MONDAY, Jan. 21.

In Senate. Mr. Dallas presented a resolution of the Legislature of Pennsylvania, unfavorable to the new tariff bill now pending in the House of Representatives: Laid on the table, and ordered to be printed.

Mr. Wilkins, from the Committee on the Judiciary, to whom was referred the message of the President of the United States of the 16th instant, relative to the proceedings of South Carolina, reported the following bill, which was read and ordered to be printed;

A BILL

Further to provide for the collection of duties on Imports.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever, by reason of unlawful obstructions, combinations, or assemblages of persons, or unlawful threats and menaces against officers of the United States, it shall become impracticable, in the judgment of the President, to execute the revenue laws, and collect the duties on imports in the ordinary way, in any collection district, it shall and may be lawful for the President to direct that the custom house for such district, be established and kept in any secure place within some port or harbor of such district, either upon land or on board any vessel; and in that case it shall be the duty of the Collector to reside at such place, and there to detain all vessels and cargoes arriving within the said district until the duties imposed on said cargoes by law be paid, deducting interest according to existing laws; and in such cases it shall be unlawful to take the vessel or cargo from the custody of the proper officer of the customs, unless by process from some court of the United States; and in case of any attempt otherwise to take such vessel or cargo, by any force, or combination, or assemblage of persons, too great to be overcome by the officers, of the customs, it shall and may be lawful for the President of the United States, or such person or persons as he shall have empowered for that purpose, to employ such part of the land or naval forces, or militia of the United States, as may be deemed necessary for the purpose of preventing the removal of such vessel or cargo, and protecting the officers of the customs in retaining the custody thereof, and also for the purpose of preventing and suppressing any armed or riotous assemblage of persons resisting the custom house officers in the exercise of their duties, or in any manner opposing the execution of the revenue laws of the United States, or otherwise violating or assisting and abetting violations of the same.

Sec. 2 *Be it further enacted*, That the jurisdiction of the Circuit Courts of the United States shall extend to all cases, in law or equity, arising under the revenue laws of the United States, for which other provisions are not already made by law. And if any person shall receive any injury to his person or property, for or on account of any act by him done, under any law of the United States, for the protection of the revenue, or the collection of duties on imports, he shall be entitled to maintain suit for damage thereon, in the Circuit Court of the United States in the district wherein the party doing the injury may reside, or shall be found. And all property taken or detained by any officer or other person under authority of any law of the United States, shall be irrepleviable, and shall be deemed to be in the custody of the law, and subject only to the orders and decrees of the courts of the United States, having jurisdiction thereof. And if any person shall dispossess or rescue, any property so taken or detained as aforesaid, or shall aid or assist therein, such person shall be deemed guilty of a misdemeanor, and shall be liable to such punishment as is provided by the 22d section of the act for the punishment of certain crimes against the United States, approved the 30th day of April, Anno Domini one thousand seven hundred and ninety, for the wilful obstruction and resistance of officers in the service of process.

Sec. 3. *Be it further enacted*, That in any case where suit or prosecution shall be commenced in a court of any State against any officer of the United States, or other person, for or on account of any act done under the laws of the United States, or under color thereof, or for or on account of any right, authority, or title, set up or claimed by such officer or other person under any law of the United States, it shall be lawful for the defendant in such suit or prosecution, at any time before trial, upon a petition to said court, setting forth the nature of said suit, or prosecution, and verifying the said petition by affidavit, which said petition and affidavit shall be presented to said court, or to the clerk thereof, or left at the office of the said clerk, to remove the said suit, or prosecution, to the circuit court of the United States then next to be holden in the district where the said suit, or prosecution, is commenced; and, thereupon, it shall be the duty of the said State court to stay all further proceedings therein; and the said suit or prosecution, upon presentment of said petition, or affidavit, or leaving the same as aforesaid, shall be deemed and taken to be removed into the said circuit court, and any further proceedings, trial, or judgement therein, in the said State court, shall be wholly null and void, and on proof being made to the said circuit court of the presentment of said petition and affidavit, or of the leaving of the same as aforesaid, the said circuit court shall have authority to entertain jurisdiction of said suit, or prosecution, and to proceed therein, and to hear, try, and determine the same, in like manner as if the same had been originally cognizable and instituted in such circuit court. And all attachments made, and all bail and other security given upon such suit or prosecution, shall be and continue in like force and effect as if the same suit or prosecution had proceeded to final judgment and execution in the State Court. And if, upon the removal of any such suit or prosecution, it shall be made to appear to the said circuit court that no copy of the record and proceedings therein in the State court, can be obtained, it shall be lawful for said circuit court to allow and require the plaintiff to proceed *de novo*, and to file a declaration of his cause of action, and the parties may thereupon proceed as in actions originally brought in said circuit court and on failure of so proceeding, judgment of *non pros* may be rendered against the plaintiff, with costs for the defendant.

