

MR. CLAYTON, OF GEORGIA.

Delivered in the House of Representatives on Wednesday night, Feb. 28th, 1833, on the enforcing bill.

Mr. SPEAKER: It has been well said, by an old author, that when a Government intends to commit violence upon the rights of the people, its first attempt is to put out the laws, as others, on like occasions put out the lights. We allow the disburdening of a ship in imminent peril of wreck, but this will not excuse those who, upon a feigned foresight of a State tempest, shall immediately cast *law and conscience* overboard, discard and quit rudder and compass, and so assist the danger they pretend to fear. As a pretext to fall upon the people, they are to be visited with frequent vexations, and lest these should be healed by that generous forbearance peculiar to a love of country, their sores are to be retrained and exasperated, under all the urging circumstances that come within the invention of scandal. And hence, 'tis a principle in the politics of tyranny to make every infirmity a fault, and every fault a crime. Such as study to be great by any means, must by all means forget to be just, and they that will usurp dominion over others, must first become slaves to the worst of tyrants—a lust after power. Power, when unchained, stops at nothing short of full gratification, and by nothing is it so much delighted as the red ruins of wasted countries, desolated fields, and demolished habitations, and this scene is greatly heightened in its hell smitten aspect, if there be left to brood over the mischief, the solitude of widowhood, and the destitution of orphanage. Such may be the result of this day's legislation, and here is to come out of it this lesson, that in the promptings of ambition, power cannot be purchased too dear, though it cost the blood of millions.—In the contemplation of a principle so desponding there is left one consolation, poor I confess, that it will not be the first supremacy that has been won and worn upon the length and keenness of an usurping sword.

It is the remark of an eminent divine, that in entering upon the discussion of an important question, it is all important to catch, in the beginning, the fixed attention of the hearers, and nothing is so well calculated to effect this object as the reading of some striking passage from a popular author. Knowing and feeling how much I need such aid I will present you, from this same divine, that very stimulant, which he, in much good sense, recommends. "The vessel (says he) of our republic, driven by the gales of discontent, and hurried still faster by the secret current of luxury and power, is following the same course, and fast approaching the same rocks which have proved fatal to so many before us. Already may we hear the roaring of the surge; already do we begin to circle round the vortex which is soon to engulf us. Yet we see no danger. In vain does experience offer us the wisdom of past ages for our direction; in vain does the Genius of History spread her chart and point out the ruin towards which we are advancing; in vain do the ghosts of departed governments, lingering around the rocks on which they perished, warn us of our approaching fate, and eagerly strive to terrify us from our course. It seems to be an immutable law of our nature, that nations, as well as individuals, shall learn wisdom by no experience but their own. That blind, that accursed infatuation, which ever appears to govern mankind when there most important interests are concerned, leads us, in defiance of reason, experience, & common sense to flatter ourselves that the same causes which have proved fatal to all other Governments, will lose their pernicious tendency when exerted on our own."

Mr Speaker: I am not so vain as to believe I shall, this night, make the slightest impression upon any member who favors the passage of the bill upon your table. I should feel humiliated if my discernment was so far suspected as to raise the belief that I did not perceive the "malign influences" under which this measure is insidiously creeping to the execution of its purpose. To check it here I have no expectation. But, as I raised on a former occasion, there is no place in this wide empire, from which the people may be so well enlightened, as from the halls of Congress. It is the stand to which twelve millions of eyes are directed, and to the preachings from which the same number of ears are listening. To this more than ordinary attention, and still deeper anxiety, I address myself; and if there is left any thing of candor or judgment in this great auditory, free from the influence of party strifes, personal politics, or paltry devotion to a *name*, I trust the appeal will not be made in vain.

The bill we are called on to pass, amounts, to a declaration, without mincing the matter, that the States of this confederacy, as States, may be compelled by the military FORCE of the Government to yield implicit obedience to the laws of a majority of Congress, no matter what may be their character, and that there is no other relief but the virtue of the longest sword and the strongest arm, wielded under the dread alternative of triumph or treason. And what is worse, though one is the creator of the other, yet the creator alone can commit treason. The creature has nothing to lose in the conflict. It draws its resources from the author of its own being, by which it makes its conquests, and is subject to no pains nor penalties. While on the contrary, the State has every thing to forfeit, and pays the expense of the war, on both sides. Is this a false statement of the case? Then what has produced this state of things? That which has produced more real discontent than all other matters besides. I mean TAXATION. In countries where the people are taxed to support the splendour of kings, the luxurious indulgence of noble families, of particular dynasties, and are educated to believe that such impositions are all right, and is the very essence of duty, it is a matter of little concern how much their oppressors afflict them. But in this enlightened country where men know their rights, and are taught, from the republican simplicity of their Government, that taxes are property, and just so much, and no more, is required, as is honestly necessary for the frugal purposes of Government to protect the residue left in the hands of the contributor, it becomes a subject of just complaint, whenever these limits are transcended. For whom, then, are these taxes levied? Are they for the Government? Not so. The President has said they are not necessary—more than is wanting—ought to be reduced—recommends it, and considers the south badly treated. A reduction of six millions of taxes, which the Secretary of the Treasury says can be readily spared, will end all our strifes, and render this odious law perfectly unnecessary. Why can it not be done? Was there ever before an instance of one portion of the people fighting another to keep on the taxes, & the Government standing by, with its pockets as full as it wants, encouraging the battle? Look at the matter in its true colors. The south has been complaining for ten years, in every form that unredressed injury can suggest, and they have been constantly repelled by every excuse that insatiable avarice could invent, and none so often urged as the public debt. Well, now the public debt is paid. What next? Behold the Government in honest truth comes out and says, we have as much as we want out of you, and more too; but there are a few eager manufacturers standing at our back, who state they are not yet quite satisfied, & urge as a reason why we should let them subsist you a little longer, that you are putting on the signs of rebellion, and it will never do—the pride of the Government will not suffer it—to permit you to question our authority to tax you for whatever

purpose we please. True, these manufacturers have driven you to desperation, and to drive you out of it again, becomes pretext to keep on the taxes. Lay down your arms, fall on your knees and raise your hands and eyes in supplication, and we have no doubt they will take the matter into their serious consideration at the next session of Congress! Now, Mr. Speaker, you may think this is no hard matter to bear, and that we ought to try it a little longer, but mark me, we are in and about the very point where it can be endured no longer, and this Congress would do well to pause before they move any further. What is it you want? Taxes; For what? For the Government? Take what you please, to any amount, for its honest purposes. Have you ever been stinted? Your Secretary says you cannot possibly spend more than fifteen millions, and the allowance of this sum will reduce our burthens six millions. Why will you not do it? Do you want more for yourselves? Only observe for a moment how bountifully you are supplied out of these fifteen millions. Bear with me while I tell the people who are working under God's curse, for what little they earn, how sumptuously their governors live.

