John Catrup


# EASTERN-SHORE WHIG AND PEOPLE'S ADVOCATE.

VOL. III.---NO. 51. EASTON, MD.---TUESDAY MORNING, AUGUST 30, 1831. WHOLE NO. 156.

PRINTED AND PUBLISHED
EVERY TUESDAY MORNING, BY
**EDWARD MULLIKIN,**
PUBLISHER OF THE LAWS OF THE UNION.

THE TERMS

Are Two Dollars and Fifty Cents per Annum payable half yearly in advance. Advertisements are inserted three times for One Dollar; and continued weekly for twenty-five cents per square.



*THE FEMALE CLASSIC ACADEMY*
AT EASTON,

lately relinquished by Mr. Hart, will, in future be conducted by the Subscriber. 'Tis contemplated to pursue the same extended, thorough course of instruction practised by his predecessor, and so well calculated to give expansion to intellect, dignity to sentiment, and a consequent polish to manners. The Principal can promise largely as to his assiduity, attention, and conscientious desire to be useful as a Teacher. And should the number of pupils, or the branches to be taught exceed his own peronal efforts to do justice, discreet and competent assistants will be advisedly engaged. The discipline of the School will have for its basis the eliciting of a laudable emulation. Penalties will consist in the imposition of intellectual *tasks*, the performance of which will be enforced, if necessary by confinement at play-time. Should this prove ineffectual, appeal will be made to parental admonitions prior to expulsion—the dernier resort. The charges will be as follows.

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| Spelling, Reading, Writing, per Quarter | $4 00 |
| Grammar, Geography, Arithmetic | 5 00 |
| History, use of Globes, Astronomy, Rhetoric, Composition | 6 00 |
| Logic, Chemistry, Nat. & xp. Philosophy, Mor. Ditt. French, Latin, Drawing, Painting, 3 Dol. Extra. | 7 00 |

'Twas designed to open the school immediately, but as the usual time of vacation is now at hand, business will not commence, till the 1st. Monday in September unless ten or twelve should make known to him a wish to dispense with the vacation, in which event the Academy will be opened.—The subscriber would take into his family several pupils as boarders, upon terms customary in this place.

EDW. H. WORRELL, South St,
Easton, July 26

**PROPOSALS**

For published in the City of Washington, two Weekly Newspapers, (in phamplet form,) one to be entitled

**THE MECHANIC'S REGISTER.**
THE OTHER
The Farmer's Register.

A PORTION of the Daily Telegraph will be devoted to agricultural and the machanic arts. Having the matter in type we propose to make up two weekly royal sheets, to contain sixteen octavo pages each; one to be entitled, The Farmer's Register the other The Mechanic's Register. The Farmers Register will contain agricultural notices, and such other matter, common to a newspaper as will be interesting to that class from whom we derive the staff of life. The Mechanic's Register will contain such General information on mechanics, in addition to the ordinary newspaper notices, as will render it a valuable acquisition to the library of that useful and influential class of citizens for whom it is intended. These two publications will contain no advertisements but those connected with agriculture and the mechanic arts. For these works we ask the special contribution of those, whose avocations in life, enable them to give practical useful information.

☞ The price for these will be one dollar and fifty cents per annum, in advance. As this sum cannot be remitted by mail, any postmaster, is authorised to receive it on acconnt, and the paper will be forwarded on his receipt.

The editor is willing, where one individual will obtain eight or more subscribers, and remit one dollar and twenty-five cents for each, to forward these papers at the rate of one dollar and twenty five cents per volume. Each volume to contain fifty two numbers.

The object of both these works will be to place a cheap *newspaper* within the reach of every citizen; and, at the same time, to make it doubly interesting by giving important information, suited to the avocation of those for whom it is intended. We admit that it is our desire that they shall find their way to the fireside of every honest citizen; and we are resolved to do all in our power to make them worthy of such favor. The Registers will contain a due proportion of political matter, and in addition to the valuable information, pertaining to their special objects, which the title designates it will embody important state papers, in a convenient form for preservation. The public mind has been much excited on the subject, and with a view to embody in a condensed form, an authentic account thereof, the first numbers will contain the correspondence between General Jackson and Mr. Calhoun, which will be followed up by the publications explaining the cause of the dissolution of the late cabinet; thus embodying a mass of interesting history upon that subject *in a pamphlet form*. As it is expected that many village and neighborhood clubs will be formed for their circulation, we intend to publish a large edition of the first numbers.

