the hands of his and their bitterest opponents to put down them and their cause!

Scarcely had he been elected, when it became apparent, from the organization of his cabinet and other indications, that all their hopes of relief through him were blasted. The admission of a single individual into the cabinet, under the circumstances which accompanied that admission, threw all into confusion. The mischievous influence over the President, through which this individual was admitted into the cabinet, soon became apparent. Instead of turning his eyes forward to the period of the payment of the public debt, which was then near at hand, and to the present dangerous political crisis, which was inevitable unless averted by a timely and wise system of measures, the attention of the President was absorbed by mere party arrangements, and circumstances too disreputable to be mentioned here, except by the most distant allusion.

Here I must pause for a moment to repel a charge which has been so often made, and which even the President has reiterated in his proclamation - the charge that I have been actuated, in the part which I have taken, by feelings of disappointed ambition. I again repeat that I deeply regret the necessity of noticing myself in so important a discussion; and that nothing can induce me to advert to my own course but the conviction that it is due to the cause, at which a blow is aimed through me. It is only in this view that I notice it.

It illy became the Chief Magistrate to make this charge. The course which the State took, and which led to the present controversy between her and the General Government, was taken as far back as 1828 - in the very midst of that severe canvass which placed him in power - and in that very canvass Carolina openly avowed and zealously maintained those very principles which he, the Chief Magistrate, now officially pronounces to be treason and rebellion. That was the period at which he ought to have spoken. Having remained silent then, and having, under his approval, implied by that

silence, received the support and the vote of the State, I, if a sense of decorum did not prevent it, might recriminate with the double charge of deception and ingratitude. My object, however, is not to assail the President, but to defend myself against a most unfounded charge. The time alone when that course was taken, on which this charge of disappointed ambition is founded, will of itself repel it, in the eye of every unprejudiced and honest man. The doctrine which I now sustain, under the present difficulties, I openly avowed and maintained immediately after the Act of 1828, that a bill of abominations," as it has been so often and properly termed. Was I, at that period, disappointed in any views of ambition which I might be supposed to entertain? I was Vice-President of the United States, elected by an overwhelming majority. I was a candidate for re-election on the ticket with General Jackson himself, with a certain prospect of the triumphant success of that ticket, and with a fair prospect of the highest office to which an American citizen can aspire. What was my course under these prospects? Did I look to my own advancement, or to an honest and faithful discharge of my duty? Let facts speak for themselves. When the bill to which I have referred came from the other House to the Senate, the almost universal impression was, that its fate would depend upon my casting vote. It was known that, as the bill then stood, the Senate was nearly equally divided; and as it was a combined measure, originating with the politicians and manufacturers, and intended as much to bear upon the presidential election as to protect manufactures, it was believed that, as a stroke of political policy, its fate would be made to depend on my vote, in order to defeat General Jackson's election, as well as my own. The friends of General Jackson were alarmed, and I was earnestly entreated to leave the chair in order to avoid the responsibility, under the plausible argument that, if the Senate ate should be equally divided, the bill would be lost without the aid of my casting vote. The reply to this entreaty was, that no consideration personal to myself could induce me to take such a course; that I considered the measure as of the most dangerous character, and calculated to produce the most fearful crisis; that the payment of the public debt was just at hand; and that the great increase of revenue which it would pour into the treasury would accelerate the approach of that period, and that the country try would be placed in the most trying of situations - with an immense revenue without the means of absorption upon any legitimate or constitutional object of appropriation, and compelled to submit to all the corrupting consequences of a large surplus, or to make a sudden reduction of the rates of duties, which would prove ruinous to the very interests which were then forcing the passage of the bill. Under these views I determined to remain in the chair, and if the bill came to me, to give my casting vote against it, and in doing so, to give my reasons at large; but at the same time I informed my friends that I would retire from the ticket, so that the election of General Jackson might not be embarrassed by any act of mine. Sir, I was amazed at the folly and infatuation of that period. So completely absorbed was Congress in the game of ambition and avarice - from the double impulse of the manufacturers and politicians - that none but a few appeared to anticipate the present crisis, at which all are now alarmed, but which is the inevitable result of what was then done. As to myself, I clearly foresaw what has since followed. The road of ambition lay

open before me - I had but to follow the corrupt tendency of the times - but I chose to tread the rugged path of duty.

