FOR THE SOUTHERN BANNER.

A Review of Mr. Clayton's Address to the State Rights' Association of Clark County.

NO. II.

It is useful in government as in morals frequently to recur to those fundamental and elementary maxims, which form the basis of a system. This is especially necessary in a government like ours, having *written* Constitutions, in order to see how far we have been governed by them. The comparison will always be wholesome, and very often essential.

When our people were presented with *written* constitutions, defining the powers, and prescribing the duties which the government was to exercise, a new era in the science of politics dawned upon the world. In the language of Mr. Clayton, p. 4, "Our forefathers had felt the hand of oppression bearing heavily upon them, and it was their design to protect if possible their children, even from the shadow of oppression. They well knew the selfishness of mankind, that a reckless majority, if uncontrolled, would disregard the rights of the minority. *Hence their great exertions were directed to their protection.*"

This is a conclusion which their wisdom and sagacity could not overlook. Now the question presents itself to the mind, did they, seeing the danger, provide a remedy? or have they left their posterity to labor under a full conciousness of the evil, unprovided with the means for meeting it?

Upon the resolution of this question by the American people, much obviously depends. If it is such a government as contains, or rather recognizes no certain and fixed principles, by which the rights of a minority may be protected from the abuse and oppressions of a majority, our forefathers have failed entirely in their grand and ulterior object in "presenting us with *written* constitutions."

But on the other hand, if there are provisions made by them calculated to exert this healthful influence of correcting the abuses, and corruptions of a "reckless majority," we are to look for them in the constitution; and consequently, when they are exercised, it must be done upon the authority of that instrument.

The original conception of a plan of gov-

ernment, consisting of mutual checks and balances, is perhaps due to no one individual. The English government presented the first system the world ever saw; and the basis on which that system was originally founded, is now a matter of research and curiosity to the Antiquary in historic lore. The correct opinion in regard to this subject, seems to be, that it owes its present form to the gradual influence of fortuitous circumstances.

In this respect we are more fortunate than the English. The formation of our government, the most *perfect* system of reciprocal checks and balances known in political science, is the most prominent and well known feature in our civil history.

What, let us ask, (for we discuss this subject primarily) is the object of incorporating these checks and mutual balances in a system like ours? The answer is obvious; for the purpose of preventing corruption. If corruption exists in our government to any injurious and oppressive extent, it *must* be found in a majority, for that alone has the capability to injure and oppress. The final deduction from this, then, is clear. The object, the ulterior object of this system of checks, is to prevent the oppression of a minority, by a "reckless majority." Here is to be seen the ground work of those guards of safety, which have so wisely been thrown around a minority, in the government.

But how do these checks operate in our government, so as to secure a minority from oppression? For the sake of perspicuity we will examine the subject somewhat minutely.

The constitution divides our government into three distinct and co-ordinate departments; first, the Legislative, second, the Executive, and thirdly the Judiciary—The legislative power is again subdivided into three parts; first, the house of Representatives, secondly, the Senate, and thirdly, the President of the United States.

All legislative enactments must necessarily come before each of these three distinct, and as to each other, independent branches of the legislative power of the United States. If it be intended to introduce a bill for appropriating money, or raising taxes, it must originate in the house of Representatives. It there undergoes the most deliberate investigation. And as all the powers they can legitimately exercise, are contained in the constitution, the first question which presents itself is, whether they have the constitutional power to enact the law in question? If they decide that they have, the next is, as to its expediency. When all these considerations are settled, which the standing rules of the house require to be done in the most solemn and deliberate manner, the bill is then transmitted to the Senate, where the same process is gone over a second time; and if the Senate decide in favor of it, before it can become a law it must be transmitted to the President for his decision. The constitution allows him ten days (Sundays excepted) to meditate and reflect on it; And unless he signs it, it cannot become a law until two thirds of both houses declare, by yeas and nays being taken in its favor. Thus we see the Senate exercising a revising power over the acts of the house of representatives, and the Executive over both, and he in his turn controlled by a concurring majority of those two branches of the government. In like manner the house of Representatives can revise the acts of the Senate, whenever that body originate bills. Nor does this system stop here in its beneficial influence. Even after a bill has passed both houses, and received the signature of the President, and thus become a law, if unconstitutional &c., it may still be rendered nugatory, and its execution prevented by the judiciary of the United States.

