

The following would have appeared last week, but was accidentally mislaid by those who took it from the office, and we never saw it till after the paper was out.

Judge Clayton's Answer.

ATHENS, August 31, 1832.

To Wm. Cumming, J. P. King, and A. Slaughter, Esqrs.

GENTLEMEN.—I have received from you, as the organ of a meeting of the citizens of Richmond County, a communication accompanied by their resolutions, in which a request is made to know my "sentiments in regard to Nullification." This shall be promptly done. But I owe it to a sense of self respect, as well as of candour to you, to state, that in the face of your third resolution, containing a threat to vote against any candidate who advocates that doctrine, I should certainly have declined a compliance with the wishes of your meeting, but for a consideration much higher than that of appeasing a political denunciation, or essaying to conciliate a doubtful favor. It carries no terrors to me. But the crisis has arrived when every man should speak out boldly, and whatever may be the consequences to himself, to meet them like a man, and endeavour to save, if possible the constitution of his country. To this end it has been my wish to address the people of Georgia, as well for the purpose of arousing them to a proper sense of their wrongs, as to disabuse their minds of a carefully lodged prejudice intended to impair that hold on their affections, which I had fondly hoped had been well earned on my part. Your address has furnished that opportunity. As your meeting, doubtless, in a spirit of what it conceived to be its rights, has subjected me to a political catechism, under a menace, will it be offended, if I, in my turn, without such rigour, seek to know "what are their sentiments in regard" to Mr. Jefferson as a statesman? He has merited, and justly received, the title of an Apostle of Freedom. He is the great oracle of southern politics. In his opinions every statesman is safe who has the true and proper veneration for civil liberty. Will any thing he has said be good authority with your meeting? If so, then mark his own words, uttered in opposition to the Sedition Law, one, not more unconstitutional than the tariff act. "When (said this great man) powers are assumed, which have not been delegated, a NULLIFICATION of the ACT is the RIGHTFUL REMEDY: That EVERY STATE has a NATURAL RIGHT, in cases not within the compact, to NULLIFY, of their OWN AUTHORITY, all assumptions of power by others, WITHIN THEIR LIMITS: that without this right, they would be under the dominion, absolute and unlimited, of whomsoever might exercise this right of judgment for them."

Here, then, you have my opinion in full. Of Mr. Jefferson's political creed I shall never be afraid or ashamed. Whenever his doctrines cease to be considered orthodox, by the southern people, for they never were in odour in the north, I feel entirely confident I am unfit to be their representative, and the execution of the threat of your meeting can never come too soon for my own inclination.

It is true that Mr. Jefferson has not pointed out the mode and manner of nullifying a law; but this must be left to the wisdom and discretion of the state whose rights are invaded by the assumed power, and must be as various as the acts are varied that violate the constitution. Any plan, I care not what it is, that rids the state of the oppressive measure, is a nullification of that measure. To nullify is simply nothing more nor less than to re-

null and void. All unconstitutional laws are null and void. Is this objected to? I presume not. Then your meeting, in its very first resolution, has declared that the tariff act is "unjust and inconsistent with the spirit of the constitution."—Is it too much to say that an *unjust* law, one inconsistent with the spirit of the constitution, ought to be *NULL* and *VOID*? As much as this doctrine is now decided, I affirm, without the fear of contradiction, that it is the very doctrine upon which Georgia has acted from the foundation of her government. And I will now prove it. I lay down these positions:

1st. That an unconstitutional law is *NO LAW*, and no man or community is bound to obey it. nay, they are bound to *resist* it, for every man is sworn to support the constitution.

2d. A law "unjust and inconsistent with the spirit of the constitution," is a violation of the constitution, because it is a perversion of that instrument, a perversion is a breach of its intention, and according to all rules of construction, legal or moral, the intention must govern.

3d. That the general government can pass no law for which it does not find an authority in the constitution, and that if it does, it is no more binding upon the states than if passed by a foreign nation, for as to all ungranted powers it is to these states a completely foreign government.

The two first positions need no commentary, the last suggests these reflections. Suppose Great Britain should pass an act for the benefit of her manufacturers, to operate in Georgia, what would the state do? I care not what, but whatever was done, precisely that ought to be done, in relation to the same act passed by the federal government, for the right is wholly and absolutely usurped in both cases. If South Carolina, our neighboring state, were to pass such a law, every body would see its absurdity, and Georgia would nullify it in an instant; then where is the difference between one state and twenty-three states? Where is the difference between the northern states doing this thing, in their separate state legislatures, or, under the pretence of constitutional authority, combining and meeting in the halls of Congress for the same purpose, if both methods be equally out of the pale of the constitution? Why should we not as readily resist an *usurped* act of the general government as that of any other government? There is no reason for it, and in four distinct cases has the state of Georgia applied, as Mr. Jefferson calls it, this *RIGHTFUL REMEDY*.