It was thus that the reasonable hope of relief through the election of General Jackson was blasted; but still one other hope remained: that the final discharge of the public debt - an event near at hand - would remove our burden. That event would leave in the treasury a large surplus: a surplus that could not be expended under the most extravagant schemes of appropriation, having the least color of decency or constitutionality. That event at last arrived. At the last session of Congress, it was avowed on all sides that the public debt, as to all practical purposes, was in fact paid, the small surplus remaining being nearly covered by the money in the treasury and the bonds for duties which had already accrued; but with the arrival of this event our last hope was doomed to be disappointed. After a long session of many months and the most earnest effort on the part of South Carolina line and the other Southern States to obtain relief, all that could be effected was a small reduction in the amount of the duties; but a reduction of such a character, that, while it diminished the amount of burden, distributed that burden more unequally than even the obnoxious Act of 1828: reversing the principle adopted by the bill of 1816, of laying higher duties on the unprotected than the protected articles, by repealing almost entirely the duties laid upon the former, and imposing the burden almost entirely on the latter. It was thus that instead of relief - instead of an equal distribution of the burdens and benefits of the Government, on the payment of the debt, as had been fondly anticipated - the duties were so arranged as to be, in fact, bounties on one side and taxation on the other; thus placing the two great sections of the country in direct conflict in reference to its fiscal action, and thereby letting in that flood of political corruption which threatens to sweep away our Constitution and our liberty.

This unequal and unjust arrangement was pronounced, both by the administration, through its proper organ, the Secretary of the Treasury, and by the opposition, to be a permanent adjustment; and it was thus that all hope of relief through the action of the General Government terminated; and the crisis so long apprehended at length arrived, at which the State was compelled to choose between absolute acquiescence in a ruinous system of oppression, or a resort to her reserved powers - powers of which she alone was the rightful judge, and which only, in this momentous juncture, could save her. She determined on the latter.

The consent of two-thirds of her legislature was necessary for the call of a convention, which was considered the only legitimate mate organ through which the people, in their sovereignty, could speak. After an arduous struggle the State Rights party succeeded; more than two-thirds of both branches of the legislature favorable to a convention were elected; a convention was called - the ordinance adopted. The convention was succeeded by a meeting of the legislature, when the laws to carry the ordinance into execution were enacted: all of which have been communicated cased by

the President, have been referred to the Committee on the Judiciary, and this bill is the result of their labor Having now corrected some of the prominent misrepresentations as to the nature of this controversy, and given a rapid sketch of the movement of the State in reference to it, I will next proceed to notice some objections connected with the ordinance and the proceedings under it.

The first and most prominent of these is directed against what is called the test oath, which an effort has been made to render odious. So far from deserving the denunciation which has been levelled against it, I view this provision of the ordinance as but the natural result of the doctrines entertained by the State, and the position which she occupies. The people of Carolina believe that the Union is a union of States, and not of individuals; that it was formed by the States, and that the citizens of the several States were bound to it through the acts of their several States; that each State ratified the Constitution for itself, and that it was only by such ratification of a State that any obligation was imposed upon its citizens. Thus believing, it is the opinion of the people of Carolina that it belongs to the State which has imposed the obligation to declare, in the last resort, the extent of this obligation, as far as her citizens are concerned; and this upon the plain principles which exist in all analogous cases of compact between sovereign bodies. On this principle the people of the State, acting in their sovereign capacity in convention, precisely as they did in the adoption of their own and the Federal Constitution, have declared, by the ordinance, that the acts of Congress which imposed duties under the authority to lay imposts, are acts, not for revenue, as intended by the Constitution, but for protection, and therefore null and void. The ordinance thus enacted by the people of the State themselves, acting as a sovereign community, is as obligatory on the citizens of the State as any portion of the Constitution. In prescribing, then, the oath to obey the ordinance, no more was done than to prescribe an oath to obey the Constitution. It is, in fact, but a particular oath of allegiance, and in every respect similar to that which is prescribed, under the Constitution of the United States, to be administered to all the officers of the State and Federal Governments; and is no more deserving the harsh and bitter epithets which have been heaped upon it, than that, or any similar oath. It ought to be borne in mind that according to the opinion which prevails in Carolina, the right of resistance to the unconstitutional acts of Congress belongs to the State, and not to her individual citizens; and that, though the latter may, in a mere question of *meum* and *tuum*, resist, through the courts, an unconstitutional encroachment upon their rights, yet the final stand against usurpation rests not with them, but with the State of which they are members; and such act of resistance by a State binds the conscience and allegiance of the citizen. But there appears to be a general misapprehension as to the extent to which the State has acted under this part of the ordinance. Instead of sweeping every officer by a general proscription of the minority, as has been represented in debate, as far as my knowledge extends, not a single individual has been removed. The State has, in fact, acted with the greatest tenderness, all circumstances considered, towards citizens who differed from the majority; and in that spirit has directed the oath to be administered only in case of

some official act directed to be performed, in which obedience to the ordinance is involved.