Our subscribers and agents are respectfully desired to promote the objects of this address, and editors with whom we exchange, are requested to give it an insertion in their respective papers. When they take into consideration the extra expense incurred by us in furnishing them the reports and proceedings of Congress, the request will not appear unreasonable. The favor will be reciprocated if desired.

DUFF GREEN.

Aug. 23

**NOTICE.**

AN ELECTION will be held on the
First Monday in September next,
at the usual places of holding Elections in this County, for the purpose of electing two ELECTORS of the Senate of the State of Maryland; and on the first Monday of October next, at the same places, an ELECTION will be held for the purpose of electing a Representive in Congress of the United States from this district, four Delegates to the next General Assembly of Maryland, and five County Comissioners.

J. M. FALKNER, Shff:
of Talbot county.

Easton, August 23d, 1831.


THE CALL OF POLAND.
*By Thomas Campbell.*

Have ye sharpened your swords? for the battle is nigh—
The morn for the conflict is breaking;
O dark is the dawn, but slaughter's red eye,
Shall enlighten the path you are taking,
Bright hope in your bosoms awaking.
That the vengeance which slept under Muscovite sway,
The treasure of years shall be kindled to-day.

'Tis freedom that calls you, though dim be the sun
The darkness around you dispelling;
Though death fires enshroud you, and waste is begun,
She to deeds of high worth compelling,
Points to every loved altar and dwelling,
And demands from the suns of the noble in fame
If the hell mark of slave must still blacken their name!

By the glory our tyrants would quench but in vain—
By the shades of your heroes departed—
By him who, undaunted, again and again
For the gaol of victory started,
Kosciusko, the lion hearted—
By all that is worthy in man's little day,
Go dare as your fathers, or perish as they.

Have you sharpen'd your swords for the banquet of death?
Have you made the blood deep adjuration?
Have ye dared on the hazard the stake of your breath?
Again ye shall be a free nation,
Not vain shall be your invocation:
The call of each sword upon Liberty's aid
Shall be written in gore on the steel of its blade!

*From the Pendleton (S. C) Messenger.*

MR CALHOUN'S SENTIMENTS.

Mr. Symmes:—I must request you to permit me to use your columns, as the medium to make known my sentiments on the deeply important question, of the relation, which the States and General Government bear to each other, and which is at this time a subject of so much agitation.

It is one of the peculiarities of the station I occupy, that while it necessarily connects its incumbent with the politics of the day, it affords him no opportunity officially to express his sentiments, except accidentally on an equal division of the body, over which he presides.—He is thus exposed, as I have often experienced, to have his opinions erroneously and variously represented. In ordinary cases I conceive the correct course to be to remain silent, loaving to time and circumstances the correction of misrepresentations; but there are occasion so vitally important, that a regard both to duty and character would seem to forbid such a course; and such I conceive, to be the present. The frequent allusion to my sentiments, will not permit me to doubt, that such also is the public conception, and that it claims the right to know, in relation to the question referred to, the opinions of those who hold important official stations; while on my part desiring to receive neither unremitted praise, nor blame, I feel, I trust the solicitude, which every honest and independent man ought, that my sentiments should be truly known whether they be such, as may be calculated to recommend them to public favour, or not. Entertaining these impressions, I have concluded that it was my duty to make known my sentiments; and I have adopted this mode, which on reflection seemed to be the most simple, and best calculated to effect the object in view.

The question of the relation, which the States and General Government bear to each other, is not one of recent origin. From the commencement of our system, it has divided public sentiment. Even in the convention, while the constitution was struggling into existence, there were two parties, as to what at this relation should be, whose different sentiments, constituted no small impediment in forming that Instrument.—After the General Government went into operation, experience soon proved that the question had not terminated with the labors of the Convention.—The great struggle, that preceded the political revolution of 1801, which brought Mr. Jefferson into power, turned essentially on it, and the doctrines and arguments on both sides were embodied and ably sustained; on the one, in the Virginia and Kentucky resolutions, and the report to the Virginia Legislature, and the other, in the replies of the legislature of Massachusetts and some of the other states. These resolutions and this feppert with the decision of the Supreme Court of Pennsylvania about the same time, (particularly in the case of Cobbett, delivered by Chief Justice M'Kean and concurred in by the whole bench) contain what I believe to be the true doctrine on this important subject. I refer to them, in order to avoid the necessity of presenting my views, with the reasons in support of them in detail.