May I again respectfully ask your meeting, "what are its sentiments in regard" to Governor Troup's political principles? He says, "whatever a state does in its sovereign capacity, will be right." Acting upon this principle, in 1825, when the general government attempted to annul the *old*, by what was called the *new* treaty, he solemnly declared it should not be done, stated boldly that he "would employ all the limited means in his power to prevent it," and ordered the Hancock troop of horse to hold themselves in readiness.—What stronger "revolutionary tendency" could any measures exhibit? But this was not all, the Secretary of War ordered troops into the nation to overawe the state, listen, while perhaps the blood will curdle with indignation, at General Gaine's despatch to that officer: "Col. Chambers (said he) with five companies of the first, and Major Donoho, with four companies of the fourth regiment of infantry, have taken the positions assigned them, viz. the former at Marshall's Ferry, Flint river, and the latter at Princeton, Chattahoochee, with instructions corresponding with yours of the 21st of last month." Did this alarm Governor Troup? Let me bring to your recollection that patriot's reply to Mr. Adams: "The legislature of Georgia, will, at its first meeting, be advised to *RESIST* any effort which may be made to wrest from the state the territory acquired by that treaty, and no matter by what authority that effort be made. If the legislature fail to vindicate that right, the responsibility will be theirs, not mine."

What became of the *new* treaty? Georgia nullified it. She resisted the authority of the general government because its act was *unconstitutional*, and being in the right, though force was not only threatened, but arrayed, she triumphed, and the old treaty was sustained. So, the federal troops marched to Flint river, and then ——— marched back again. This is one act of nullification. I understand that the only objection to nullification is, it has a tendency to revolution and bloodshed, and to bring the federal government into contempt. What could so effectually produce all these events as the case I have just mentioned?

The second instance was the case of Tassels. A mandate was sent from the Supreme Court of the United States, to suspend his execution until he could be heard before that Court on a writ of error. What said the legislature?

"*Resolved*, That the governor and every other officer of this state *disregard* any and every mandate and process that has been or shall be served upon him or them, proceeding from the supreme court of the United States, for the purpose of arresting any of the criminal laws of this state."

"*Resolved*, That the Governor, with *all* the force and means placed at his command, *resist* and *repel* any and every invasion from whatever quarter, upon the administration of the criminal laws of this state."

What language can be stronger? And do not the resolutions imply the probability of a conflict, that the state might have to battle it with the General Government? But when the constitutional rights of a state are violated, what other alternative is left? We read from the lessons of the Revolution that the motto of our forefathers was *liberty or death*, and so far, I am proud to say, the conduct of Georgia has evinced to the world a noble vindication of the maxim.

In reference to the third instance, I must beg leave again to reiterate the enquiry to your meeting, "what are its sentiments in regard" to the political course of Governor Lumpkin? For whatever may be their objections to that of Governor Troup, so far as relates to these doctrines, he has been fully supported by the present Governor. At the last session of the legislature, Governor Lumpkin communicated to that body that he had received two citations commanding the state of Georgia to appear in the supreme court, to show cause why the judgments rendered in our state court against Worcester and Butler, should not be set aside. What said the Governor on that occasion? That which ought to command admiration of every friend of state rights. "Any attempt (said he) to infringe the evident right of the state to govern the entire population within its territorial limits, and to punish all offences committed against its laws, within those limits, (due regard being had to the cases expressly excepted by the constitution of the United States,) would be the usurpation of a power never granted by the states." And what was to be the remedy in such cases of *usurpation*? Harken to the Governor; "Such an attempt *whenever made*, will challenge the most *determined resistance*, and if *preserved* in, will evidently eventuate in the annihilation of our beloved country. But was this all he said? No! The best evidence of his principles yet remains, and is in exact accordance with that of Governor Troup:—"In exercising (continued he) the authority of that department of the Government which devolves on me, I will *DISREGARD ALL UNCONSTITUTIONAL REQUISITIONS OF WHATEVER CHARACTER OR ORIGIN THEY MAY BE*, and to the best of my ability, will protect and defend the rights of the State, and use the *means* afforded me, to maintain its laws and constitution." These are principles every way worthy of a statesman, and such as every man should be proud, much less afraid, to avow. But let us mark the issue of this missionary case, and here I must ask again, "what are the sentiment of your meeting in regard" to the Missionaries? When I affirmed in Congress that "before the Missionaries would be taken from the Penitentiary by virtue of the decision of the supreme court, Georgia would become a howling wilderness," a *LETTER* from the city of Augusta, the place where your meeting was held informed the National Intelligencer, that I did not speak the sentiments of the people of Georgia. Now I had every reason to suppose he formed his opinion upon the views of his neighbors, if he spoke the truth; and if so, the political opinions of that city are at variance with the rest of the good people of Georgia, for the information thus given by the Augusta letter has, in all its parts, been wholly unconfirmed. And this induced me to fear that there might be an interest in that flourishing city, not altogether in unison with the good southern feeling of the rest