Here, then, we see the guards which our forefathers, who "knowing the selfishness of mankind," and feeling determined to save their offspring, even from the shadow of oppression, have provided for that offspring in the organization of our government. So much for that power by which each branch of the government may check corruption and usurpation in the others.

There is yet another important class of remedial agents, intended by our forefathers to protect us from the oppressions of our government; we shall merely glance at them.

The people have at all times the right peaceably to meet in primary assemblies, and freely discuss not only the nature of political principles, but the characters of public individuals, whether incumbents of, or candidates for office. The influence which the exercise of this right has upon the administration of the government, must, from its very structure, be powerful. The general government is very often spoken of as an irresponsible, self-existent power, acting independent of the people; and hence the continual clamour among a certain class of political panic makers, who, assuming to themselves the duty of watchmen upon the walls of liberty, proclaim to the people the dangerous innovations and corruptions of that government. The contrary of this is true. The government is sufficiently responsible to the people, to enable them to control its administration, and check its corruptions, before it can destroy their liberties, or subvert their cherished institutions. And one of the primary means of effecting this result, is that of assembling themselves together, and by discussing the merits of the principles acted on by an existing administration, to spread information, and enlighten the public mind.

The influence produced by the exercise of this right, is a moral one. It tends to disseminate truth, detect error, and expose falsehood. In short, it enables those who hold the rights of the elective franchise, to *vote* with discrimination, which brings us down to ballot-box, as a powerful remedial agent in correcting the abuses of our government.

It is useless here to enter into a minute exposition of this subject, in order to show its advantages, or how far it may be brought to bear upon the administration of the government. When we reflect that through this means the house of Representatives may be entirely changed in *two* years, the Senate in

six, and the Executive in *four*, we are compelled to regard it as the staple bulwark of our liberties, as the palladium of safety to our institutions, as the nourishing pabulum which keeps up the constant circulation of those vital *principles* of constitutional freedom, essential to our national prosperity.

We have thus taken a rapid glance at those provisions which have been incorporated in our constitution, for our protection against unjust legislation, and Federal abuses. These are what we call *constitutional* remedies; and they constitute the grand objects of our "forefathers, in presenting us with written constitutions."

Mr. Clayton has drawn a very metaphysical distinction between rights, which, for the sake of order, we shall postpone noticing to a future number; we cannot, however, in justice to the subject, avoid noticing in this place, the remedies which he proposes against oppression. Those remedies are clearly in his "Address," connected with the fundamental position which we have just commented on, the substance of which is that our forefathers presented us with written constitutions to protect us from oppression. The simple inference which we draw from this is that these written constitutions were intended to contain provisions calculated to protect us against oppression. We have cursorily pointed out those *constitutional* provisions which we feel perfectly certain that no man understanding the structure of our government can deny. Let us see how Mr. Clayton's "Remedies" and those we have pointed out agree.

His first is the "ballot box." In this we perfectly agree, with the single exception that we believe it to be more efficient than the nullifiers do—We believe it to be our greatest *constitutional* remedy, they believe in the existence of one superior to it, because it is declared to be efficient when the ballot box fails. This *remedy* is "State interposition," alias "State veto," alias NULLIFICATION. We regard this remedy as treated by Mr. Clayton as a *constitutional* one; because of the intimate connection which exists between his position of our being presented with written constitutions to protect us from oppression, and the remedies he has pointed out. They stand in the relation of premises and inductions.

Now the question that presents itself is this: Is nullification a *constitutional* remedy? If this is true, the doctrine must be derived from the constitution by construction, by implication, and the door is immediately opened for Federal aggression. It is in effect placing a weapon in the hands of our antagonist with which to slay us.

If it be decided *not* to be a constitutional remedy, then it forms no part of the intentions of our forefathers in presenting us with written constitutions containing provisions rgainst oppression, and consequently the connection between the premises and inference is disolved. Either horn of the dilemma is sufficient to create the most serious consideration. The weight of evidence is decidedly in favor of its being extra-constitutional, and we hesitate not to assert in the face of any authority, that *any extra-constitutional* mode of resisting the laws of the General Government, is REVOLUTIONARY. FRANKLIN.