As my object is simply to state my opinions I might pause with this reference to documents that so fully and ably state all the points immediately connected with this deeply important subject, but as there are many, who may not have the opportunity, or leisure to refer to them, and, as it is possible, however clear they may be, that different persons may place different interpretations on their meaning, I will; in order that my sentiments may be fully known, and to avoid all ambiguity, proceed to state summarily the doctrines which I conceive they embrace.

Their great and leading principle is that the General Government emantaed from the people of the several states, forming distinct political communities, and acting in their separate and sovereign capacity, and not from all of the people forming an aggregate political community; that the constitution of the United States is in fact a compact, to which each state is a party, in the character already described; and that the several states or parties, have a right to judge of its infractions, and in case of a deliberate, palpable, and dangerous exercise of a power not delegated, they have the right, in the last resort, to use the language of the Virginia resolution, "to interpose for arresting the progress of the evil, and for maintaining within their respective limits, authorities, rights and liberties appertaining to them." This right of interposition, thus solemnly asserted, by the State of Virginia, be it called what it may, state right; veto, nullification, or by any other name, I conceive to be the fundamental principle of our system, resting on facts historically ascertained, as our revolution itself, and deducations, as simple and demonstrative as that of any political, or moral truth whatever; and I firmly believe that on its recognition depends, the stability and safety of our political institutions.

I am not ignorant, that those opposed to the doctrine have always, now & formerly, regarded in it a very different light, as anarchical and revolutionary. Could I believe such in fact to be its tendency; to me it would be no recommendation. I yield to none, I trust, in a deep and sincere attachment to our political institutions and the Union of these States. I never breathed an opposite sentiment: but on the contrary, I have ever considered them the great instruments of preserving our liberty, and promoting the happiness of ourselves and our posterity; and next to these, I have ever held them most dear. Nearly half my life has passed in the service of the Union, and whatever public reputation I have acquired, is indissolubly identified with it. To be too National has, indeed been considered by many, even of my friends, to be my greatest political fault.—With these strong feelings of attachment, I have examined with the utmost care, the bearing of the doctrine in question; and so far from anarchical or revolutionary, I solemnly believe it to be the only solid foundation of our system, and of the Union itself, and that the opposite doctrine which denies to the States the right of protecting their reserved powers, and which would vest in the General Government, (it matters not through what Departments,) the right of determining exclusively and finally the powers delegated to it, it is incompatable with the sovereignty of the States, and of the constitution itself; considered as the basis of a Federal Union. As strong as this language is it is not stronger than that used by the illustrions Jefferson, who said, to give the General Government the final and exclusive right to judge of its powers, is to make "its discretion and not the Constitution the measure of its powers;" and that "in all cases of compact between parties having no common judge, each party has, an equal right to judge for itself, as well of the operation, as of the mode and measure of redress." Language, cannot be more explicit; nor can higher authority be adduced.

That different opinions are entertained on this subject, I consider but as an additional evidence of the great diversity of the human intellect. Had not able, experienced and patriotic individuals, for whom I have the highest respect, taken different views, I would have thought the right too clear to admit of doubt; but I am taught by this, as well as by many similar instances, to treat with deference opinions differing from my own. The error may possibly be with me; but, if so, I can only say, that after the most mature and conscientious examination, I have not been able to detect it. But with all proper defence, I must think; that theirs is the error, who deny, what seems to be an essential attribute to the General Government, a right utterly incompatible with what all acknowledge to be its limited and restricted character; an error originating principally, as I must think, in not duly reflecting of the nature of our institutions, and on what constitutes the only rational object of all political Constitutions.