the state. Be this as it may, the decision of the supreme court has been *nullified*, or the matter is now thrown upon the general government to take its course.—If it yields, the authority of that government has been held in perfect contempt and rendered *null and void*. If it proceeds, then all the consequences of *revolutionary action*, and the *effusion of blood*, so much dreaded, in relation to the tariff must be the inevitable result.

This decision purports to be founded upon the intercourse law passed by Congress in 1802, to regulate trade with the Indians, and also upon the Solemn Treaties of the United States, declared by the constitution to be the supreme law of the land. Now it is resisted by the State of Georgia, upon the ground that the law and the Treaties are unconstitutional.

What is the plain and fair inference to be drawn from this case? If a state can rightfully resist a law which has not only gone through the usual forms of legislation, sanctioned by the Executive and Legislative branches of government, but has been pronounced constitutional by the highest Judicial power, that is, passed all the guards that can give the stamp and authority of law, surely there can be but little cause to dread a similar opposition to the tariff act founded upon an equally flagrant usurpation. But we are told they are not similar cases. Let us examine this point. The *intercourse law* is founded upon that power in the constitution, which gives to Congress the right to *regulate commerce with the Indian Tribes*. The *tariff act* is said to rest upon the right to *regulate commerce with foreign nations*. Now mark, both of these powers are found side by side, in the 8th section of the 1st article of the federal constitution. Suppose both laws, for the first time, had been passed at the last Congress. The first, containing a provision that the Cherokee nation of Indians within the limits of Georgia, was an independent nation, and not subject to the laws of Georgia. The second, containing a provision that the people of Georgia should pay a tax to the northern capitalists to protect their manufactures. What would Georgia do with the first law? Need I answer that she has already nullified precisely such a law, in the present intercourse law, & the decision founded thereon. If then she would nullify the first law, can there be a sensible difference, in point of effect or principle, between that and the last? It is said their difference is in their consequences, the first applies to a single State, the other to all the States; and pray what has one sovereign state to do with the rights of other sovereign states in their separate capacities? It is not recollected that one state has nothing to do with another, only in the stipulated articles that have confederated them together, and so soon as the confederated government passes a law out of these articles, each state throws itself upon its original separate rights, and may employ whatever means it pleases to prevent the operation of that law, or if it chooses it may submit to its authority. The other states may desire the protective system, indeed more than two thirds clamor for it. Can this be any good reason why Georgia shall submit to it?

Suppose all the other States, like Louisiana and Kentucky, should be brought up and become reconciled to the late act, can it be contended that Georgia must become so too? Does it not occur to every mind that there can be no possible difference between robbing the states, by piece meal, of their constitutional rights, or doing it in one general attack upon the whole sisterhood? The reasoning that would attempt to make a difference will establish this position. If a ruffian attacks a single individual, he must repel him immediately, but if he attacks him in company with twenty-three others, sixteen of whom are willing to be robbed, and the other seven doubting whether they will fight or submit, he must wait until they make up their minds! From such logic I beg leave most heartily to dissent. All infractions of the constitution are alike, whether they be great or small, so say all divines in reference to the moral law: the progress of the mischief may be different, but the final result will be the same. The beautiful green field may be as effectually destroyed by the admission of its despoilers at a single gap, as if they had rushed upon its luxuriance from a prostrated broadside.

The fourth case, strange as it may appear, is actually going on, almost unnoticed, at the present time, and though silently, yet as certainly as the other three. I allude to the survey & occupation of the Cherokee Nation. Thousands who are now decriing the term nullification, are perfectly willing that it should not be arrested in the case referred to, & perhaps like the threat in your third resolution, would vote against any man who should be opposed to its success. The last Legislature authorized a survey and disposition of this whole country, and I understand the survey is made, the commissioners are convened, preparation is making for the lottery, the drawing is to commence in October next, and in all probability the possession of the lands will pass from the Indians before the close of the year. Now what becomes of the treaties that have guaranteed this very territory to its present inhabitants? The constitution of the United States declares all treaties to be the supreme law of the land, any thing in the constitution and laws of the states to the contrary notwithstanding. The violation of a treaty often involves a nation in war, and but for the weakness of this nation, such might have been the consequences of this proceeding on the part of Georgia.