It has been further objected that the State has acted precipitately. What! precipitately! after making a strenuous resistance for twelve years - by discussion here and in the other House of Congress - by essays in all forms - by resolutions, remonstrances, and protests on the part of her legislature - and, finally, by attempting an appeal to the judicial power of the United States? I say attempting, for they have been prevented from bringing the question fairly before the court, and that by an act of that very majority in Congress who now upbraid them for not making that appeal; of that majority who on a motion of one of the Members in the other House from South Carolina, refused to give to the Act of 1828 its true title - that it was a protective, and not a revenue Act. The State has never, it is true, relied upon that tribunal, the Supreme Court, to vindicate its reserved rights; yet they have always considered it as an auxiliary means of defense, of which they would gladly have availed themselves to test the constitutionality of protection, had they not been deprived of the means of doing so by the act of the majority.

Notwithstanding this long delay of more than ten years, under this continued encroachment of the Government, we now hear it on all sides, by friends and foes, gravely pronounced that the State has acted precipitately - that her conduct has been rash! That such should be the language of an interested majority, who, by means of this unconstitutional and oppressive system, are annually extorting millions from the South, to be bestowed upon other sections, is not at all surprising. Whatever impedes the course of avarice and ambition will ever be denounced as rash and precipitate; and had South Carolina delayed her resistance fifty instead of twelve years, she would have heard from the same quarter the same language; but it is really surprising that those who are suffering in common with herself, and who have complained equally loud of their grievances; who have pronounced the very acts which she has asserted within her limits to be oppressive, unconstitutional, and ruinous, after so long a struggle - a struggle longer than that which preceded the separation of these States from the mother-country - longer than the period of the Trojan war - should now complain of precipitancy! No, it is not Carolina which has acted precipitately; but her sister States, who have suffered in common with her, have acted tardily. Had they acted as she has done; had they performed their duty with equal energy and promptness, our situation this day would be very different from what we now find it. Delays are said to be dangerous; and never was the maxim more true than in the present case, a case of monopoly. It is the very nature of monopolies to grow. If we take from one side a large portion of the proceeds of its labor and give it to the other, the side from which we take must constantly decay, and that to which we give must prosper and increase. Such is the action of the protective system. It exacts from the South a large portion of the proceeds of its industry, which it bestows upon the other sections in the shape of bounties to manufactures, and appropriations in a thousand forms; pensions,

improvement of rivers and harbors, roads and canals, and in every shape that wit or ingenuity can devise. Can we, then, be surprised that the principle of monopoly grows, when it is so amply remunerated at the expense of those who support it? And this is the real reason of the fact which we witness, that all acts for protection pass with small minorities, but soon come to be sustained by great and overwhelming majorities. Those who seek the monopoly endeavor to obtain it in the most exclusive shape; and they take care, accordingly, to associate only a sufficient number of interests barely to pass it through the two Houses of Congress, on the plain principle that the greater the number from whom the monopoly takes, and the fewer on whom it bestows, the greater is the advantage to the monopolists. Acting in this spirit, we have often seen with what exact precision they count: adding wool to woolens, associating lead and iron, feeling their way, until a bare majority is obtained, when the bill passes, connecting just as many interests as are sufficient to ensure its success, and no more. In a short time, however, we have invariably found that this *lean* becomes a decided majority, under the certain operation which compels individuals to desert the pursuits which the monopoly has rendered unprofitable, that they may participate in those which it has rendered profitable. It is against this dangerous and growing disease that South Carolina has acted - a disease, whose cancerous action would soon have spread to every part of the system, if not arrested.

There is another powerful reason why the action of the State could not have been safely delayed. The public debt, as I have already stated, for all practical purposes, has already been paid; and, under the existing duties, a large annual surplus of many millions must come into the treasury. It is impossible to look at this state of things without seeing the most mischievous consequences; and, among others, if not speedily corrected, it would interpose powerful and almost insuperable obstacles to throwing off the burden under which the South has been so long laboring. The disposition of the surplus would become a subject of violent and corrupt struggle, and could not fail to rear up new and powerful interests in support of the existing system, not only in those sections which have been heretofore benefitted by it, but even in the South itself. I cannot but trace to the anticipation of this state of the treasury the sudden and extraordinary movements which took place at the last session in the Virginia legislature, in which the whole South is vitally interested. It is impossible for any rational man to believe that that State could seriously have thought of effecting the scheme to which I allude by her own resources, without powerful aid from the General Government.

