Southern Banner.

"The ferment of a free, is preferable to the torpor of a despotic, Government."

VOL. I. ATHENS, GEORGIA, SEPTEMBER 21, 1832. NO. 27.

Political.

From the Augusta Constitutionalist.

The following is the Circular addressed to the Candidates for Congress, by the Committee of Correspondence appointed at the Richmond County meeting, on the 18th instant. For each of them, a copy has been directed to his proper Post-Office. But as some of those gentleman are now travelling, the Committee has thought it advisable, to make the present publication, with a request, that they will accept it as a substitute, for the formal letters which their absence from home may have prevented them from receiving.

AUGUSTA, 20th August, 1832.

SIR:—We address you in the performance of a duty imposed on us by the following Resolution, adopted at a Meeting of the Citizens of Richmond county; on the 18th inst.

"*Resolved*, That a committee of three, namely: Col WM. CUMMING, Judge J. P KING, and AUG. SLAUGHTER, Esq. be appointed to ascertain, by direct correspondence with the candidates for Congress, and for the Legislature, from this county, what are their sentiments in regard to nullification, and to publish such answers as may be received."

As Members of that Committee, we respectifully request that you will oblige your fellow citizens of Richmond, by communicating through us, your "sentiments in regard to nullification." Their motives will be more properly explained by their own acts, than by any commentary of ours; we have therefore taken the liberty of annexing a complete copy of the Preamble and resolutions which were adopted by the meeting.

We have the honor to be, sir, very respectfully your obedient servants,

WM. CUMMING,
J. P. KING,
AUG. SLAUGHTER,

[Here follows in the original, The Preamble and Resolutions referred to, which it is thought superfluous to copy.]

Editors of papers in the State are requested to give this an insertion.

ANSWERS

Received by the Richmond Committee of Correspondence, on the subject of Nullification.

COLUMBUS, 25th August, 1832.

Gentlemen,—Your letter of the 20th August covering the resolutons of the Richmond meeting, with your request to know my "sentiments in regard to nullification," has just been received. When called on by a public meeting of my fellow-citizens, I feel no difficulty in expressing my opinion upon any subject of public interest, when that subject is presented to me understandingly but it is out of my power to give a specific answer, in regard to a matter that I do not distinctly understand. So many versions and readings have been given to the term "*Nullification*," that I do not know in what sense, it is intended to be used by the meeting; and would prefer postponing a reply, till I could be correctly informed. Lest, however, I may be subjected to the imputation of attempting unnecessary delay, by waiting till I could receive that information, I will endeavour, so far as I am able, to comply with that request, and proceed to give you my opinions.

I agree then, with the third Virginia Resolution, which I have long made part of my political text book, and which reads thus:—

"That this assembly," (the Virginia Legislature,) "doth explicitly declare, that it views the powers of the Federal Government, as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting the compact, and as no further valid, than they are authorised by the grant enumerated in that compact; and that in case of *a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States, who are the parties thereto, have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights and liberties appertaining to them.*"

I believe, with Mr. Madison, "That when resort can be had to *no tribunal superior in authority to the parties, the parties*, themselves, must be the *rightful judges*, in the last resort, whether the bargain made has been *pursued* or *violated*." "That *the States are the parties to the* constitutional compact, in *their sovereign capacity*, and of necessity, that there can be *no tribunal above their authority*, and consequently that as the parties to it, they must themselves decide, in the last resort, such question as may be of sufficient magnitude to justify their interposition."

I believe, therefore, that the *Supreme Court* of the United States is not of *superior authority to the States*; and, with Mr. Jefferson, "that the judges of the same are not the ultimate arbiters of all constitutional questions;" that it would be dangerous to grant them that power, and would lead to the despotism of an Oligarchy;" and with him, I also believe, "*that the ultimate arbiter is the people, acting by their deputies in convention.*"

I am, therefore, brought to the conclusion, that the Legislature of the state cannot, but that the people of each state, acting by their deputies in convention, must, in all "cases which are of sufficient magnitude to justify their interposition," determine upon the proper mode and measure of redress, for every violation of the constitution. And I cannot believe, with the meeting in Augusta, "it would be "extremely dangerous" at any time for the PEOPLE *to elect* DELEGATES *to meet in* CONVENTION, and *invest them with full power to maintain, preserve and defend, the rights and privileges of the free citizens of this State.*" For I am clearly of opinion, the people are fully competent to act for themselves, and may be safely trusted with their own rights, powers and interests, even in "a moment of excitement like the present;" and have good sense enough to select persons who will honestly and faithfully represent their wishes and feelings.

I believe every unconstitutional law of Congress to be null and void, and has no legal force or obligation, and that each state, has a right to treat it as a nullity.

I have never entertained a doubt, that the State of Georgia had the right, to claim all the Creek lands within her limits, under the treaty of the Indian Springs, and to treat, as a nullity, the treaty subsequently made, by which she was deprived of a part of that land.