First, go with me to the palace of your President—see the splendors of his household—view the lawns, and artificial hills & dales that surround his mansion, made on purpose to regale his eye, & varied every year to relieve his vision from the dullness of monotony! All this comes out of the estimate of fifteen millions, said to be wanted for the use of the Government! Come with me to the gaudy exhibitions displayed in both halls of Congress—see our hundred white servants, subject to our beek and call—and we can hardly lift a draft of water to our lips without their help! See the splendid gardens and enclosures provided for our especial comfort and refreshment! One pavement, of ninety feet in length and forty in breadth, has cost four thousand dollars! One enclosure of eight acres, for a botanic garden, in front of this magnificent building, is about to cost, us twenty thousand dollars. The bringing of water from a spring in the adjacent country, to sport in a fountain before the Capitol, is to cost thirty thousand more.—It was but last night you gave away to this city, alone, eight hundred thousand dollars, besides one hundred thousand for paving in streets. The appropriation for what is so wastefully scattered over this building and its various apartments—I mean fuel and stationary—is one hundred thousand dollars a year—a sum sufficient to defray the separate civil list of half the States in the Union. Two thousand dollars to paper three rooms in the President's palace—enough to build forty habitations for those in the humbler walks of life, who are the tax-paying people. All this—and I barely mention a few items, to show the character & extravagance of public expenditure—also comes out of this estimate of fifteen millions of dollars, intended to supply the wants of the Government! Yes, Mr. Speaker, the wants of the Government! And when the people, with a holy devotion for the Government of their choice, are willing to submit to these impositions, & to gratify these frugal wants, it is not enough—they must contribute to the similar wants of private gentlemen, and to the gratification of the like kind of splendour; because, forsooth, they have idle money about them that must be put to profitable employment, through the agency of the Government, and at the expense of the great mass of the laboring south. And when the south complains, they are told, your conduct is insolent, your course is rebellious, & your doctrines are treasonable! It becomes our duty, & is demanded by the dignity of our Government, in the language of the Chief Magistrate of the nation to a member of this House, "to put you down." These additional taxes, over and above the wants of the Government, so long complained of, and now of a character no longer to be borne, has brought the south to the point of resistance. South Carolina has said she submits no longer. The rest of the south will soon follow. Tyranny, always cowardly, has taken the alarm. Every thing is magnified into rebellion. Wonderful signs, as of old, have appeared. The earth and air are filled with prognostics. Expresses frighten the country, from Washington to Charleston. A steamboat has been seen to reverse its flag, the Union down. One star on a blood-red flag has been seen in the south. On the morning the proclamation made its appearance in the Senate, no prayers had been said in that body. The flag of Congress, on that same morning, was observed to be flapping in confusion, only half mast high. One of the thirteen stars, representing the thirteen States, in the Virginia Capitol, fell on the day that that grave body were discussing federal relations. These were fearful omens of approaching war and rebellion; and as history plainly shows should never be disregarded by a cautious and wise Government. And, by way of showing you Mr. Speaker, how necessary it is to watch the signs, and to regulate affairs thereby, let me, without reminding you of the oracles of old, bring to your notice what was done by our sage and fore-knowing fathers, in that Island from which we sprang, about two hundred years ago under similar circumstances. I read from the Tracts of old Lord Somers, a quaint but highly instructive author, to whose amusing and vastly edifying lessons I invite the attention of the House. It is well to make comparisons between periods separated by long lapses of time, in order to mark our wonderful increase of knowledge, and the great improvement of our taste and judgment. To this end, I shall use this author frequently in the progress of my remarks; and therefore, once for all, formally introduce him to your acquaintance, and commend him to your polite civilities. Well, what says Lord Somers as to signs? Listen.

"The Whiggish signs and apparitions, foretelling their rebellion, and the Dutch war, as you will find in two pieces, entitled, *Mirabilis Annis*, 1 and 2. viz:

"Prodigious signs & apparitions, denoting war, &c. First, the likeness of a ship seen in the air at Stratford, by Bow, near London, in September, 1660.

"Two meteors like a streamer, or a besom, seen in Wood street, 12th October, 1660 means *Van Trump's* broom at his topmast-head. These relate to the Dutch war.

"*Now for whiggish armies, or their rebellions against the king.* Strange and terrible noise heard in the air, as beating of drums, the reports of great and small guns, in January, 1660.

"The form of a town well fortified seen in the air, 22d April, 1661.

"The noise of beating a drum, and of clattering of armour and the groans of dying men heard in the air, 1 September, 1661.

"Dreadful noise like the report of great guns, with the beating of drums, heard in the air, 1 May, 1661.

"The form of a lion, a unicorn, and bear fighting for a crown, together with an army of horse and foot, seen 29 May, 1661.

"The form of a coffin, together with two armies, seen in the heavens, encountering each other, 22 June, 1661. Now (continues the author) what pray, were these apparitions, prodigies, and judgments, printed privately, & handed about to the party for, if it was not with design to foretel, and also to usher in under the umbrage of miracles, their intended villainous plots and conspiracies; and these encouraged the ignorant multitude, under their seditious preachers and leaders, to commit these unnatural rebellions against his majesty's person and Government; and I think they are too visible to be denied by the most audacious of their party."

Our author then states these signs were so frightful in their nature, and the Dutch and Whigs have threatened to take the forts and magazines of the nation, it so incensed the people, that the king, highly offended, issued a proclamation con-

manding all the Dutch ships in the ports of England to be stopt; and all further treaties of pacification being laid aside, both nations prepare for war.—See troubles of English paper 3. following 73.

“During (as the history continues) the precludes of the approaching war, the Dutch, a more contumacious than formidable enemy, inflamed the rage and hatred of the English people, by several scurrilous libels, medals, and many base and satirical pictures, according to the innate insolency & barbarous vanity of that people.

By one picture they did basely represent the English nation a lion, depicted without a tail, with three crowns reversed.

Another was a picture of many mastiff dogs, whose ears were cropped, and tails cut off. (vide Dr. Collins's Survey of Muscovy, cap. 26.)

In dishonor to the King and the English nation they trailed the English colors, defiled with their excrements, through the streets, and at the stern of their boats, whereby foreigners were persuaded that our navy was totally destroyed by the Dutch, and that they had gained the “sovereignty” of the seas. Other curious prints were divulged every where, of the English *Phœnix* being overthrown, not by the thunderbolts of Jove, but by the valor of the Dutch. It seems Britannia, or old England, was no longer seated on her *globe*, with her feet on the sea, but prostrate on the dry land, Holland being mounted on an elephant, trampling upon her. Also, a boar cutting off the tails of the mastiffs, whereof some ran away, others sat licking their sores, others stood barking at a distance, with this inscription: *The English dogs and vipers destroyed by the valor of the Hollanders, in such manner that they never shall give the world further trouble.* (vide Stubs's Further Justification, &c. fol. 2. 3.) And lest we should stand in need of some of these extraordinary pictures of the Dutch, the *Flying post* has supplied us with another. He tells us that some of their wanton linnets drew King Charles the second, with his pockets turned inside out. This was when there was a secret understanding betwixt the Dutch and the faction in the whiggish Parliament, while they had agreed not to give him a penny of money, unless he would consent to have himself dethroned by giving away his prerogative.” (vide Oates's pic. 22)

Thus ends our author upon the notable subject of signs, and they bear such a remarkable resemblance to our own times, I trust they have not been uninteresting. Our signs have denoted “villanous plots and conspiracies,” and the ignorant multitude under their seditious leaders, have meditated not only rebellion against his “Majesty's Government,” but a dismemberment of the Union itself, and hence great preparations of war have been made. Troops have been sent from Norfolk to Charleston, “and fifty rounds of ammunition to the gun” have been ordered. A part of the navy has beselged that port. A reinforcement has been thrown into the Arsenal of Augusta. And what is all this for? It is said information has been received from a certain quarter, which I say dare not be furnished, for it has been called for and refused by this house, that the public authorities of South Carolina intended to seize the forts and arsenals. Sir nobody believes this—there is not a gentleman in this House believes it—perhaps I mistake, there may be one or two. I appeal to the honor and candor of every disinterested man upon this floor to say whether, from their knowledge either personally derived, or from reputation, of the characters of Governor Hayne, Gen. Hamilton, John C. Calhoun, and other distinguished men of Carolina, which need not now be mentioned, he believes that they or any of them ever contemplated disunion, or designed to capture the military posts of the Government. No sir, no man so abuses his own judgment much less the integrity of these distinguished patriots, as to credit or a moment suspicions, almost too gross for the fanatic credulity of which I have just given a specimen for from the venerable Lord Somers. But great complaint is made of the war preparations of South Carolina. Can any one be serious in saying that there is no cause for this? A State surrounded by ~~the~~ ^{the} ~~States~~ ^{States} denied the right to prepare to meet it! Take care, Mr. Speaker, ~~the~~ ^{the} ~~States~~ ^{States} doctrine to the States! In vain the Constitution allows the privilege to the citizen to bear arms for his protection, if when he rubs up his musket & furnishes it with a flint, he runs the risk of becoming a traitor! Sir, preparation is no force; as well may you tell me that the gentleman who sits before me with his sword cane, and which, no doubt, he carries for his honest defence, is obliged to run it through the body of the first man he meets, because he has thought proper to be ready for the assaults of either insolence or avarice. I well remember, Sir, my own State had once to make warlike preparation against the usurpations of this same Government, and I should like to see the man who would dare to say she meant any thing more than the lawful defence of her undoubted rights. Against this Union she never meditated the slightest movement, but against the unconstitutional acts of its Government.—She did plant herself upon her arms and hurl defiance in the very teeth of your usurping laws.—What Georgia has done in good faith against the designs of arbitrary power, I am willing to accord to other States, without imputing bad motives to the act.