It is next objected that the enforcing acts have legislated the United States out of South Carolina. I have already replied to this objection on another occasion, and I will now but repeat what I then said: that they have been legislated out only to the extent that they had no right to enter. The Constitution has admitted the jurisdiction of the United States within the limits of the several States only so far as the delegated powers authorize; beyond that they are intruders and may rightfully be expelled; and that they have been efficiently expelled by the legislation of the State through her civil process, as has been

acknowledged on all sides in the debate, is only a confirmation of the truth of the doctrine for which the majority in Carolina have contended.

The very point at issue between the two parties there, is, whether nullification is a peaceable and an efficient remedy against an unconstitutional act of the General Government, and may be asserted as such through the State tribunals. Both parties agree that the acts against which it is directed are unconstitutional and oppressive. The controversy is only as to the means by which our citizens may be protected against the acknowledged encroachments on their rights. This being the point at issue between the parties, and the very object of the majority being an efficient protection of the citizens through the State tribunals, the measures adopted to enforce the ordinance, of course, received the most decisive character. We were not children, to act by halves. Yet for acting thus efficiently the State is denounced, and this bill reported, to overrule, by military force, the civil tribunals and civil process of the State! Sir, I consider this bill, and the arguments which have been urged on this floor in its support, as the most triumphant acknowledgment that nullification is peaceful and efficient, and so deeply intrenched in the principles of our system, that it cannot be assailed but by prostrating the Constitution, and substituting the supremacy of military force in lieu of the supremacy of the laws. In fact, the advocates of this bill refute their own argument. They tell us that the ordinance is unconstitutional; that it infracts the constitution of South Carolina, although to me, the objection appears absurd, as it was adopted by the very authority which adopted the constitution itself. They also tell us that the Supreme Court is the appointed arbiter of all controversies between a State and the General Government. Why, then, do they not leave this controversy to that tribunal? Why do they not confide to them the abrogation of the ordinance, and the laws made in pursuance of it, and the assertion of that supremacy which they claim for the laws of Congress? The State stands pledged to resist no process of the court. Why, then, confer on the President the extensive and unlimited powers provided in this bill? Why authorize him to use military force to arrest the civil process of the State? But one answer can be given: That, in a contest between the State and the General Government, if the resistance be limited on both sides to the civil process, the State, by its inherent sovereignty, standing upon its reserved powers, will prove too powerful in such a controversy, and must triumph over the Federal Government, sustained by its delegated and unlimited authority; and in this answer we have an acknowledgment of the truth of those great principles for which the State has so firmly and nobly contended.

Having made these remarks, the great question is now presented, Has Congress the right to pass this bill? which I will next proceed to consider. The decision of this question involves an inquiry into the provisions of the bill. What are they? It puts at the disposal of the President the army and navy, and the entire militia of the country; it enables him, at his pleasure, to subject every man in the United States, not exempt from militia duty, to martial law; to call him from his ordinary occupation to the field, and

under the penalty of fine and imprisonment, inflicted by a court-martial, to imbrue his hand in his brother's blood. There is no limitation on the power of the sword; - and that over the purse is equally without restraint; for among the extraordinary features of the bill, it contains no appropriation, which, under existing circumstances, is tantamount to an unlimited appropriation. The President may, under its authority, incur any expenditure, and pledge the national faith to meet it. He may create a new national debt, at the very moment of the termination of the former - a debt of millions, to be paid out of the proceeds of the labor of that section of the country whose dearest constitutional rights this bill prostrates! Thus exhibiting the extraordinary spectacle, that the very section of the country which is urging this measure, and carrying the sword of devastation against us, is, at the same time, incurring a new debt, to be paid by those whose rights are violated; while those who violate late them are to receive the benefits in the shape of bounties and expenditures.

And for what purpose is the unlimited control of the purse and of the sword thus placed at the disposition of the Executive? To make war against one of the free and sovereign members of this confederation, which the bill proposes to deal with, not as a State, but as a collection of banditti or outlaws. Thus exhibiting the impious spectacle of this Government, the creature of the States, making war against the power to which it owes its existence.