I believe that the State of Georgia had the right to extend her laws over the Cherokee nation; to try and execute Tassels; to try, convict and sentence, to imprisonment in the Penitentiary, Worcester and Butler, who refused to obey the laws of Georgia; and to disregard the *decision* of the Supreme Court, and the *intercourse law* of the United States, as *unconstitutional and void.*

That *the State of Georgia has the right* also to *survey and grant the lands in the Cherokee nation, to her own citizens, in despite of the said Intercourse law, and the Cherokee treaties, though the United States should attempt to prevent her by force.*

And I believe the protective system, (which has been openly avowed and fully recognized by a large majority in the last session of Congress,) to be unconstitutional; that it should have no more force and effect than the *new treaty*, the *intercourse*-law, or the decision of the Supreme Court; that Georgia has the same right to treat it as a nullity; and that this is the proper time for her to CALL A CONVENTION OF THE PEOPLE to consider and adopt the proper measures *to compel its repeal.*

"Under these momentous circumstances, the precise policy, which Georgia should adopt, remains to be determined. But I trust, that whatever contingencies may arise, she will want neither *courage* to sustain her honour, nor *counsel* to temper her *courage*. She has no passion for change. She retains the strongest attachment to the system of her adoption. But if her own government wrong her with a bad faith, which would not be endurable in a stranger; if complaints of our injury, are to be answered by the infliction of a greater; if *she is now to be bullied* because *she will not submit to be quietly duped*; it needs no spirit of divination, to pronounce that the portents are evil. Yet I do not despair. A case so plain, appeals to the common sense of our countrymen. Georgia sues for no favour, advances no fictitious pretensions of yesterday; she contends for rights alone—rights coeval with the republic, and emblazoned in the rights of its birth. Let the sober wisdom of the nation, ponder on her claims, unbiassed by the flippancy of past fanaticism, or the astute follies of scholastic jurisprudence. Under such correction, all may yet be well. But if this last hope is to fail; if *Georgia is indeed proscribed*; if *insulting tyranny, marking her for a victim, presents to her option, the sole alternative of danger or degredation*—Speak tombs of the Revolution! For you can proclaim her choice!"

My opinions and feelings, have been well expressed by "Oglethorpe," in the preceeding paragraph. I do not desire to go further. If these opinions subject me to the charge of "nullification," I am willing to abide the consequences. They are dearer to me than any office of the State or the United States within the gift of the people. I will not give them up; I will not retract them, though even *Calhoun* or *McDuffie* should approve and adopt them.

I am, gentlemen, very respectfully, yours,

SEABORN JONES.

Messrs. Cumming, King and Slaughter.

SPARTA, 24th August, 1832.

Gentlemen:—I have just received from you, as a Committee of the citizens of Richmond county, your circular of the 20th instant, requesting me to communicate through you to your constitutents, my "sentiments in regard to nullification." The answer shall be as brief and explicit as the enquiry. I do not believe nullification to be either a peaceable or efficient remedy against the oppressions of the tariff, and I am entirely opposed to it.

With sentiments of highest respect, your obdt't. serv't.

CHARLES EATON HAYNES.

Messrs. Cumming, King and Slaughter.

WASHINGTON, (Wilkes) August 6, 1832.

Gentlemen,—The people of Richmond, having exercised the truly democratic right of calling upon candidates for their suffrages, to declare their sentiments in regard to Nullification; I will express mine by adopting the words of one of their resolutions. I believe "the doctrine false in theory," and think, "that in practice, it would prove most disastrous to our country."

Such was my conclusion after having attentively read and considered the exposition of the Vice President and all that has been written in favor of Nullification by other gentlemen in South-Carolina, in connection with the Virginia and Kentucky resolutions of 1798—the report of Mr. Madison in 1799—the writings of Mr. Jefferson and such state papers and decisions of our Courts, which have any bearing upon the subject. It has been invariably expressed, as it will continue to be, in strong terms, upon all proper occasions, and I will not now forbear from declaring it to be my belief, that if the patriots and sages who are dead, and whose writings have been cited to establish the correctness of the doctrine of nullification, were alive, that they would disclaim, as Mr. Madison has done, that interpretation of their language, which has been made to aid the introduction into our system of government, of a novel state action, as a redress for unconstitutional legislation, which might result either in the dissolution of the Union, or in the discomfiture of a sovereign state, in its pursuit of constitutional rights, by unconstitutional means.

I am gentlemen,
very respectfully,
your obedient servant,

JAMES M. WAYNE.

Messrs. Cumming, King and Slaughter.

ATHENS, August 13, 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 judgement 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 to soon for my own inclination.

It is true that Mr. Jefferson has not pointed out the mode and manner of nullyfying a law; but that 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 render *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 derided, 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 suggest these reflections. Suppose Great Britian 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 seperate 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 equallly out of the pale of the constitution? Why should we not as readily resist and *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 annull 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 the 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 U. 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*? Hear ken to the Governor: "Such an attempt, *whenever made*, will challenge the most *determined resistance*, and if *persevered* in, will evidently eventuate in the annihilation of our beloved country. But was this all he said? No! The best evidence of his firmness 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 sentiments 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 Editor of 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 of 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.

The 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, 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, and 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 seperate 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 seperate 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 bought 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