It has been well said by one of the most sagacious men of antiquity, that the object of a Constitution is to *restrain the Government*, as that of laws is to restrain *individuals*. The remark is correct, nor is it less true, where the Government is vested in a majority, than were it is in a single or a few individuals; in a republic, than a monarchy or aristocracy. No one can have a higher respect for a maxim, that a majority ought to govern, than I have taken in its proper sense, subject to the restrictions imposed by the Constitution, and confined to subjects in which every portion of the community have similar interests; but it is a great error to suppose, as many do, that the right of a majority to govern is a natural and not a conventional right; and therefore absolute and unlimited. By nature every individual has the right to govern himself; and Governments, whether founded on majorities, or minorities, must derive their right from the assent, expressed or implied, of the governed, and be subject to such limitations, as they may impose.—Where the interests are the same, that is where the laws that may benefit one will benefit all, or the reverse, it is just and proper to place them under the control of the majority; but where they are dissimilar, so that the law that may benefit one portion may be ruinous to another, it would be on the contrary unjust and absurd to subject them to its will; and such, I conceive to be the theory on which our Constitution rests.

That such dissimilarity of interest may exist, it is impossible to doubt. They are to be found in every community, in a greater, or less degree, however small or homogeneous; and they constitute, every where, the great difficulty of forming and preserving free institutions. To guard against the unequal action of the laws, when applied to dissimilar and opposing interests, is, in fact, what mainly readers a constitution indispensable; to overlook which, in reasoning on our Constitution, would be to omit the principal element, by which to determine its character. Were there no contrariety of interest, nothing would be more simple and easy than to form and preserve free institutions. The right of suffrage alone would be a sufficient guaranty. It is the conflict of opposing interests which render it the most difficult work of man.

Where the diversity of interests exists in separate and distinct classes of the community as is the case in England, and was formerly the case in Sparta, Rome, and most of the free States of antiquity, the rational constitutional provision is, that each should be represented in the government, as a separate estate, with a distinct voice, and a negative on the acts of its co-estates, in order to check their encroachments. In England, the constitution has assumed expressly this form; while in the governments of Sparta and Rome the same thing was effected under different but not much less efficacious forms. The perfection of their organization, in this particular, was that which gave to the Constitution of these renowned States all of their celebrity, which secured their liberties for so many centuries and raised them to so great a height of power and prosperity. Indeed, a constitutional provision giving to the great and separate interests of the community the right of self-protection, must appear to those who will duly reflect on the subject, not less essential to the preservation of liberty, than the right of suffrage itself, —they in fact have no common object, to effect which, the one is as necessary as the other; to secure that is, *that those who make and execute the laws should be accountable to those, on whom the laws in reality operate; the only solid and durable foundation of liberty.* If without the right of suffrage, our rulers would oppress us, so, without the right of self protection, the major would equally oppress the minor interests of the community. The absence of the former would make the governed the slaves of the rulers, and of the latter, the feebler interests the victim of the stronger.

Happily for us, we have no artificial and separate clases of society. We have wisely exploded all such distinctions; but we are not, on that account, exempt from all contrariety of interests, as the present distracted and dangerous condition of our country, unfortunately, but too clearly proves. With us they are almost exclusively geographical, resulting mainly from difference of climate, soil, situation, industry, and production, but are not, therefore, less necessary to be protected by an adequate constitutional provision, than where the distinct interests exist in separate classes. The necessity is, in truth, greater, as such separate and dissimilar geographical interests are more liable to come into conflict, and more dangerous when in that state, than those of any other description; so much so that *ours is the first instance on record, where they have not formed in an extensive territory, separate and independent* communities, *or subjected the whole to despotic sway.* That such may not be our unhappy fate also, must be the sincere prayer of every lover of his country.

So numerous and diversified are the interests of our country, that they could not be fairly represented in a single government, organized so as to give to each great and leading interests, a separate and distinct voice, as in the governments to which I have referred. A plan was then adopted better suited to our situation, but perfectly novel in its character. The powers of the Government were divided not as heretofore, in reference to classes, but geographically. One General Government was formed for the whole, to which was delegated all the powers supposed to be necessary to regulate the interests common to all the States, others subject to the separate control of the States, being from their local and peculiar character, such, that they could not be subject to the will of the whole Union, without the certain hazard of injustice and oppression. It was thus that the interests of the whole were subjected as they ought to be to the will of the whole while the peculiar and local interest were left under the control of the States separately, to whose custody only, they could be safely confided. This distribution of power settled solemnly by a constitutional compact, to which all the States are parties, constitutes the peculiar character and excellence of our political system. It is truly and emphatically *American, without example or parallel.*

To realize its perfection, we must view the General Government and the States as a whole; each in its proper sphere, sovereign and independendent, each perfectly adapted to their respective objects; the State acting separately, representing and protecting the local and peculiar interests; acting jointly through one General Government, with the weight respectively assigned to each by the constitution, representing and protecting the interests of the whole; and thus perfecting, by an admirable but simple arrangement, the great principle of representation and responsibility, without which no government can be free or just. To preserve this sacred distribution, as originally settled, by coercing each to move in its prescribed orb, is the great and difficult problem, on solution of which, the duration of our Constitution, the Union, and in all probability, our liberty depends. How is this to be effected?