But, Mr. Speaker, these wonderful signs have produced another wonderful consequence; like the Dutch apparitions that frightened the English King, they have brought out a similar proclamation. A proclamation, I will venture to say, that may safely challenge the world for its parallel. By what authority was it issued? Sir, I am about to make a declaration that I dare any man to deny. I affirm that there is no authority in this Government for any proclamation from the President of the United States, that is not founded upon some notorious law. The King of Great Britain dare not issue his proclamation unless supported by some known statute.—Now, show me the law that authorizes the proclamation in question, I boldly say there is none.—What! have we come to this, that a proclamation, like the edicts of the Grand Sultan, is to be the rule of action for the free people of these United States? That the President shall proclaim in written instruments what he considers to be the law; what is his interpretation of the Constitution; and that, according to his views of either, the sovereign States shall be bound? Is any here so credulous as to believe that if such a paper had been issued by the expected successor of the present incumbent against such a State as Virginia, it would have been tolerated for a single moment south of the Potomac? No, Sir, it would have been burnt in every town and hamlet throughout all that region. And pray, Sir, what is the nature of it. In one breath it reasons; in the next it threatens; now it argues, then it raves; here it is pathetic, there it is satyric; in one moment it is serious, in another it is ironical; sometimes grave, at others petulant; in some places it is persuasive, in others intolerant; in many parts absolute, and every where dictatorial. It arraigns the motives of men; is abusive of particular characters, imputes base designs to the public authorities of a State, and denounces the leaders of the people of that State as traitors; losing sight of the dignity of a State paper emanating from the Chief Magistrate of a great Government, it descends to personalities, and these are directed against personal enemies; its author calls himself the father of the misguided people of South Carolina. The “father!” mind that! the language used to the red people of the west. Your “great father” says so and so; in the name of every thing have we come to that?—The States sunk into Indian tribes! But, Mr. Speaker, worst the part of this matter is to be told; that while this friendly, feeling, flattering, fatherly, and fighting proclamation is reclaiming a State from the error of its ways, it is delivering over the whole of the States into the hands of the General Government to be consolidated, and henceforth to be known no more as sovereign States.—The republican party who have been contending for State rights for upwards of thirty years, and fondly believed that they had gloriously achieved their object, have had their trophies levelled in the dust a single blow, and themselves bound hand and foot, and thrown into the power of their old vanquished enemies. What a revolution! and how suddenly accomplished!

But it is said the proclamation, though erroneous in principle, was issued from the best of motives.—Yes, Mr. Speaker, there is not a whipping post, a jail, or a gallows, that may not claim the same merit; but when they are abused for the purposes of fraud and oppression, it is but of little comfort to

the sufferer to point him to the good motives that lie at the foundation of their institution. I wish, however, this celebrated instrument had even the virtue of *their* design for its appearance.

This proclamation has been followed up by a cool, calculating message, confirming all its principles, and demanding the the bill now under discussion.— This bill requires force to put down, not the tumult of a few individuals acting upon their own responsibility, but the solemn and deliberate act of the people of a whole sovereign State, assembled in convention in the same manner in which they assented to the Federal Constitution, & asserted under all the forms known to a well organized & independent Government. Sir, this bill does not blink the question; it asks for the power of declaring war against a State, & for the use of the army and navy, to give success to that war. And, sir, we are about to grant it. We are about to do that against a sister State, which we dare not do against a foreign nation. We dare not, without a formal declaration of war, which alone rests with the representatives of the people, where it should rest, for they are answerable for unnecessary wars, confer upon the President the power to use the army and navy against any nation that should prove unmindful of its obligations. Sir, the message contemplated war, whatever persons may say as to its peaceable character. Did not the President enter into a learned legal disquisition, displaying his usual profound research into the depths of that science, even down to the feudal origin of his subject, to show that the *posse comitatus* was a military force, and as such might be resisted? What was this for? That if South Carolina should attempt to use this instrument, which she and all other Governments have used time out of mind, to carry into effect her legal process, and which she will continue to use, when necessary, in all other cases where her own citizens are alone concerned, it is to be considered the use of force on her part. It must cease to be employed in cases where the General Government is a party—and, if used, it is to be treated as a military force, and shot down by the army and navy of the United States. As well may the courts and their sheriffs be considered as a military force, and treated in like manner. Does not every one perceive that this is the way the civil war is to commence? The Sheriff with his unarmed *posse*, are, by a forced construction, and at the special instance of the President, to suit the occasion, made a hostile array as against the Federal Government, (but perfectly lawful as against the State's own citizens,) & as such, are to be murdered by the United States' troops. Does any man in his proper senses believe that when such a scene commences, the good people of South Carolina are going to stand around the dead bodies of their sons, with folded arms, and tamely submit to such butchery? And if they will not, where is it to stop? Do gentlemen flatter themselves it will be confined to South Carolina alone? They must have a very contemptible opinion of the other Southern States, either as respects their courage or veracity, for they have more than once said they will not submit to the Tariff; and I trust they will have discernment enough to see that the destruction of Carolina is sought on that very account. The South may prove recreant; it may falsify all its former strong asserverations; it may abandon South Carolina after the work of death begins; they may turn out to be a talking and not a fighting people; but I shall not believe it till I see it, notwithstanding the Proclamation and this bill is supported by some southern members. The 1st & 5th sections of this bill allow the President to use military force, and these are to remain in operation to the end of the next session of Congress.— The other sections confer great powers on the federal court, and are intended to be permanent. I think I can perceive, that in some of these provisions, my own State is to have another difficulty, either with the Indians or the General Government; but as she can, as heretofore, take care of herself, I shall not now moot this point with the House; but go on to show, that, under the fifth section, a common marshal, especially if he be opposed to his own State, a thing not very unlikely, may involve this whole country in one universal blaze of civil war. The President is authorized to call out the military force, when informed by a federal judge that "any law or laws of the United States, or the execution thereof," is obstructed by "unlawful means too great to be overcome by the powers vested in the marshal." Now, who informs the federal judge of this fact? Does not every one see it must be the marshal? Who judges of the "unlawful means too great to be overcome?" Is it not the Marshal? And must not the judge certify, upon his information? Should he choose, in the plenitude of his great wisdom and caution, to consider an assemblage of the good people of Charleston, at the circus, convened to express resolutions, on federal relations, as "unlawful means too great to be overcome," and should they not disperse, upon the coming of the Proclamation, what is to hinder the army and navy from doing their deeds of death upon this unoffending people? Sir, the power is too tremendous to be given to any one man that ever did or ever will live upon this earth, especially in times like these, of personal passion, party prejudice, and powerful excitement. I would not grant it to the President, even if he could be personally present, with all his peculiar moderation and love of peace, to judge of the "unlawful means" himself, much less a partisan marshal, bent upon the triumph of his party, even at the expense of the lives of his adversaries, a passion which has not been without its manifest exhibition, even within these walls.

Have we not some experience how dangerous it is to confer unusual power on those whose ardent temperament leads them to a loose construction of it. In ordinary cases and under ordinary powers, there is little or no danger from any public functionary; his own interest and public opinion will keep him straight; but on great occasions and under unusual excitements, no man should be made absolute, and, least of all, General Jackson; for we do know that, on several occasions, he has known no law but his own will, and that if a law stands in his path, he gives it just such meaning as furthers the strong purpose of his mind. As I feel no inclination to make an assertion without the proof, I beg leave to submit a case or two. It will be recollected that a certain meeting took place at Hartford in Connecticut, by some of the first citizens of the northern States: it was a political meeting, and so far as I know, peaceable. I do not mention it to reproach any one, for on the present occasion I do not intend to hurt the feelings of any; my purpose lies in another way. In speaking of this meeting many years afterwards, Gen. Jackson said in a letter, & of course under due deliberation, that he would hang them under the second section of the rules and articles of war, if he had been in the neighborhood, as commanding general. Now what is this second section? It will create amazement when it comes to be seen, to think that the lives of so many individuals might have been taken under such a construction. Well, here is the far famed

SECOND SECTION.

"Be it further enacted, That in time of war, all persons not citizens of or owing allegiance to the United States of America, who shall be found lurking as spies, in or about the fortifications or encampments of the armies of the United States, or any of them, shall suffer death according to the law and usage of nations, by sentence of a general court martial." I pass over the scenes at New Orleans and St. Marks, "as laws are silent amidst arms," but I must exhibit the case the Spanish Governor of Florida, the celebrated Col. Callava. His case is familiar to every one. The manner of his being seized and imprisoned by Gen. Jackson because he would not give up certain papers which he considered private, was made subject of complaint by the Spanish Minister to our Government: with that I have nothing to do. It is with the construction of powers and the meaning of the language in which those powers are conferred, or the meaning of instruments to which they relate. I hold in my hand another proclamation from the same author, to which I beg the serious attention of the House, if they regard it as a matter of any consequence to know whether great and extraordinary powers have been used by their depository, about to receive similar powers, with proper and safe discretion.

