

ed to reform; and it is a remarkable fact, that the plan of civilization, when once it begins to develop itself and to be understood, takes root every where better among the Indians who have had no white people connected with them, than where they have. The Indian countryman, with but few exceptions, is a lazy, idle, cunning, thievish animal, so much degraded in the estimation of the Indians that they are considered as slave of their family, & treated accordingly; if a red man has a wife, he can put her away or she can put him away, and after the usual festival, the claims on each other cease; not so with the white man; he is a tenant at will, so far as the wife's promises are concerned, but permanently bound in his property—and moreover, if she commits adultery it is no offence against a white husband, and only makes him a subject of ridicule; but towards a red husband it is a crime (murder excepted) of the deepest die; she forfeits, and the adulterer also, their ears."

Such are the characters, to whose evidence in the Creek Controversy, Mr. Adams and his Agents gave implicit confidence!

Bolívar, the *Liberator*, as he has been gratuitously styled, has managed, like Cæsar, Cromwell and Napoleon, to invest himself with Supreme command. What matters it whether he be called Governor, King or Emperor? Power is his object, and this he possesses as fully and uncontested as if he were a Monarch, which he will yet be, if he wills it. Oliver Cromwell, in the exercise of as absolute Sovereignty as any Potentate of his day, contented himself with the modest title of *PROTECTOR of the Republic!* We had long since despaired of the success of Republicanism in Colombia.

FROM THE GEORGIA JOURNAL.  
[COMMUNICATED.]

#### A QUESTION.

Can the State tax Horses, Mules, and Hogs brought within its limits? and can it tax Cotton Bagging and other articles of manufacture made within the United States, under like circumstances?

As the Federal Court is the place where this question will be tried, if it ever occur judicially, it will be well to hear what that tribunal has already said in a case, where, as I conceive, the principle is settled; and it may be fortunate for the Southern people, if the Judiciary department of the Union, preserve its integrity, that the matter, to use a very trite saying, is in *black and white*.

In the case of *McCulloch, vs. the State of Maryland*, to be found reported in the 4th volume of Wheaton's Reports, page 316, the Supreme Court, among other things declare "that the power of taxation is one of vital importance; that it is retained by the States; that it is not abridged by the grant of a similar power to the government of the Union; that it is to be concurrently exercised by the two governments, are truths which have never been denied." Again "it is admitted that the power of taxing the people and their property is essential to the very existence of government, and may be legitimately exercised on the objects to which it is applicable, to the utmost extent to which the government may choose to carry it."—Again, "it may be objected, that the power of taxation is not confined to the people and property of a State. It may be exercised upon every object brought within its jurisdiction. This is true. But to what source do we trace this right? It is obvious, that it is an incident of sovereignty, and is co-extensive with that to which it is an incident. All subjects over which the sovereign power of a State extends, are objects of taxation, but those over which it does not extend are, upon the soundest principles, exempt from taxation." The Court then proceeds to state what is *within* and *what is not within* the jurisdiction of a State. "The sovereignty of a State extends to every thing which exists by its own authority, or is introduced by its permission." Then comes the exception.—"But it does not extend to those means which are employed by Congress, to carry into execution powers conferred on that body by the people of the United States." Again, "we find, then, on just theory, a total failure of this original right to tax the means employed by the government of the Union for the execution of its powers." Again, "if the right of the States to tax the means employed by the General Government be conceded, the declaration that the Constitution, and the laws made in pursuance thereof, shall be the supreme law of the land, is empty and unmeaning declamation." Lastly, "the States have no power, by taxation or otherwise, to retard, impede, burden, or in any manner control the operation of the Constitutional laws enacted by Congress to carry into execution the powers vested in the General Government."

"This opinion does not deprive the States of any resources which they originally possessed. It does not extend to a tax paid by the real property of the Bank, in common with the other real property within the State, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution, in common with other property of the same description throughout the State. But this is a tax on the operations of the Bank, and is, consequently, a tax on the operation of an instrument employed by the Government of the Union to carry its powers into execution."

From these extracts the following undeniable propositions are clearly deducible—1st. That a state may tax, to the "utmost extent," every thing which "exists by its own authority," may be "brought within its jurisdiction," or "introduced by its permission." If there are any terms conveying a more unlimited power, they are not within my comprehension. 2d. This extensive right is subject to but one exception. Every body perceives that if the State was out of the confederation, there would be no exception at all: for according to the admitted rights of sovereignty there is no restraint on the taxing power, consequently, that exception must arise from some portion of the sovereign power parted with and given to the Federal Government by the States. Now, whatever that power is, it is decided by the Supreme Court, and no one is disposed to controvert it—that no State law, whether for taxation or any thing else, can exist to "retard, impede, burden, or control its operation," provided there is a constitutional law enacted by Congress to carry that power into effect." Whenever, then, a State is about to pass a law taxing an object, it has only to enquire whether Congress has a law that will in "any manner"

be affected by the contemplated act; if there is none, the way is clear, there is no other obstacle, and this is admitted by the Supreme Court.