The bill violates the Constitution, plainly and palpably, in many of its provisions, by authorizing the President, at his pleasure, to place the different ports of this Union on an unequal footing, contrary to that provision of the Constitution which declares that no preference shall be given to one port over another. It also violates the Constitution by authorizing him, at his discretion, to impose cash duties-in one port, while credit is allowed in others; by enabling the President to regulate commerce, a power vested in Congress alone; and by drawing within the jurisdiction of the United States courts, powers never intended to be conferred on them. As great as these objections are, they become insignificant in the provisions of a bill which, by a single blow - by treating the States as a mere lawless mass of individuals - prostrates all the barriers of the Constitution. I will pass over the minor considerations, and proceed directly to the great point. This bill proceeds on the ground that the entire sovereignty of this country belongs to the American people, as forming one great community, and regards the States as mere fractions or counties, and not as integral parts of the Union; having no more right to resist the encroachments of the Government than a county has to resist the authority of a State; and treating such resistance as the lawless acts of so many individuals, without possessing sovereignty or political rights. It has been said that the bill declares war against South Carolina. No. It decrees a massacre of her citizens! War has something ennobling about it, and, with all its horrors, brings into action the highest qualities, intellectual and moral. It was, perhaps, in the order of Providence that it should be permitted for that very purpose. But this bill declares no war, except, indeed, it be that which savages wage - a war, not against the community, but the

citizens of whom that community is composed. But I regard it as worse than savage warfare - as an attempt to take away life under the color of law, without the trial by jury, or any other safeguard which the Constitution has thrown around the life of the citizen. It authorizes the President, or even his deputies, when they may suppose the law to be violated, without the intervention of a court or jury, to kill without mercy or discrimination!

It has been said by the Senator from Tennessee [Mr. Grundy] to be a measure of peace! Yes, such peace as the wolf gives to the lamb - the kite to the dove! Such peace as Russia gives to Poland, or death to its victim! A peace, by extinguishing the political existence of the State, by awing her into an abandonment of the exercise of every power which constitutes her a sovereign community. It is to South Carolina a question of self-preservation; and I proclaim it, that, should this bill pass, and an attempt be made to enforce it, it will be resisted, at every hazard - even that of death itself. Death is not the greatest calamity: there are others still more terrible to the free and brave, and among them may be placed the loss of liberty and honor. There are thousands of her brave sons, who, if need be, are prepared cheerfully to lay down their lives in defense of the State, and the great principles of constitutional liberty for which she is contending. God forbid that this should become necessary! It never can be, unless this Government is resolved to bring the question to extremity, when her gallant sons will stand prepared to perform the last duty - to die nobly. I go on the ground that this Constitution was made by the States; that it is a federal union of the States, in which the several States still retain their sovereignty. If these views be correct, I have not characterized the bill too strongly: and the question is, whether they be or be not. I will not enter into the discussion of this question now. I will rest it, for the present, on what I have said on the introduction of the resolutions now on the table, under a hope that another opportunity will be afforded for more ample discussion. I will, for the present, confine my remarks to the objections which have been raised to the views which I presented when I introduced them. The authority of Luther Martin has been adduced by the Senator from Delaware, ware, to prove that the citizens of a State, acting under the authority of a State, are liable to be punished as traitors by this Government. Eminent as Mr. Martin was as a lawyer, and high as his authority may be considered on a legal point, I cannot accept it in determining the point at issue. The attitude which he occupied, if taken into view, would lessen if not destroy, the weight of his authority. He had been violently opposed in convention to the Constitution, and the very letter from which the Senator has quoted was intended to dissuade Maryland from its adoption. With this view, it was to be expected that every consideration calculated to effect that object should be urged; that real objections should be exaggerated; and that those having no foundation, except mere plausible deductions, should be presented sensed. It is to this spirit that I attribute the opinion of Mr. Martin in reference to the point under consideration. But if his authority be good on one point, it must be admitted to be equally so on another. If his opinion be sufficient to prove that a citizen of a State may be punished as a traitor when acting under allegiance to the State, it is also sufficient to show that no authority

was intended to be given in the Constitution for the protection of manufactures by the General Government, and that the provision in the Constitution permitting a State to lay an impost duty, with the consent of Congress, was intended to reserve the right of protection to the States themselves, and that each State should protect its own industry. Assuming his opinion to be of equal authority on both points, how embarrassing would be the attitude in which it would place the Senator from Delaware, and those with whom he is acting - that of using the sword and bayonet to enforce the execution of an unconstitutional act of Congress. I must express my surprise that the slightest authority in favor of *power* should be received as the most conclusive evidence, while that which is, at least, equally strong in favor of right and *liberty*, is wholly overlooked or rejected.