The question is new, when applied to our peculiar political organization, where the separate and conflicting interests of society are represented by distinct, but connected Governments; but it is in reality an old question under a new form, long since perfectly solved. Whenever separate and dissimilar interests have been separately represented in any Government; whenever the sovereign power has been divided in exercise, the experience and wisdom of ages have devised but one mode, by which such political organization can be preserved; the mode adopted in England and by all Governments ancient and modern, blessed with Constitutions deserving to be called free; to give to each co estate the right to judge of its powers, with a negative, or veto on the acts of the others, in order to protect against encroachments, the interest it particularly represents; a principle which all of our Constitutions recognize in the distribution of power among their respective Departments, as essential to maintain the independence of each, but which to all, who will duly reflect on the subject, must appear, far more essential, for the same object in that great and fundamental distribution of powers between the State and the General Government. So essential is the principle that to withhold the right from either, where the sovereign power is divided, is in fact *to annul the division* itself, and to *consolidate* in the one, left in the exclusive possession of the right, all of the powers of the Government; for it is not possible to distinguish, practically, between a Government, having all power and the one having the right to take what power it pleases. Nor does it in the least vary the principle, whether the distribution of power between co-estates, as in England, or between distinctly organized, but connected Governments, as with us. The reason is the same in both cases, while the necessity is greater in our case, as the danger of conflict is greater, where the interests of a society are divided geographically, than in any other, as has already been shown.

These truths do seem to me to be incontrovertible; and I am at a loss to understand how any one who has muturely reflected on the nature of our institutions, or who has read history, or studied the principle of free Governments to any purpose, can call them in question. The explanation must, it appears to me, be sought in the fact, that in every free State, there are those who look more to the necessity of maintaining power than guarding against its abuses. I do not intend reproach, but simply to state a fact, apparently necessary to explain the contrariety of opinions among the intelligent, where the abstract consideration of the subject would seem scarcely to admit of doubt. If such be the true cause, I must think the fear of weakening the Government too much in this case to be in a great measure unfounded, or, at least, that the danger is much less from that, than the opposite side. I do not deny that a power of so high a nature may be abused by a State; but, when I reflect that the States unanimously called the General Government into existence with all of its powers, which they freely surrendered on their part, under the conviction that their common peace, safety and prosperity required it; that they are bound together by a common origin, and the recollection of a common triumph in the great and splendid achievement of their independence; and that the strongest feelings of our nature, and among them the love of national power and distinction, are on the side of the Union; it does seem to me, that the fear, which would strip the States of their sovereignty, and degrade them, in fact, to mere dependent corporations, lest they should abuse a right indispensable to the peaceable protection of those interests, which they reserved under their own peculiar guardianship, when they created the General Government, is unnatural and unreasonable. If those who voluntarily created the system, cannot be trusted to preserve it, what power can?

So far from extreme danger, I hold that there never was a free State, in which this great conservative principle, indispensable to all, was ever so safely lodged. In others, when the co-estates, representing the dissimilar and connecting interests of the community, came into contact, the only alteranative was compromise, submission, or force. Not so in ours. Should the General Government and a State come into conflict, we have a higher remedy: the power which called the General Government into existence, which gave it all of its authority, and can enlarge, contract, or abolish its powers at its pleasure, may be invoked. The States themselves may be appealed to, three fourths of which, in fact, form power, whose decrees are the Constitution itself, and whose votes would silence all discontent. The utmost extent, then, of the power is, that a State, acting in its sovereign capacity, as one of the parties to the constitutional compact, may compel the Government, created by that compact, to submit a question touching its infraction to the parties who created it; to avoid the supposed dangers of which, it is proposed to resort to the novel, the hazardous, and, I must, add, fatal project of giving to the General Government the sole and final right of interpreting the Constitution, thereby reversing the whole system, making that instrument the creature of its will, instead of a rule of action impressed on it at its creation, and annihilaling, in fact, the authority which imposed it, and from which the Government itself derives its existence.