The proclamation sets out with a long string of titles, such as, "By Maj. Gen. Andrew Jackson, Governor of the Provinces of the Floridas, exercising the powers of the Captain General, and of the Intendant of the Island of Cuba, and of the Governors of the said Provinces respectively: whereas, by the seventh article of the treaty concluded between the United States and Spain, it was stipulated, that the officers and troops of His Catholic Majesty, in

the territories hereby ceded to the U. S. shall be withdrawn, & possession of the places occupied by them shall be given within six months after the ratification of the treaty, or sooner if possible. And whereas, it has this day been made known to me that the following officers of his Catholic Majesty, to wit: (eight in number,) are (among many things related under a goodly number of whereases) the authors of the following false, scandalous, and indecent publication: (Now listen to this scandalous and indecent publication) viz: In speaking of Colonel Callava's appearance before General Jackson, H. B. ought to have stated that none of the interrogatories and highly offensive accusations of the General were faithfully interpreted to Col. Callava, any more than the replies of the latter to the former. It was therefore, out of the power of our Chief, not knowing what was said to him, to make the auditors understand how innocent he was of said charges with which his unqualified honor was endeavored to be stained. Such, in sum, are the observations we had to make on the statement of H. B. and we hope that he and the public will be convinced, that we acted from no principle of pusillanimity; that, if, on the one hand, we shuddered at the violent proceedings exercised against our superior, we knew, also, what was due to a Government which is on the most friendly footing with our own. We are, &c. (After stating how offensive this publication is, the proclamation concludes.) This is, therefore, to make known to the said officers to withdraw themselves, as they ought heretofore to have done, from the Floridas, agreeably to the said seventh article, on or before the third day of October next, after which day, if they or any of them shall be found within the Floridas, all officers, civil and military, are hereby required to arrest and secure them, so that they may be brought before me to be dealt with according to law, for contempt and disobedience of this my proclamation." That is, to be hanged, I suppose.

Against this proclamation of banishment under a construction of the 7th article of a treaty, which only meant a formal delivery of the forts, and the withdrawal therefrom of the troops as a body of troops in six months, leaving every individual, as such, the privilege of remaining in this free and happy country, the Spanish Minister bitterly complained. With regard to the publication, considered so scandalous and indecent, and which furnished the pretext for banishing eight individuals from a land of liberty, and where we boast the existence of a free press, the minister makes the most urgent complaint. After showing how ungenerous and ill founded was the treatment of these men, he adds, "but, in order to make the irregularity of General Jackson's proceedings more evident, I will grant, for a moment, that they are certain and proved; I will admit that the officers have been deserving of the chastisement and dishonor which they have suffered; but yet nobody will deny me, that, before it was inflicted upon them, they ought to have been cited before the proper tribunal, have heard the charges, and have had liberty and time for their defence. These are fundamental principles of the laws of Spain and of the United States, and of every civilized country. Yet, what has been the conduct of General Jackson? Without giving them the least intimation, he publishes in a language foreign to them, a proclamation, expelling them from the province, giving them scarcely time to arrange their affairs, and authorizing all officers, civil and military, to apprehend them, and will bring them before him!"

Mr. Speaker, what a reproach! And this stands upon the records of your country, giving the perpetual lie to the vaunted assertion of our Constitution, that ours is the land where the freedom of the press and trial by jury remains inviolate. So much for broad construction, and such was the consequence of it, that it wrung from General Jackson himself the declaration of his "hope that no living man should ever in future be clothed with such extraordinary authority." Let us take him at his word, and remember what we are about to do. It is the same person to whom unlimited power is about once more to be given. General Jackson is but a man, and ours is the Government where we trust the lives of the people in the hands of no man. If the scenes I have just read you, create a sense of mortification, what may not be the extent of that feeling at a future day, growing out of the present transactions. Fifty years hence and this measure will be viewed with astonishment; indeed, we ourselves, after our bickerings and heart-burnings shall have ceased, may live to blush at our own temerity.*

I have another case, Mr. Speaker, to show the danger of employing military force for civil purposes; though I should remark, Gen. Jackson has no concern with it. I adduce it to prove the utter impropriety of placing the execution of the laws in the hands of soldiers whose modes of thinking and action are all turned on war. The case comes within my own knowledge. In the summer of thirty, some fifteen or twenty of our best and most respectable citizens of Georgia were seized, in their own State, because they happened to be within the Cherokee nation, by a Federal military force, and without suffering them to visit their homes, or supplying themselves with a single comfort or convenience for a sudden and laborious march, but tying them together, and pinioning their arms behind them, they were marched off from their families, destined for Savannah, a distance of nearly three hundred miles.—These men, though honest, were poor, and many of them had bravely fought by the side of Gen. Jackson himself, had committed no crime, but were torn from their friends, and paraded through the country with a little lieutenant strutting in their front, and the bayonets of a brutal soldiery glistening at their backs, like so many galley slaves, a gazing stock for men, women, and children, as they passed the farms and villages of the country. And, Mr. Speaker, but for my interference, and with pride I speak it, these brave and respectable citizens would have been marched off to Savannah—and there, in a land of strangers, far from home, without money and without friends, there was a thousand chances to one, their fate would have proved an eternal separation from their wives and children. As it was, they were driven fifty miles from home, by forced marches. Sir, it was fortunate for them the military force, ay, Sir, the military force, such as your bill contemplates, chose to exhibit a military flourish through the populous village in which I reside, and to avail themselves of a triumphal entry into that notable town. Being clothed with a little brief authority, I dared to issue that writ of writs, called the habeas corpus; and, Sir, believe me when I tell you, upon an investigation of their case, their only crime was a return to the Cherokee nation, for the purpose of reclaiming a few working tools which they had left at the gold pits a short time before, upon leaving the nation under the orders of the public authorities of Georgia. This, Sir, comes of using military force, instead of the civil authority of the country, where the accused can have his friends about him, can have a hearing, can have his own witnesses, and confront those of his accusers.

And is this to become the mode of executing the laws? Are we drifting to the habits of European governments, whose arbiter is the muscle of the sullen soldier, and whose executioner is the murderous edge of his sword? Mr. Speaker, let us pause—this is not the genius of our Government. States cannot be forced. Lawless individuals may, who act upon their own responsibility. But let us draw the proper distinctions between the actions of a whole people regulating their political rights, as a Government, and those who oppose authority for selfish and individual purposes. States have rights, the sneers of manufacturers and the doctrines of the proclamation to the contrary notwithstanding. And let not a foolish pride, a vain importance, an inflated self consequence, and a mawkish false dignity, hurry this Government into a lofty dictatorial conduct towards sovereign States—which the plain, simple, honest, direct, and manly sentiments of democracy will finally frown down, with shame and confusion. The State and General Governments were made by the people, and for their own special benefit—the first in their social, the other in their federative character; and one was not designed to oppress the other. Can any thing be more ridiculous, than that the people should institute two governments, for the mere pleasure of fighting, in the character of one, against themselves, in the capacity of the other?—For shame! let us fly from such inconsiderate and inconsistent folly. It will suit the temper, feelings, and condition of the aristocratic governments of Europe, where every thing is done for the benefit of the few; but it is utterly repugnant to our institutions, where every man is a monarch, in the sovereign character of that term. Connected with the facts I have just related, I must mention that the of-

* I was told, by a gentleman from Tennessee, (Mr. Isaacs,) that these things I knew of Gen. Jackson before he was re-elected, and yet I was in favor of him. Keep General Jackson within proper bounds, and he can do the American people no possible harm. Ours is a Government of laws, and, so long as they conform to the Constitution, no public functionary can do us mischief without doing himself a greater. Because I was for him as President, it does not follow that I shall invest him with royalty. A President, within proper restrictions, may make an excellent President. The lion is a noble and generous animal, and we are delighted to view him in his cage, but if his keeper should politely offer to turn him out for our special amusement, I venture to say some one would kindly thank him, and instantly receded him, that he is in the habit of doing mischief when unchained, and yet never thereby think of offering disparagement to the lion. Let Congress, who are the keepers of all the public officers, confine them to their proper limits, and treat them as men, and not as gods, and then there is no danger. This much I intended to have said, and asked to say, in reply to Mr. Isaacs, but was denied and prevented by the call of the previous question.