Now suppose a law is proposed at the next session of the Legislature to tax Horses, Mules, and Hogs brought into this State, what act of Congress will it "retard, impede, burden, or control?" Produce the act and the question is at rest. It is not to be found in that act of plunder, commonly called the "Tariff act," for it mentions nothing of those articles. It cannot be insisted upon that it violates the Federal Constitution, in that right which Congress had to "regulate Commerce between the states," for Congress has passed no law, under that power, to regulate this kind of Commerce. The Federal Court would have nothing to act upon. Wild as has been some of its notions, and as much as it loves power, I apprehend it loves itself better, and that a reputation for at least common sense, would induce them not to risk upon an honest and enlightened community, this grave conclusion, that because the General Government has the power "to regulate Commerce among the States," that therefore, the States have no right to tax "objects brought within its jurisdiction," when there is no law to prevent it.

The States are in the habit of doing it every day—Besides the case of *Pellars*, we have, on a former occasion, not only taxed, but actually prohibited the introduction of negroes. Are they not property? What is the difference, as to taxation, between them and Horses? Suppose two men were to go to Virginia, and one was to buy a lot of negroes and the other a stock of horses, and bring them into the State, what is to hinder the State from taxing the horses, if it is admitted she can tax the negroes? And where is the act of Congress, in either case, that could protect them from this right of the State?

The conclusion is inevitable that these articles can be taxed, and the State is alone restrained by duty and a conscientious regard to the interests of its people.

Having disposed of this branch of the subject, we come now to the next point, whether a State can tax Cotton Bagging and other domestic manufactures brought within its jurisdiction? We must keep steadily in view the foregoing principles, for they govern this part of the question also. Suppose, for instance, in revising the Tax Act next fall, the Legislature should declare that all cotton bagging made within the United States, & brought within this State, should pay 25 cents a yard, and all cotton goods, under like circumstances, should pay the same tax, what act of Congress would it "retard, impede, burden, or control?" That is always to be the question. The caution is, take care not to interfere with a power you once possessed, but have now given away. I think I have shown that the power to "regulate Commerce between the States" would do, especially when no act is passed to regulate that Commerce. Well then, if this power will not do, where is the "law enacted by Congress" that will do? The Tariff act! perhaps some steam loom and spinning jenny gentleman may say—Ah! Mr. Blanket Weaver, is that your opinion? Suppose you look at the law again. It purports to be "AN ACT in alteration of the several acts imposing duties on imports." And when you come to look at the several acts "imposing duties on imports" you find they are acts expressly passed for raising revenue—They are not to encourage and protect domestic manufactures, and though Congress was dishonest enough (things ought to be called by their proper names) so to intend it, yet fortunately they have no where, either in caption or section, so expressed themselves. And in the last Tariff-act, I hope it will be remembered, that Mr. Hamilton, of South Carolina, proposed to amend the law so as to express that very object, that he might obtain a trial of its Constitutionality on that very ground. Unless then, the Judiciary should prove as lost to principle as the Legislature, and determine to support the latter in its fraud, against the letter of the act, and its Constitutional intent, I think the *Callico gentry* would be deceived in their expectation of relief from the Tariff act. The Federal Court must, in all cases brought before it, act upon some law. Suppose then, a case was made under the Tariff law, and a State law taxing domestic manufactures brought "within its jurisdiction," and found scattered through the State among its merchants, as property, and the tax equal and common among all the citizens, as to those objects, what would be its decision? Would it determine that an act to raise revenue by laying a duty on imports, was "retarded, impeded, burdened or controlled," by a State law taxing cotton stripes made in Massachusetts? Instead of its injuriously affecting the "means" employed by the General Government to carry into effect its granted powers, such a state law would come in aid of its operation, for every body must see, even to Burgess, of R. Island, that the more domestic manufactures are discouraged by a State, the more a revenue derived from foreign imports must be promoted. Instead of the weaver's complaining that a law for revenue was violated, by buying his drabs and drillings, the importer ought to complain that his drabs & drillings had "retarded, impeded, burdened, and controlled" the operation of an instrument used by the Federal Government to carry its "Constitutional powers into execution."

The doctrines contained in the case of *McCulloch*, above quoted, may be false, the present materials of the Federal Bench, like the majority of the last Congress may be faithless, but if the first be correct and the last be honest, no State need dread to tax any article made within the United States, and "brought within its jurisdiction."

ATTICUS.

FROM THE SAVANNAH REPUBLICAN.

The undersigned, conceives it due to his Constituents, to inform them, that he is not a Candidate for re-election, as Representative from Georgia, to the Twenty-first Congress of the United States.

He justly appreciates the confidence that has been reposed in him, & will cherish in retirement, the recollection of the liberal approbation, that has been awarded to him, for his efforts to discharge the duties of a citizen, in situations, to which he has been called in support of the interests of his country—Duties, that he will be always ready to perform, according to his abilities whenever emergencies may require them.

JOHN FLOYD.

Belle Vue Place, Camden county, Aug. 8, 1828.