That such would be the result, were the right in question vested in the Legislative or Executive branch of the Government, is conceded by all. No one has been so hardy as to assert, that Congress or the President ought to have the right, or to deny, that if vested finally and exclusively in either, the consequences which I have stated would not necessarily follow; but its advocates have been reconciled to the doctrine, on the supposition, that there is one department of the General Government which, from its peculiar organization, affords an independent tribunal through which the Government may exercise the high authority, which is the subject of consideration, with perfect safety to all.

I yield, I trust, to few, in my attachment to the Judiciary Department. I am fully sensible of its importance, and would maintain it to the fullest extent in its constitutional powers and independence; but it is impossible for me to believe, that it ever was intended by the Constitution, that it should exercise the power in question, or that it is competent to do so, and, if it were, that it would be a safe depository of the power.

Its powers are judicial and not political, and are expressly confined by the Constitution "to all *cases* in law and equity under this Constitution, the laws of the United States, and the treaties made under its authority;" and which I have authority in asserting, excludes political questions, and comprehends those only where these are parties amendable to the process of the Court.* Nor is its incompetency less clear than its want of constitutional authority. There may be many and the most dangerous infractions on the part of Congress, of which, it is conceeded by all, the Court, as a judicial tribunal, cannot, from its nature, take cognizance. The Tariff itself is a strong case in point; and the reason applies equally *to all other cases, where Congress perverts a power from an object intended—the most insidious and dangerous of all the infractions; and which may be extended to all of its powers, more especially to the taxing and appropriating.* But supposing it competent to take cognizance of all infractions of every description, the inseparable objection still remains, that it would not be a safe tribunal to exercise the power in question.

It is an universal and fundamental political principle, that the power to protect, can safely be confided only to those interested in protecting, or their responsible agents, a maxim not less true in private than in public affairs. The danger in our system, is, that the General Government, which represents the interests of the whole, may encroach on the States, which represent the peculiar and local interests, or that the latter may encroach on the former. In examining this point, we ought not to forget, that the government through all its Departments, Judicial as well as others, is administered by delegated and responsible agents; and that *the power which really controls ultimately all the movements is not in the agents but those who elect or appoint them.* To understand then its real character, and what would be the action of the system in any supposable case, we must raise our view from the mere agents, to this high controlling power which finally impels every movement of the machine. By doing so, we shall find all under the control of the will of a majority, compounded of the will of a majority of the people of the states estimated in federal numbers. These united constitute the real and final power, which impels and directs the movements of the General Government The majority of the states elect the majority of the Senate; of the people of the states, that of the House of Representatives; the two united, the President; and a majority of the Senate and the House with the President, really exercise all of the powers of the Government, with the exception of the cases where the constitution requires a greater number than a majority.—The Judges are, in fact, as truly the Judicial Representatives of this united majority, as the majority of Congress itself, or the President, is its legislative or executive representative; and to confide the power to the Judiciary to determine finally and conclusively, what powers are delegated, and what reserved, would be in reality to confide it to the majority, whose agents they are, and by whom they can be controlled in various ways; and, of course to subject (against the fundamental principle of our system, and all sound political reasoning, the reserved powers of the States, with all the local and peculiar interests, they were intended to protect, to the will of the very majority, against which the protection was intended. Nor will the tenure by which the Judges hold their office, however valuable the provision in many other respects, materially vary the case. Its highest possible effect would be to *retard* and not *finally* to resist, the will of a dominant majority.