ficer who commanded the military force, was sued by the individuals thus maltreated, and the case came before me. Holding the scales of justice as even as it was in my power to do, and always anxious to support the just authority of the General Government, I said to the complainants, you ought to be satisfied with your discharge—the fault is not in the officer, but in the law. He has acted under an authority, which, whether right or wrong, relieves him from the imputation of bad motives or lawless attempts upon your liberty. Let him go without harm, and tell your representatives never to place the military over the civil authority. And, Mr. Speaker, I am supported in this view by General Jackson himself, notwithstanding he now asks you for power “to put down a State.” Permit me to read to you his own answer to the Senate, dated on Washington’s birth-day, in 1831, to a call which they made upon him, “to inform the Senate of the reasons that have induced the Government to decline the enforcement of the act to regulate trade with the Indian tribes, and to preserve peace on the frontiers, passed in 1802. Let me call the earnest attention of the House to his reply. Listen—he says:

“The Indians, thus situated, cannot be regarded in any other light than as members of a foreign Government, or, of that of the State within whose chartered limits they reside. If in the former, the ordinary legislation of Congress in relation to them is not warranted by the Constitution, which was established for the benefit of our own, not of a foreign people: if in the latter, then, like other citizens or people resident within the limits of the States, they are subject to their jurisdiction and control. To maintain a contrary doctrine, and to require the Executive to ENFORCE it by the employment of a MILITARY FORCE, would be to place in his hands a power to MAKE WAR upon the RIGHTS of the STATES and the LIBERTIES of the country—A POWER WHICH SHOULD BE PLACED IN THE HANDS OF NO INDIVIDUAL.”

Can commentary be necessary on language so plain? And is this House prepared to grant an individual in the exercise of that which he himself has denounced, and warns us is too much to be granted to ANY INDIVIDUAL? Who will now blame me for a freedom of debate in relation to the measures of the administration, when its chief disclaims the principles against which I war, and when too, I consider that all we hold most dear is at stake?

I come now, Mr. Speaker, to the third thing proposed, though I omitted to mention it, in the beginning of my remarks. I mean the nature of our Government? Before I proceed, I cast my eye around, with a hope to draw upon me the steadfast looks of every member present, and the crowded auditory that surrounds the Hall. I am about to make an assertion which may perhaps give offence, and create some strong sensation in this honorable body. I do not mean, intentionally, to offend any one. I have more than a usual share of good feeling on this occasion, and as we are about to part, never, certainly, for us all to meet again, nothing would give me more pain than to let drop any thing which should be carried from this seat of our common toils and cares, to the far distant limits of the land, and there rankle in the bosom of any one friend with whom I have been associated, in the pleasing and benevolent effort, to heal the unhappy divisions of our common country. I find I have your profound attention, and will therefore proceed to say, that this Government is not founded upon the DIVINE RIGHT OF KINGS.

In order to make good this position, it becomes necessary for me to contrast a Government founded upon the *divine right of Kings*, with the principles of our Constitution, only requesting you to bear in mind, that the functions of our Government are performed, not by a single individual, who, in kingly Governments, has *all power*, but by three well defined departments of limited powers. Keeping this distinction constantly in view, I again invite your courtesy to the teachings of my venerable old friend Lord Somers. Well, what says he?

“QUERY XV.

Whether in any case it be lawful for subjects to oppose their Prince?

SOLUTION.

It must be resolved in the negative! And that in any case, or upon any pretence whatsoever, it is utterly unlawful for subjects, jointly or singly, collectively or representatively, to make any *violent* opposition against their sovereign; or to resist him either in an *offensive* or a *defensive* way. This assertion you will find to be a truth, that is consonant to *holy writ*, *reverend antiquity*, *sound reason*, and to the *municipal laws* of the land; all the sophistries and argumentations that seditious and corrupted men are able to produce, to the contrary notwithstanding.

I. *As to holy scripture.* (Here the author gives several authorities, which, on this occasion, need not be mentioned, and then proceeds.) The reason of this severity is, to preserve the people from being poisoned in their *allegiance* by the malignity of vile examples. That all the people, under what nation or qualification soever, may *bear* and *fear*, and do no more presumptuously. For who, says David, can lay his hand upon (who can touch, who can stretch forth his hand against) the Lord’s anointed, and be guiltless? Now the signification of the scripture phrase, [touch or stretch forth the hand,] is of a *large extent*. The guilt of this horrid crime may be incurred either by lifting up our heels in scorn against our king; by taking up arms in our own defence, by not bringing to light such traitorous conspiracies as we know to be forming against him, by not endeavoring to defend him when we see him in danger, for *qui non retat peccare, culpam possit, jubet*; by striking at his crown, usurping upon his prerogative, or depriving him of his REVENUE, by *speaking* or even *thinking* evil of him.—(Be it recollected that the President told a member of this House, that for South Carolina to act upon her doctrines was *treason*, to think of it was *rebellion*, and why? Lord Somers answers) Because, as the tongue can strike without a hand, so the heart can curse without a tongue.

II. *As to reverend antiquity.* St. Ambrose, upon the point of *non-resistance*, discourses to this effect: “I have not so learned as to seek by force to oppose authority; I can *mourn* and *lament*, (yes, Mr. Speaker, that has been all that was left to us of the South for the last ten years, and now our adversaries ‘mourn and lament’ that we do not confine ourselves to such a good, quiet, easy remedy.) But for other *resistance*, (says our author,) I neither will nor ought to make any.” St. Cyprian speaks to the same purpose. “It is out of a principle of conscience,” says he, “that none of us make any opposition, when we are unjustly seized upon, or study a revenge upon our tormentors; for the numerousness of our party were otherwise sufficient to bear us out in such design.” And so does Tertullian. “We are not,” says he, “despoiled of our goods, they are only sequestered for our benefit, and entrusted in safe hands; God keeps them for our use, and will return them with ample increase. If you abstain from fighting, he will expense your quarrel; and question not but your enemies will have the worst on’t, for your wounds will save you, and if you fall martyrs you will rise saints. What cannot our sufferings bring about? Thus make even God himself our debtor; he owes heaven for ourselves, and he owes hell for our enemies: but yet we breathe our souls in prayer, that he may be entreated not to pay this last.”

Now, Mr. Speaker, did you ever see such a striking analogy between this doctrine and that of our tormentors of the spindle? How often have you heard that the tariff system was for our particular benefit, for what was esteemed our loss, was such a gain *somewhere* else, that it would come back to us with great increase. And the Proclamation now tells us, in a kind, paternal manner, to “abstain from fighting” and there is no doubt we shall get the better of our enemies, “and they will have the worst on’t.” At all events, a little hanging and shooting will be of no disservice to us in gaining God’s mercies and our enemies’ forbearance, and therefore recommends this gunpowder bill.

III. *As to sound reason.* Such a license to subjects against their rulers, is destructive of the very nature of Government and of human society; for it dissolves the very sinews of the State, and splits it into as many factions as it has enemies. And is it possible to exercise TWO equal supremacies of power in the same nation, and yet the kingdom to remain ONE? It is both reasonable and necessary, that all Governments should have a supereminent *coercive power* over particular persons; for otherwise, a city would immediately be hurried into an anarchy, and that which ought to be one *entire body*, becomes so many independent men. What obedience can consist with such resistance? Nor will such libertines know where to stop, for it is usual for them to fall foul upon all such as have a deeper sense of honesty and allegiance than themselves. And what law of God or man was ever heard of, that approved of my murdering a loyal man, because I myself am a rebel? Beside, that one few opinion equally wounds the very operators of it; for any body may be allowed to do that to them, which they have done to their rightful prince and his lawful subjects.

No doubt this is considered very “sound reason” by these faithful subjects who are listening upon me properly, but least it should fail of producing proper

conviction upon those who have been to question the great potency, the fall on your table is about to do another sound reason, composed of powder and ball, that strikes with such force as scarcely ever fails to overturn all opposing reasoning.