Notwithstanding all that has been said, I may say that neither the Senator from Delaware [Mr. Clayton], nor any other who has spoken on the same side, has directly and fairly met the great question at issue: Is this a federal union? a union of States, as distinct from that of individuals? Is the sovereignty in the several States, or in the American people in the aggregate? The very language which we are compelled to use when speaking of our political institutions affords proof conclusive as to its real character. The terms union, federal, united, all imply a combination of sovereignties, a confederation of States. They are never applied to an association of individuals. Who ever heard of the United State of New York, of Massachusetts, or of Virginia? Who ever heard the term federal or union applied to the aggregation of individuals into one community? Nor is the other point less clear - that the sovereignty is in the several States, and that our system is a union of twenty-four sovereign powers, under a constitutional compact, and not of a divided sovereignty between the States severally and the United States. In spite of all that has been said, I maintain that sovereignty is in its nature indivisible. It is the supreme power in a State, and we might just as well speak of half a square, or of half a triangle, as of half a sovereignty. It is a gross error to confound the exercise of sovereign powers with sovereignty itself, or the delegation of such powers with the surrender of them. A sovereign may delegate his powers to be exercised by as many agents as he may think proper, under such conditions and with such limitations as he may impose; but to surrender any portion of his sovereignty to another is to annihilate the whole. The Senator from Delaware [Mr. Clayton] calls this metaphysical reasoning, which, he says, he cannot comprehend. If by metaphysics he means that scholastic refinement which makes distinctions without difference, no one can hold it in more utter contempt than I do; but if, on the contrary, he means the power of analysis and combination - that power which reduces the most complex idea into its elements, which traces causes to their first principle, and, by the power of generalization and combination, unites the whole in one harmonious system - then, so far from deserving contempt, it is the highest attribute of the human mind. It is the power which raises man above the brute - which distinguishes his faculties from mere sagacity, which he holds in common with inferior animals. It is this power which has raised the astronomer from being a mere gazer at the stars to the high intellectual eminence of a Newton or a Laplace, and astronomy itself from a mere observation of

insulated facts into that noble science which displays to our admiration the system of the universe. And shall this high power of the mind, which has effected such wonders when directed to the laws which control the material world, be forever prohibited, under a senseless cry of metaphysics, from being applied to the high purpose of political science and legislation? I hold them to be subject to laws as fixed as matter itself, and to be as fit a subject for the application of the highest intellectual power. Denunciation may, indeed, fall upon the philosophical inquirer into these first principles, as it did upon Galileo and Bacon when they first unfolded the great discoveries which have immortalized their names; but the time will come when truth will prevail in spite of prejudice and denunciation, and when politics and legislation will be considered as much a science as astronomy and chemistry.

In connection with this part of the subject, I understood the Senator from Virginia [Mr. Rives] to say that sovereignty was divided, and that a portion remained with the States severally, and that the residue was vested in the Union. By Union, I suppose the Senator meant the United States. If such be his meaning - if he intended to affirm that the sovereignty was in the twenty-four States, in whatever light he may view them, our opinions will not disagree; but according to my conception the whole sovereignty is in the several States, while the exercise of sovereign powers is divided - a part being exercised under compact, through this General Government, and the residue through the separate State governments. But if the Senator from Virginia [Mr. Rives] means to assert that the twenty-four States form but one community, with a single sovereign power as to the objects of the Union, it will be but the revival of the old question of whether the Union is a union between States as distinct communities, or a mere aggregate of the American people as a mass of individuals; and in this light his opinions would lead directly to consolidation. But to return to the bill. It is said that the bill ought to pass, because the law must be enforced. The law must be enforced! The imperial edict must be executed! It is under such sophistry, couched in general terms, without looking to the limitations which must ever exist in the practical exercise of power, that the most cruel and despotic acts ever have been covered. It was such sophistry as this that cast Daniel into the lions' den, and the three Innocents into the fiery furnace. Under the same sophistry the bloody edicts of Nero and Caligula were executed. The law must be enforced. Yes, the act imposing the a "tea-tax must be executed." This was the very argument which impelled Lord North and his administration to that mad career which forever separated us from the British crown. Under a similar sophistry, "that religion must be protected," how many massacres have been perpetrated? and how many martyrs have been tied to the stake? What! acting on this vague abstraction, are you prepared to enforce a law without considering whether it be just or unjust, constitutional or unconstitutional? Will you collect money when it is acknowledged that it is not wanted? He who earns the money, who digs it from the earth with the sweat of his brow, has a just title to it against the universe. No one has a right to touch it without his consent, except his government, and this only to the extent of its legitimate wants; to take more is robbery, and you propose by this bill to enforce