Can it be possible that this will not be called a plain, and palpable case of *nullification*? The matter is too clear; concerning it there can be no manner of doubt. And although as an individual, I can not agree that it is right, yet under my doctrine, based upon the opinions of Mr. Jefferson, that a state has the right to "judge for itself, as well of infractions (of the compact) as the mode and measure of redress," and the state having pronounced these treaties unconstitutional, and therefore *null and void*, if she is invaded by the general government, I go to support her decision "*right or wrong*," for my first allegiance is due to the state of Georgia. This is my kind of nullification: will your meeting do this? If they will, there is no difference of opinion between us; if they will not, I leave the people of Georgia to judge which doctrine suits their notions of patriotism best. Now what case can tend to blood and revolution stronger than this? And yet I do not believe that this, or any other case, will ever produce such a result. The thing is unreasonable. No oppressive and unconstitutional law can be enforced against a sovereign state. It is a free agent in a mere voluntary confederation which is wholly unnecessary to its internal municipal regulation. Having gone into the union for external objects, the moment these are lost, and an attempt is made to rob her of her inherent rights, the same free agency that made the compact can dissolve it, nay it would become so by reason of the fraud of the opposite party. Force is out of the question. Four times has Georgia tried this matter, and just as certain as fate four times she will have proved it. And if she will try it the fifth time, she will meet with the same success, for no man can believe that when the alternative is presented to the general government to give up the Union, or to cut the throats of her citizens to pamper the wealth of a privileged order, that the choice will occasion even an instant's hesitation.

In all cases of usurped or assumed powers, Mr. Jefferson's doctrine maintain three things:

- 1st. That nullification is the *rightful remedy*.
- 2d. That it is a *natural right*.
- 3d. That "every state," of its "own authority," has a right to "nullify within its own limits."

Upon this last it may be necessary to say but a word. A state entitled to "judge for itself, as well of infractions, as the mode and measure of redress," cannot part with its sovereignty, (without becoming dependent) to any other state, so as to make that other the judge of its violated rights. A submission of this kind implies an obligation to abide by the award, and such a course every body must perceive requires a state to give up its own judgment to the decision of one who may not have half the same interest at stake, or any thing like a proper knowledge of the bearings of that interest. What would have been the consequence if Gov. Troup had waited till he should have submitted the case of the old and new treaty to a convention of southern states, or if Governor Lumpkin had done the same thing in relation to the missionaries or the survey of the Cherokee nation? Think you not the decision would have been against us? And what security has any state against any other result, when she trusts her sovereign powers to an arbitration? I subscribe most unequivocally to the doctrine contained in the above three points, and consequently I am for a convention of the people of the state to determine the best method of removing the burthens imposed by this unconstitutional, usurped, and unjust law; and whatever that method may be, I feel bound to submit to it. If however you would ask me what my plan would be, if I were in that convention, I am ready to give it, though I should be willing to yield it for an

other, which the prudence and good sense of that convention might detail. I would declare the law unconstitutional, and therefore *null and void*. That I would notify the general government of this fact, and that if the law was not repealed, or modified so as to lay a revenue duty only, which should be adequate to the just wants of the government, on or before the last day of the first session of the next Congress, that is to say, in the year 1834, and if, further, it should attempt to enforce the law after that time, thus unrepealed and unmodified, within the limits of Georgia, this state would be no longer a member of the Union. This is my mode of resistance, but I am free to confess, that I am prepared for any and all other modes that will rid us of the oppression. We have tried begging till I am tired—we have tried remonstrating till I am disgusted—we have tried reasoning till I am disheartened—we have tried threatening till I am ashamed, and all this has been going on for the last twelve years, till the advocates of the system, hardened and confirmed in their encroachment, declare it is fixed and forever settled. Now I am for resistance, and never to cease till we strangle the monster, or get out of the reach of its mischief.

These, gentlemen, are my "sentiments in regard to nullification," and though they may differ from yours, yet if I know my own heart, I have not a solitary wish to disturb one single view you may have upon this subject, and I rejoice that this feeling of mine fully sustains me in the declaration, that I entertain no spirit of proscription against any one who differs from me in opinion. As your meeting, by your resolutions, was intended to influence the approaching elections, I must beg leave to enter an appeal from your tribunal to the much higher court of that of the good people of Georgia, and to them the balance of my remarks will be addressed.