"IV. Now touching the municipal laws of the land. If a subject finds himself aggrieved by the King, he is put to his petition for his redress which will not you see, it is a sufficient penalty that he is to expect punishment from heaven. No man may presume to question what he does, much less to oppose him. To conclude, the famous bishop Meres is positive that a King by lineal succession, being lawfully invested, cannot upon imputation either of negligence or tyranny be opposed or deposed by his subjects. The surest way to escape both the guilt and punishment of high treason, is to fear God and honor the King. The counsel given by the wisest of Kings is worthy to be adverted to. Think not evil of the King in thy heart, neither utter it with thy lips; lest a bird of the air carry the voice, and that which hath wings discover the matter. Let us detest the principles believed and practised by those audacious violators of royal majesty, the spawn of Loyola, and keep fast to the doctrine of our own church, which positively asserts, that the sacred bond of subjects, in obedience to their sovereign, is inviolable, and cannot be dissolved, either upon the account of supposed crimes, in the person of the prince or the exercise of tyranny, oppression, infidelity or heresy." I have now, Sir, presented you with a Government founded upon the *divine rights of Kings*. Need I ask you if such be the character of our Government? I put the *sever*, serious, and, I hope, sensible question to this House, whether ours is a Government containing the principles with which our old author has so much amused us? And, if no, in what does certain principles lately promulgated, and now about to be carried out by the present war bill, differ from them? There is not a man in the whole nation who will not laugh at the absurdity of the doctrines just read in your hearing, and pity the ignorance and superstition upon which they rest, and which has doubtless carried many a man to his long home for daring to dispute; and yet, Mr. Speaker, shall I be reproached if I say absurd, and ridiculous as were these benighted nations, we are this day acting over the same monstrous scenes that disturbed and agitated the bosoms of those who have been slumbering in their graves, for nearly two hundred years? Are not modern politicians contending for *non resistance, passive obedience, unconditional submission, and absolute supremacy* in the General Government. Disguise this matter as you will, I affirm, if a sovereign State of this Union has not the right to question the will of this Congress, and is it to be put down by the sword for daring to oppose it, all the doctrines I have read you from Lord Somers, is in full force and virtue in this boasted land of liberty, and the first gun that fires in S. Carolina, to establish the doctrine of the proclamation will bellow the divine right of Kings from sea to sea, and from shore to shore. Nay, sir, it will do more, it will rend this fair fabric of ours into a thousand fragments. The Union is gone at the flash of a gun that aims the slaughter of a freeman for conscience sake. Revolution has no limits, and what is worse has no heart, and when once commenced defies all control. Well did Lafayette say, when he saw the Queen of France torn from her palace by the rabble of Paris, "would to God I could now stop the ball of revolution." Turning from the scene in tears, & retiring to his home in anguish, he said: I assisted to give it motion; but to arrest it now is out of my power. And, Sir, the bloody tyrants of Nantz, the famous Luignie Kerblue, who had murdered his hundreds of men, women and children, in that dreadful conflict, years after those agitations were over, in the torture of deep remorse, exclaimed--we were a "nation of madmen."

I will now proceed to give you my views of the formation of our Government. I lay down this position that there is a difference between a *social* or *homogeneous*, and a *Federal-Government*. The first relates to individuals, the last to communities. The State Governments are examples of the first, the General Government of the last. The first depends upon a well known moral principle, which we learned at the schools, *that of the greatest good to the greatest number*, and, consequently, must be under the direction of a *majority*. Not so of the other, it is founded in compact or agreement, and, of course the articles of stipulation stand in the place and away of the majority. In the *social* government we appeal to the will of the majority for the rule of action—in the *Federal*, to the articles of agreement. If this were not so, wherefore the necessity of any distinctions of States at all? Why not have abolished them at once, and let the whole mass of the people have constituted one great government? Why leave to the States any government at all? This was not the design of the Constitution. No one believes that Delaware, as sovereign and independent as New York, consented to give up her *sovereign* government and blend herself with the vast population of that State who *can do as they think right* in any manner it pleased. The thing is too unreasonable.

The States had two great interest, which I will distinguish by the terms *municipal* and *relative*. The first has reference to their *internal concerns*, the latter to their relation with each other as distinct sovereignties, and with foreign governments. The one interest was as dear to them as the other; indeed, the safety of that which related to the protection of life, liberty, reputation, and property, was, if any thing, the most desirable. This they retained to themselves; the other, the *relative* interest, they conferred upon the General Government—having, evidently, at one time, possessed the exclusive right to manage both. Now, if this distinction can be kept steadily and closely in the mind's eye, it must be admitted that when either of these governments invades the rights of the other, the invaded government will have the right to repel the aggression, and the right of resistance must be reciprocally the same. More of this hereafter: Now, Sir, permit me to show how clearly these *relative* can be separated from the *municipal* powers and that nothing is so entirely perfect, which belongs to human wisdom, as the discrimination made by the framers of the Constitution. These *relative* powers are contained in about seventeen specific grants, and which if faithfully executed, cannot possibly benefit one State more than another. This is the true test of the intention of the Federal Government, for no one can believe that it was designed to be a bargain in which some States were to receive more advantages than others. For such an instance of stupidity there could be no possible motive, and nothing contained in the history of the times warrants such belief. Now let us apply this test. The first power is to "lay taxes" in various ways, but they were, to be uniform throughout the United States." How can any one State be more benefited by an honest exercise of this power than another?

Take the next, and apply the test—"To borrow money on the credit of the United States." The next, "To regulate commerce with foreign nations and among the several States, and with the Indian tribes." Every one knows, that in all our commercial regulations, faithfully intended as such, and obviously belonging to that subject, there never has been any complaint. It is only when Congress departed from the true object of this clause, to take in something more than its words or spirit conveyed—something that belonged to the municipal interest of the States, local and partial, that the inequality commences and the test fails. Take the next power, and our rule immediately applies—"To establish an uniform rule of naturalization." And again: "To coin money, regulate the value thereof, and fix the standard of weights and measures." Does not every one perceive, that it is not possible for Congress to devise a law on any of these powers that shall give a greater advantage to one State than to another? This is equally true as to all the other powers in the Constitution, and I invite gentlemen to a careful examination of the fact. It is only when we leave the letter of the power and are seeking for something else carefully lodged away among the reserved rights of the States, with a view to fish them from those governments, that any possible difficulty can occur. For instance, in order to get this eagerly sought right to protect manufactures, which not a solitary syllable, word, sentence, clause, paragraph, or article of that instrument, mentions, by groping for it in the darkest parts that would furnish a pretext for the search, its friends have fallen upon the provision relating to the "common defence and general welfare," as best justifying it. Now, Mr. Speaker, I do not intend to argue this matter, so often discussed, and I beg gentlemen not to be alarmed at the mention of the "general welfare" principle, but they must excuse me, if, by way of putting this thing forever at rest, so that it shall no more be heard of among politicians, I read them the history of this same general welfare doctrine, from our old friend Lord Somers, to ascertain if it can be possible our Constitution meant what he so profoundly describes. He commences.

ENGLAND'S WANTS; Or, several proposals probably beneficial for England, humbly offered to the consideration of all good patriots in both houses of Parliament.

The want of public spirits (meaning enterprise, not ostentation) hath occasioned the want of many public works of piety and charity—works necessary for the general welfare, or commodities and conveniences for the people, or of ornament for the Kingdom

1. To supply the want, that by such easy ways and means as are hereafter mentioned, there may be raised a public stock, to be put into the hands of commissioners accountable to the King.

2. For raising such public stock, it is proposed first upon all such commodities as occasion either excess or luxury, wantonness, idleness, pride, or corruption of manners, there may be laid a large and extraordinary impost, as upon all wines, all strong drinks, tobacco, coffee, chocolate, sugars, spices, plums, all sorts of sweet meats, oranges, &c.; upon all silks laces, ribbons, jewels, watches, plate, feathers, perukes, fringes, &c.; upon all fine linnens, camblets; upon cards, dice, tables, bowls, &c.; upon all coaches, chariots, litters, sedans; upon all pictures, perfumery, paints for the face, looking glasses, &c. Moreover, a third part of all the gettings of comedians and rope dancers, mountebanks, lotteries, shows, &c. (By the by, a much better list of taxable articles than that furnished by our own tariff acts.)

3. That according to the practice of the primitive christians, whose devotion was such that they thought no testament well made unless some considerable portion was thereby added to the church, no testament henceforth should be valid unless a 20th part of the legacies were given to the alternated objects of general welfare and private uses. That a 40th part of all things recovered by law may be (as once among the Romans) assigned for public uses. That there be paid out of all marriage portions six pence in the pound, and something proportionably paid at the death and birth of every person not living on alms. Now the money of this public stock may be employed in these public uses following, viz. For building work-houses in all convenient parts of this kingdom, for making rivers navigable, for building and repairing bridges, highways, sea banks, (breakwaters,) harbours, moles, land marks, aqueducts, for setting up poor youths, for marrying poor maids for relief of aged impotent, decayed people, for maintenance of sick and maimed seamen, and pensions for old soldiers.