robbery by murder. Yes: to this result you must come by this miserable sophistry, this vague abstraction of enforcing the law, without a regard to the fact whether the law be just or unjust, constitutional or unconstitutional. In the same spirit we are told that the Union must be preserved, without regard to the means. And how is it proposed to preserve the Union? By force? Does any man in his senses believe that this beautiful structure - this harmonious aggregate of States, produced by the joint consent of all - can be preserved by force? Its very introduction will be certain destruction to this Federal Union. No, no. You cannot keep the States united in their constitutional and federal bonds by force. Force may, indeed, hold the parts together, but such union would be the bond between master and slave - a union of exaction on one side and of unqualified obedience on the other. That obedience which, we are told by the Senator from Pennsylvania [Mr. Wilkins], is the Union! Yes, exaction on the side of the master; for this very bill is intended to collect what can be no longer called taxes - the voluntary contribution of a free people - but tribute - tribute to be collected under the mouths of the cannon! Your custom-house is already transferred into a garrison, and that garrison with its batteries turned, not against the enemy of your country, but on subjects (I will not say citizens), on whom you propose to levy contributions. Has reason fled from our borders? Have we ceased to reflect ? It is madness to suppose that the Union can be preserved by force. I tell you plainly that the bill, should it pass, cannot be enforced. It will prove only a blot upon your statute book, a reproach to the year, and a disgrace to the American Senate. I repeat, it will not be executed; it will rouse the dormant spirit of the people, and open their eyes to the approach of despotism. The country has sunk into avarice and political corruption, from which nothing can arouse it but some measure on the part of the Government, of folly and madness, such as that now under consideration.

Disguise it as you may, the controversy is one between power and liberty; and I tell the gentlemen who are opposed to me that, as strong as may be the love of power on their side, the love of liberty is still stronger on ours. History furnishes many instances of similar struggles, where the love of liberty has prevailed against power under every disadvantage, and among them few more striking than that of our own Revolution; where, as strong as was the parent country, and feeble as were the colonies, yet, under the impulse of liberty and the blessing of God, they gloriously triumphed in the contest. There are, indeed, many and striking analogies between that and the present controversy. They both originated substantially in the same cause with this difference - in the present case the power of taxation is converted into that of regulating industry; in the other, the power of regulating industry, by the regulations of commerce, was attempted to be converted into the power of taxation. Were I to trace the analogy further, we should find that the perversion of the taxing power, in the one case, has given precisely the same control to the northern section over the industry of the southern section of the Union, which the power to regulate commerce gave to Great Britain over the industry of the colonies in the other, and that the very articles in which the colonies were permitted to have a trade, and those in which the mother country had

a monopoly, are almost identically the same as those in which the Southern States are permitted to have a free trade by the Act of 1832, and in which the Northern States have, by the same Act, secured a monopoly. The only difference is in the means. In the former, the colonies were permitted to have a free trade with all countries south of Cape Finisterre, a cape in the northern part of Spain; while north of that, the trade of the colonies was prohibited, except through the mother country, by means of her commercial regulations. If we compare the products of the country north and south of Cape Finisterre, we shall find them almost identical with the list of the protected and unprotected articles contained in the act of last year. Nor does the analogy terminate here. The very arguments resorted to at the commencement of the American Revolution, and the measures adopted, and the motives assigned to bring on that contest (to enforce the law), are almost identically the same.

