FROM THE GEORGIA JOURNAL.

JUDGE CLAYTON'S ANSWER.

ATHENS, August 31, 1832.

To William Cumming, J. P. King, and A. Slaughter, Esquires.

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 candor 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 endeavor 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

tunity. 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 rigor, 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."

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 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:

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 complete 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 an 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, the 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 Gaines' despacth 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 march 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 to 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 inquiry 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 power never granted by the States." [illegible] what was to be the remedy in such cases of *usurpation?* Hearken 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 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 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 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.

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 nations of Indians within the limits of Georgia, was an independent nation,

and not subject to the laws of Georgia. The second containing a provission 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 theis 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 this 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 seven doubting* whether these will fight or submit, he must wait until they make up their minds! From such logic I beg leave most heartily to dissent.