In some public character or other, I have served you for twenty-five years, and though I may not have satisfied you, I know I have never deceived you. I hope I have given sufficient proof that the love of office has not induced me to shape my opinions to conciliate popular favor. I am proud of your confidence, but you could not desire me to possess it at the expense of my independence. If in my late service I have advanced opinions on the floor of Congress you do not approve, or if I have misrepresented your sentiments to your oppressors, you ought to turn me out. Undeceive them as quick as it is in your power to do so, and I have no doubt they will greatly rejoice at it. It will be an act alike due to their superior discernment of your views, as well as to your own sincerity, and it will be certainly a just, though a severe rebuke to my want of fidelity. But let me pray you not to be deceived by the mere force of words. You cannot be made to believe that Congress has any thing to do with nullification, or that your liberties are in danger from the doctrine in that body. Depend upon it, whenever a vote shall be taken in Congress to *nullify* the tariff system, it would well behoove you to have as many *nullifiers* there as possible. You owe it to your understandings to make this enquiry, "what possible harm can a *nullifier* do us in Congress?" Perhaps, of all the places in the world it is the one where he could do the least harm: and if even Congress should attempt to force the tariff upon the South by arms, it is the one which might be able to do the most good. At least there would be more dependence upon his vote to withhold the necessary supplies, than upon that of an anti-nullifier. It is only at home you have to dread him, if there be need for dread at all. But you may rely upon it, there is nothing in that name, hostile to your liberty, which originated with the greatest friend liberty has ever had on this side of the Atlantic ocean. Though a constant effort is made to throw around the word nullification the greatest possible odium, and to render it another name for treason, yet did not Mr. Jefferson so conceive it. It was employed to rid ourselves of the unconstitutional acts of Great Britain; it was recommended by this immortal sage to subvert the tyranny of the sedition law; it has been successfully practised in our own state, and I affirm that many other cases can be adduced from other states. It means, it can mean nothing more than, disobedience to arbitrary and oppressive laws, and in that sense is there a man among you longer prepared to obey an edict that exacts half the fruits of your labour, and forces from your honest ploughman such a slavish contribution as that every furrow which he runs, under the scorching beams of a summer's sun, yield's its produce to a northern nabob? Who is there that is not willing to wage an interminable war against an extortion that subjects you, your property and your prosperity, to a tribute limited only by an *interest* that has been deaf to reason, dead to sympathy, blind to justice, and bent only upon the full fruition of its unholy desires? Would to God you could have personally witnessed the late deliberations of Congress. I tell you by all that is holy in heaven, that this protective system is dictated by the manufacturers themselves, that they attend by committees, and agents around the halls of Congress, for the purpose of giving instructions to members of Congress, as to what must be taxed, what must be free, and what must be the quantity of the burthens. I tell you in the same sacred manner, that members of Congress rise from their places, and deliberately drawing from their desks letters received from their manufacturing constituents, will read out their demands for an increase of taxes, and they are as deliberately granted, against the ardent and repeated remonstrances of your protesting representatives. I tell you solemnly, that it is not an uncommon thing for those members, friendly to the manufacturers, to fix the rate of duty on one day, and then change it to a higher amount on the next day at the mere instigation of manufacturing agents. I tell you that they assert on the floor of Congress, that the protective system shall never be repealed, & give as a reason that it was imposed by the south, that the nation is now pledged to continue it, that the manufacturers have have two hundred millions of money invested in the business, that to take off the system would bankrupt the capitalists, blast the prospects of the farmers, beggar the operatives in the Factories, and, in fine reduce the manufacturing districts to communities of paupers; and rather than submit to such a state of things they say they are willing to dissolve the Union. They present the alternative that YOU or THEY must submit, and they most solemnly declare they shall not. What hope have you from a prospect so gloomy, if you can believe my testimony? And in charity you may yet flatter yourselves that I am deceived, if my delusion is honest can you blame me for my earnestness in the cause? Have I not as much at stake as you have? Have I not the same country? Have I not a home and a family among you, whose all is periled as well as yours? Nay, more: have I not an interest, different from yours, the greatest monied interest I possess in the world, protected in common with other monopolies, by this very system? Had I not reason to believe that I had, in an enlarged degree, acquired your kind indulgence and increased confidence? Could I not have returned home, and by a silent, selfish course, enjoyed my property and popularity free from the danger of losing either, if I had been disposed to consider these as the only objects worth regard, or the chief rewards of a generous and confiding people? Under circumstances like these, mine indeed must be a fatal infatuation, but only accord to me, what before heaven is true, an honest intention, and you may take back your trust to-morrow. I will yield it without a murmur, and the consolation shall be mine, that I can live under any government that you can, and will have closed a political life free from the reproaches of conscience.

A. S. CLAYTON.