But to return from this digression to the consideration of the bill. Whatever difference of opinion may exist upon other points, there is one on which I should suppose there can be none: that this bill rests on principles which, if carried out, will ride over State sovereignties, and that it will be idle for any of its advocates hereafter to talk of State rights. The Senator from Virginia [Mr. Rives] says that he is the advocate of State rights; but he must permit me to tell him that, although he may differ in premises from the other gentlemen with whom he acts on this occasion, yet, in supporting this bill, he obliterates every vestige of distinction between him and them, saving only that, professing the principles of 1798, his example will be more pernicious than that of the most open and bitter opponents of the rights of the States. I will also add, what I am compelled to say, that I must consider him [Mr. Rives] as less consistent than our old opponents, whose conclusions were fairly drawn from their premises, while his premises ought to have led him to opposite conclusions. The gentleman has told us that the new-fangled doctrines, as he chooses to call them, have brought State rights into disrepute. I must tell him, in reply, that what he calls new-fangled are but the doctrines of I 798; and that it is he [Mr. Rives], and others with him, who, professing these doctrines, have degraded them by explaining away their meaning and efficacy. He [Mr. Rives] has disclaimed, in behalf of Virginia, the authorship of nullification. I will not dispute that point. If Virginia chooses to throw away one of her brightest ornaments, she must not hereafter complain that it has become the property of another. But while I have, as a representative of Carolina, no right to complain of the disavowal of the Senator from Virginia, I must believe that he [Mr. Rives] has done his native State great injustice by declaring on this floor, that when she gravely resolved, in 1798, that "in cases of deliberate and dangerous infractions of the Constitution, the States, as parties to the compact, have the right, and are in duty bound, to interpose to arrest the progress of the evil, and to maintain within their respective limits, the authorities, rights, and liberties, appertaining to them," she meant no more than to proclaim the right to protest and to remonstrate. To suppose that, in putting forth so solemn a declaration, which she afterwards sustained by so able and elaborate an argument, she meant no more than to

assert what no one had ever denied, would be to suppose that the State had been guilty of the most egregious trifling that ever was exhibited on so solemn an occasion.

In reviewing the ground over which I have passed, it will be apparent that the question in controversy involves that most deeply important of all political questions, whether ours is a federal or a consolidated government; - a question, on the decision of which depend, as I solemnly believe, the liberty of the people, their happiness, and the place which we are destined to hold in the moral and intellectual scale of nations. Never was there a controversy in which more important consequences were involved; not excepting that between Persia and Greece, decided by the battles of Marathon, Platea, and Salamis - which gave ascendancy to the genius of Europe over that of Asia - and which, in its consequences, has continued to affect the destiny of so large a portion of the world even to this day. There are often close analogies between events apparently very remote, which are strikingly illustrated in this case. In the great contest between Greece and Persia, between European and Asiatic polity and civilization, the very question between the federal and consolidated form of government was involved. The Asiatic governments, from the remotest time, with some exceptions on the eastern shore of the Mediterranean, have been based on the principle of consolidation, which considers the whole community as but a unit, and consolidates its powers in a central point. The opposite principle has prevailed in Europe - Greece, throughout all her States, was based on a federal system. All were united in one common, but loose, bond, and the governments of the several States partook, for the most part, of a complex organization, which distributed political power among different members of the community. The same principles prevailed in ancient Italy; and, if we turn to the Teutonic race, our great I ancestors - the race which occupies the first place in power, I civilization, and science, and which possesses the largest and the fairest part of Europe - we shall find that their governments were based on federal organization, as has been clearly illustrated by a recent and able writer on the British constitution [Mr. Palgrave], from whose works I take the following extract: -

In this manner the first establishment of the Teutonic States I was affected. They were assemblages of septs, clans, and tribes; they were confederated hosts and armies, led on by princes, magistrates, and chieftains; each of whom was originally independent, and each of whom lost a portion of his pristine independence in proportion as he and his compeers became united under the supremacy of a sovereign, who was superinduced upon the State, first as a military commander and afterward as a king. Yet, notwithstanding this political connection, each member of the State continued to retain a considerable portion of the rights of sovereignty. Every ancient Teutonic monarchy must be considered as a federation; it is not a unit, of which the smaller bodies politic therein contained are the fractions, but they are the integers, and the State is the multiple which results from them. Dukedoms and counties, burghs and baronies, towns and townships, and shires, form the kingdom; all, in a certain degree, strangers to each other and separate in jurisdiction, though all obedient to the supreme executive

authority. This general description, though not always strictly applicable in terms, is always so substantially and in effect; and hence it becomes necessary to discard the language which has been very generally employed in treating on the English constitution. It has been supposed that the kingdom was reduced into a regular and gradual subordination of government, and that the various legal districts of which it is composed, arose from the divisions and subdivisions of the country. But this hypothesis, which tends greatly to perplex our history, cannot be supported by fact; and, instead of viewing the constitution as a whole, and then proceeding to its parts, we must examine it synthetically, and assume that the supreme authorities of the State were created by the concentration of the powers originally belonging to the members and corporations of which it is composed."