For the further increase of the price of wool it may be enacted that not only the dead should be clothed in wool, but that all the living, from the first of November to the first of May, shall be obliged to wear their clothes and hats made of wool.

That none but married men, or who have once been married, shall be, after the age of 35 years, capable of any office of profit or honor.

An act to encourage the making of all sorts of paper, of rough hats, of coarse canvass, of point lace of silks, of scisscors, of needles, to make vinegar, all box combs, gold and silver lace, some sorts of silk, some sort of goldsmith's ware, as spoons, forks, &c., which are made better in France than in England, & for all which vast sums of money is returned into France.

That, as in the reign of Edward the 2d, the number of attorneys was regulated, and 140,000 declared to be sufficient to serve this whole kingdom in that peaceable age; so now that the excessive number of lawyers and attorneys may be reduced to a competent number for this age, and some things in their pleadings reformed. What a shame to our nation is it, that so many civil and rapacious lawyers should be permitted to plead in behalf of known vicious persons, and of manifest oppressors, and in causes notoriously unjust—should be permitted to make a trade, not to minister justice, but to heap up riches and devour all the fat of the land.

That for redressing those high crimes, (so accounted by all God's people heretofore, through now in England little conscience is made thereof,) of wilfully trying to rob God or the King, the one in his tithes, and the other in his tributes, customs, or revenues, by constant grumbings and mutinous-complaints, it may be made a high offence for the future and very severe punishment inflicted at the discretion of his majesty. (Quite a squinting, Mr. Speaker at the force bill.)

That members of Parliament should be compelled to wear a robe or vestment, that so they may be every where discerned, and receive their due respect and be ashamed to be seen frequently in play houses, dice-houses, cockpits, taverns, or houses of worse repute; or to be night-walkers, &c. And during their attendance on Parliament, if they be found in such places and ways, out of their robe or vestment, then to lose their wonted privilege, according to that saying, "God giveth his angels charge over us to keep us, whilst we are in our ways, but out of our ways, no protection of angels to be expected."

The inequality of taxes upon several counties, hatched and contrived by designing men, with much partiality, in the late time of rebellion, is so great that to regulate the same, would be a work well worthy of a speedy act of Parliament. (Mind that, Mr. Speaker.)

And lastly, an act of Parliament for a solemn anniversary day of thanksgiving during the reign of our sovereign lord the King now reigning, not only for the many signal & wonderful preservations of his crown, both by sea and land, and of his right and title to this kingdom, in spite of the late wicked contrivances, conspiracies, and associations of all his mortal enemies, but also for his most peaceable accession to this crown, with the universal good will and rejoicing of this whole nation and of all his other dominions.

Here, Sir, is one of the most regular built, scraped out, polished off, and well finished general welfare systems ever devised by the ingenuity of man, both as to the mode of taxation and the manner of disbursement. Now, Sir, if a member were to rise in his place, and under that provision in our Constitution upon which the American system is said to be founded, were to ask leave to introduce a bill to adopt my Lord Somers' plan, would it not create a universal smile; and how many votes do you suppose it would receive? And yet, Mr. Speaker, when well examined, absurd as is this very system, it is not worse than that contended for to justify the vast expenditures of this Government. When once you assume the right to make appropriations for any one object of the general welfare, not specially provided for in the Constitution, you are at sea without trudder or compass, and the million of objects which the discretion of Congress might imagine conducive to the general welfare, are as much within its jurisdiction as any one single object. Where do you get your powers for purchasing pictures, paintings, drawings, statues, busts, books for yourselves, for making fine gardens, aqueducts, water-fountains, bridges and canals for the District of Columbia, McAdamizing the streets of Washington, and a thousand other things not now necessary to be mentioned? It is from the general welfare principle in the Constitution, and called by the name of "public spirit," by my Lord Somers. These works of "piety and charity," of which he speaks, and wants nothing here but a "force bill," which it is now likely to obtain, to spread it over as many objects as you have just been amused with from our venerable author.

To return to the formation of the General Government. It seems that much of the present dispute turns upon the nature of sovereignty, and where it resides. One thing is admitted, that in this country the sovereignty belongs to the people; both the General and State Governments deduce their title to whatever they exercise, not what they possess, for they possess none, from this source; and the only disagreement is as to the extent of what has been conferred. I lay down this position, that sovereignty is either alienated or delegated—the first parts with it altogether, the last temporarily, and at the will of the grantor. The first can never be resumed—the latter can, at any and all times—European Governments are founded upon the first; there is no such thing in this country as alienated sovereignty—it is all delegated. The monarchs of Europe possess the whole sovereignty; and whatever is parted with, by them, is a concession to the people, either gratuitously made by a good Prince, or forcibly wrong from a bad one, as in the case of magna charta and the bill of rights, from the Prince of Orange. Here the whole sovereignty is with the people, and whatever concessions are made, are to the Government, by delegation, for their benefit. The revolutionary war left thirteen sovereign and independent States, and if every thing which has been done since that time, in relation to the organization of the Federal Government, could be completely obliterated, and the thirteen States stand precisely as they did then, every one will perceive the truth of the assertion. Now suffer me draw upon your imaginations, for a moment, so as to suppose the recognition by Great Britain of independence had been signed yesterday. What then would be the character of the State Governments? I will be told they would be under the articles of confederation. Then these admit their entire sovereignty. I have before stated that the sovereignty resides in the people of each State; but as all the people of each State could not meet, at a given place, to determine whether these articles of confederation should continue under their new relation of independence, or how far a change was rendered inexpedient by a great change of condition, (for as the confederation was principally designed for a state of war, it could not possibly answer that of peace,) it became necessary, therefore, to meet by representatives. When they did meet, there were thirteen sovereigns present, as much so, as if the States had been left with monarchs at their head, and these monarchs had met for the purpose of appointing a general agent to perform certain acts, in which the whole had a common interest. Now suppose, instead of seven or eight powers

tion, to be executed by a President, a Judge and a member of Congress, representing the three departments of government, these thirteen monarchs had given but one single power, and that to but one single individual, for the number of powers or of agents cannot vary the principle, subject to amendment by the consent of three fourths of the contracting parties, and suppose that one power to be the regulation of commerce. How much sovereignty would be delegated to this individual? Surely only a seventeenth part of what has been delegated to the Federal Government (supposing seventeen to be the number of powers granted.) Now, does not every one perceive that the thirteen monarchs would remain sovereign over the other sixteen powers not granted? and, if so, are they not equally so over all those powers which are denominated reserved rights? for the sixteen powers now become reserved rights. They, and the one power just mentioned, originally came from that mass. Each monarch has *delegated not alienated*, his right to regulate commerce to a particular individual. Before they part however, and just as they have delivered over their power of attorney to their agent, nine of the monarchs ask the agent if, in the exercise of his one power, he cannot so contrive it as to prohibit commerce altogether, for the purpose of protecting their manufactures? He replies he can. Now, who is to judge of this? Here is a case made at once, and before the parties separate. Four of the monarchs protest against such a power. Will any one say the agent himself ought to do it? Then he inevitably takes all the powers of all the monarchs; for, by the same rule that he judges in one case, he can in a million, as to the extent of his powers. And is it right or just that he, who but a moment before was a perfect blank, & was chosen, not for his own benefit but for the benefit of each & the whole of the parties, should instantly become a conduit to pass the rights of one portion of the monarchs into the possession of the others, & the injured party have no other redress than what depends upon his self-serving judgment. What then is to be done? It will not surely be said that, inasmuch as the other nine monarchs constitute a majority, that, therefore, they have a right to determine the matter? The compact is founded on such principle; indeed, it is declared that any amendment of the instrument must receive the consent of three-fourths. Well, then, can any one be so blinded as not to perceive that an honest, faithful, and fair execution of the compact would result in this argument, viz: The four monarchs would say, Mr. Agent, you have no right to grant what these others have asked you; now, before we separate, we insist that you submit that instrument back to the whole of us, and if three-fourths will determine that you have the power, (for that number can give it to you under our agreement, and it can make no possible difference whether it is formally conferred or declared to exist,) we will submit. If you will not, you shall not exercise that power within our respective kingdoms; & if these other nine monarchs attempt to aid you in this usurpation, we now tell them we will resume that portion of the trust which have just delegated, & dissolve the agreement. So let us understand each other before we part, because if your design to persevere, we will break up at once, and form no connexion. The nine monarchs and this bribed and corrupt agent declare they will go on. Is there a man here, or in any hole or corner of this wide world, who will have the hardihood to contend that the four monarchs must submit to this fraud; engendered before the ink was yet dry upon the instrument that contained signatures? And if they ought not, then how is the thing varied by the intervention of time? If it would be fraud then will it now be fraud now? Are we to lose rights because of the complication of machinery necessary to protect them? Are we to submit to wrongs because of the doubts which the operation of compound agencies sometimes creates? Strip this whole matter of all extrinsic circumstances used for the purpose of executing the powers of government, analyze it till it is brought down to the simple elements I have presented, and in the name of every that is just and holy, can any man so torture and pervert the meaning of things as to arrive at a different result?