But it is useless to multiply arguments.—Were it possible, that reason could settle a question where the passions and interests of men are concerned, this point would have been long since settled forever, by the State of Virginia. The report of her Legislature, to which I have already referred, has really, in my opinion, placed it beyond controversy. Speaking in reference to this subject it says, "it has been objected" (to the right of a State to interpose for the protection of her reserved rights) "that the judicial authority is to be regarded as the sole expositor of the Constitution; on this objection it might be observed, first, that there may be instances of usurped powers which the forms of the Constitution could never draw within the control of the Judicial Department: secondly that if the decision of the Judiciary be raised above the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the Judiciary, must be equally authoritative, and final with the decisions of that department.—But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases, in which all of the forms of the Constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it.—The resolution supposes that dangerous powers not delegated, may not only be usurped and executed by the other Departments, but that the Judicial Department may also exercise, or sanction dangerous powers beyond the grant of the Constitution, and consequently that the ultimate right of the parties to the Constitution to judge, whether the compact has been dangerously violated, must extend to violations by one delegated authority, as well as by another—by the Judiciary, as well as by the Executive or Legislative."

Against these conclusive arguments, as they seem to me, it is objected, that if one party has a right to judge of infractions of the Constitution, so has the other, and that consequently in cases of contested powers between a State and the General Government, each would havo a right to maintain its opinion, as is the case when sovereign powers differ in the construction of treaties or compacts, and that of course, it would come to be a mere question of force. The error is in the assumption, that the General Government is a party to the Constitutional Compact. The States, as has been shewn, formed the compact, acting as sovereign and independent Communities. The General Government is but its creature; and though in reality a government with all the rights and authority which belong to any other government, within the orb of its powers, it is, nevertheless, a government emanating from a compact between sovereigns, and partaking in its nature and object, of the character of a joint commission, appointed to superintend and administer the interests in which all are jointly concerned, but having, beyond its proper sphere, no more power, than if it did not exist.

To deny this would be to deny the most incontestible facts, and the clearest conclusions; whilst to acknowledge its truth is to destroy utterly the objection, that the appeal would be to force, in the case supposed. For if each party has a right to judge, then under our system of government, the final cognizance of a question of contested power would be in the States, and not in the General Government. It would be the duty of the latter, as in all similar cases of a contest between one or more of the principals and a joint commission or agency, to refer the contest to the principals themselves. Such are the plain dictates of reason and analogy both. On no sound principle can the agents have a right to final cognizance, as against the principals, much less to use force against them, to maintain their construction of their powers. Such a right would be monstrous: and has never, heretofore, been claimed in similar cases.

That the doctrine is applicable to the case of a contested power between the States and the General Government, we have the authority not only of reason and analogy, but of the distinguished statesman already referred to. Mr. Jefferson, at a late period of his life, after long experience and mature reflection, says, "With respect to our State and Federal Governments, I do not think their relations are correctly understood by foreigners. They suppose the former subordinate to the latter. This is not the case. They are co-ordinate departments of one simple and integral whole. But you may ask if the two departments should claim each the same subject of power, where is the umpire to decide between them? In cases of little urgency or importance, the prudence of both parties will keep them aloof from the questionable ground; but if it can neither be avoided nor compromised, a convent on of the States must be called, to ascribe the doubtful power to that department which they may think best."

It is thus that our Constitution by authorizing amendments, and by prescribing the authority and mode of them, has by a simple contrivance, with its characteristic wisdom provided a power which in the last resort, supercedes effectually the necessity, and even the pretext for force; a power to which none can fairly object; with which the interests of all are safe; which can definitely close all controversies in the only effectual mode by freeing the compact of every defect and uncertainty, by an amendment of the instrument itself. It is impossible for human wisdom, in a system like ours, to devise another mode which shall be safe and effectual, at the same time consistent with what are the relations and acknowledged power, of the two great departments of our government. It gives a beauty and security peculiar to our system, which, if duly appreciated, will transmit its blessings to the remotest generations; but if not, our splendid anticipatton or at the future will prove but an empty dream. Stripped of all its covering, and the naked question is, whether ours is a federal or a consolidated government; a constitutional or absolute one; a government resting ultimately on the solid basis of the sovereignty of the States. or on the unrestrained will of a majority; a form of government, as in all other unlimited ones, in which injustice and violence, and force must finally prevail. *Let it never be forgotten that where the majority rules, the minority is the subject;* and that if we should absurdly attribute to the former, the exclusive right of construing the Constitution, there would be in fact between the sovereign and subject, under such a government, no Constitution; or at least nothing deserving the name, or serving the legitimate object of so sacred an instrument.

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*I refer to the authority of Chief Justice Marshal, in the case of Jonathan Robbins. I have not been able to refer to the speech, and speak from memor.

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