To vary the illustration, let me present another view. It was said by an able speaker in another part of this building, that the people can form as many governments as they please, and that the people of the whole United States have formed the General Government as well as their State Governments. Now let this be granted. But will he contend that these governments are not as wholly independent, as governments, of each other, as if they were foreign to each other? Is not the State Government of Massachusetts independent of the State Government of Georgia, and are they not both independent of the General Government so far as respects their reserved rights? Can Georgia legislate upon any of Massachusetts' reserved rights? I shall be answered no, at once. Well, if she cannot, will it be pretended that Congress can? I suppose not; but then again the question recurs, who is to decide the question of interference? I think, Mr Speaker, I can give the answer that must settle the question. Recollect that we have just determined that neither Georgia nor the General Government can legislate upon the reserved rights of Massachusetts. Now, suppose Georgia should pass a law declaring that Massachusetts, nay, all the States, by way of making the law general, should pay a tax to her upon their exports?—Would Massachusetts leave the decision of the right to impose this tax to the courts of Georgia? Who believes it? Would she leave it to the federal court? Certainly not. Then to whom would she leave it? Why, to no earthly power but herself. She would declare the law null and void, as in the case of the boundary of Maine, & not "obligatory upon her people." She would "interpose her authority to prevent its operation within her limits." If she has the right to interpose, she has the choice of means. And whether by arms or legislation she effects this interposition, it is for herself and no one else to judge and determine. To this reasoning there can be no objection. Now, suppose that Congress passes precisely such a law as that of Georgia's imposing the same tax? In what will the cases differ? Think you Massachusetts would leave the question to Supreme Court? To what other conclusion could she come but the one in the Georgia case, if she is independent of both Governments in reference to her reserved rights? If she would nullify as to Georgia, what is to hinder her from nullifying as to the General Government? They stand upon the same footing. But there is another view that I think still more conclusive of the right of a State to protect her reserved rights. Suppose, at the formation of the Federal Government, the States, or rather the people of each State, had possessed, severally, only twenty powers; they meet in convention, as States, and confer ten of these powers on the General Government, & keep the other ten to themselves, respectively. Now, mark, they were Supreme over all the twenty powers before they granted ten away, consequently they continue supreme over those not granted. Both Governments go into operation perfectly supreme over their respective ten powers. Suppose the States pass a law violating one of the ten granted powers, what do you suppose the General Government would do? The answer is ready: she would not regard it; she would not suffer it to operate within her limits: in fine; she would nullify it. Will any one point out to me any good reason why the States may not be permitted to do the same thing, if Congress passes a law violating one of their ten reserved rights? If they are independent Governments, perfectly supreme over their respective ten powers, what one can do to protect itself, the other certainly can. It is a bad rule that don't work both ways. If the Federal Government can defend its granted powers, surely the States may do the same thing as to their reserved rights and whatever plan the one may adopt to effect the object, precisely that may be employed by the other. The provision that the "constitution and the laws of the United S. which shall be made in pursuance thereof, shall be the supreme law of the land," is not stronger or more extensive than the one which asserts that "the powers not delegated to the United States, are reserved to the States respectively, or to the people."

I know the sovereignty of the States is now laughed at, and the proclamation has done more to bring their rights into contempt, than all the other attacks united since the triumph of republicanism in '98. It is now urged by that instrument, by its federal friends and the bill on your table, that the States may be sovereign but their people shall be subjects. They will not war against the States, as States, but they will hold their citizens answerable individually, for the acts of their Governments.—And can it be possible the States will submit to this? Will they stand by and see their citizens massacred for obeying their own laws? Of what

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account is sovereignty if it cannot protect the sovereigns? If all the people of a State can be hung up, one by one, can be cut off in detail, God help the sovereignty of such a State! Mark the consequences of this doctrine. If the federal courts can control the State courts by considering them, and their officers, and their posse, as so many individuals, unconnected with the State government, and control them accordingly by the use of dungeons, halts, and gibbets, they can treat the Legislatures and Governors of States in the same way. If the Judiciary Department of the United States can exercise such a power, then the co-ordinate branches of the same government can do the same thing. Congress and the President may act upon all the departments of the State governments in the same way, not as a government, but merely as individuals, and when Governors are brought to the scaffold, for executing the laws of their States, it will be poor consolation to be told they are not hung in their *official*, but in their *private* capacities. If the States submit to this doctrine, they will richly deserve the fate which the bill we are now discussing is preparing for their people.

Mr Speaker, I am admonished by the great length of time I have occupied no longer to abuse a patience, which has been unusually indulgent. I must therefore, though I have much more to say, bring my remarks to a close. I ask now the attention of the House but for a very few moments. Acting upon the doctrines I have advanced, South Carolina has annulled what she conceives an unconstitutional law of this Government, and has prepared herself to prevent its operation within her limits, declaring she means to use no force, and that if force is used against her, she will leave the Union. The President has said *she shall do neither*, and calls upon Congress to give him the army, navy, and militia, to coerce her into obedience. Now, Mr. Speaker, let us ask ourselves seriously if this can be right? Does prudence, generosity, or justice, demand such a harsh proceeding against a sister State, even though she were wrong, if any milder course could be devised? Repeal the tariff, which, before Heaven, is a solemn duty, because an act of justice, and the whole difficulty is at an end. But, Sir, suppose the bill passed, and General Jackson obtains all he wants—suppose he could, with his own arm, unaided by any other force, execute its object, and suppose a crisis arrives that makes it necessary for him to proceed to South Carolina! Go with me, Mr. Speaker, to the scene of action, and let me present you the picture which is furnished by the materials of this astonishing case. General Jackson girds on his dagger, and with cool and deliberate step marches to the peaceful plains of Carolina. He seizes the first man he meets, and exerting the whole strength of a great Government, he throttles him, and, with the strangling grip of Hercules chokes him to the earth. In that fall, to which overpowered energy must submit, he plants his knee upon the bosom of his struggling victim, and thus prostrate, he is about to plunge his knife to his heart. But, Sir, before the fatal blow is struck, he relaxes his grasp to receive the dying words, not of a convict, but of a freeborn citizen of a sovereign State. What does he say? Sir, he asks, why am I thus treated? What have I done? I have obeyed *my State* and forfeited my life *to you*. If I had obeyed *you*, it would have been forfeited to *my State*. Is this the boasted land of American liberty? Better, by far, I had lived in Poland, or been a serf in Russia. But what, I repeat, have I done to you? Have I not fought by your side, for my country, at Mobile and St. Marks, and contributed to your fame? Have I not willingly paid every tribute she exacted, nay, more than my share, when she asked it for her own purposes? Have you not said there is enough, more than then enough? Have you not said that I am wronged, and ought to be redressed? Why is it, then, you are about to make a desolation of my home, & fill its murdered peace with the tears of orphans, and the cries of their widowed mother? What other reply could be made by this executioner of your law, than that this is wholly true? True, that the Government wants not your money; true, that I have said your burdens ought to be lightened; true, I have said there is more than the wants of the Government require; but there stands at my back, unconnected with the Government, a confederacy of individuals, one of whom cries out to me, kill him, kill him, unless he will contribute, from the sweat of his brow something to my woollens! Kill him, kill him, says another, unless he gives something to my cottons! Kill him, kill him, says a third, unless he yields a tribute to my iron! Sir, in this critical moment, I leave him, and I leave you & this House to ponder on the scene.