Sec. 4. *Be it further enacted*, That in any case in which any party is, or may be, by law, entitled to copies of the record of proceedings in any suit or prosecution in any State court, to be used in any court of the United States, if the clerk of said State court shall, upon demand, and the payment or tender of the legal fees, refuse or neglect to deliver to such party certified copies of such record and proceedings, the court of the United States in which such record or proceedings may be needed, on proof by affidavit that the clerk of such State court has refused or neglected to deliver copies thereof, on demand, as aforesaid, may direct and allow such record to be supplied by affidavit, or otherwise, as the circumstances of the case may require and allow; and thereupon such proceeding, trial, and judgement may be had in the said court of the United States, and all such processes awarded, as if certified copies of such records and proceedings had been regularly before the said court.

Sec. 5. *Be it further enacted*. That whenever the President of the United States shall be officially informed by the authorities of any State, or by the Circuit and one of the District Judges of the United States in the State, that within the limits of such State, any law or laws of the United States, or the execution thereof, or of any process from the courts of the United States, will in any event be obstructed by the employment of military force, or by any other unlawful means too great to be overcome by the ordinary course of judicial proceeding, or by the powers vested in the marshal by existing laws, it shall be lawful for him, the President of the United States, forthwith to issue his proclamation, declaring such fact or information, and requiring all such military or other force forthwith to disperse: and if, at any time after the issuing of such proclamation, any such opposition or obstruction shall be made in the manner or by the means aforesaid, the President shall be, and hereby is authorized, promptly to employ such means to resist and suppress the same, and to cause the said law or process to be duly executed, as are authorized and provided in the cases therein mentioned, by the act of the 28th of Feb. 1795, entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, repel invasions, and to repeal the act now in force for that purpose." And, also, by the act of 3d March, 1807, entitled, "An act authorizing the employment of the land and naval forces of the United States in cases of insurrection."

Sec. 6 *Be it further enacted*, That in any State where the jails are not allowed to be used for the imprisonment of persons arrested or committed under the laws of the United States, or where houses are not allowed to be so used, it shall and may be lawful for any marshal, under the direction of the judge of the United States, for the proper district, to use other convenient places, and to make such other provision as he may deem expedient and necessary for that purpose.

Sec. 7 *Be it further enacted*, That either of the justices of the Supreme Court, or a judge of any District Court of the United States, in addition to the authority already conferred by law, shall have power to grant writs of habeas corpus in all cases of a prisoner or prisoners, in jail or confinement, where he or they shall be committed or held on or by any authority or law for any act done, or omitted to be done, in pursuance of a law of the United States, or any order, process, or decree, of any judge or court thereof, any thing in any act of Congress to the contrary notwithstanding. And if any person or persons to whom such writ of habeas corpus may be directed, shall refuse to obey the same, or shall neglect or refuse to make return, or shall make a false return thereto, in addition to the remedies already given by law, he or they shall be deemed and taken to be guilty of a misdemeanor, and shall on conviction before any court of competent jurisdiction, be punished by fine not exceeding dollars, and by imprisonment not exceeding or by either, according to the nature and aggravation of the case.

Mr Benton, from the Committee on Military Affairs, presented a statement from the Secretary of the War Department, showing all the liabilities of the United States to the Indian tribes, which statement was ordered to be printed.

A message was received from the President of the United States, covering a report of the Treasury Department, exhibiting the operations of the Mint for 1832

The PRESIDENT presented a communication from the Treasury Department, in compliance with a resolution of the 18th inst., relative to the affairs of the Bank of the United States; and on motion of Mr. Benton, the report and documents were ordered to be printed.

TUESDAY, January 22, 1833.
IN SENATE.

Mr. Wilkins moved to take up the bill further to provide for the collection of the revenue, not with a view of discussing it at that time, but for the purpose of making it the special order for some particular day.

Mr. King observed, that the bill had not yet had its second reading; and it would be time enough when it came up for the gentleman to propose a proper disposition of it. He did not consider the bill to be as yet on the general orders.

After a few remarks from Messrs Poindexter and Clay, on a question of order,

The motion of Mr. Wilkins was carried; and the bill was read a second time by its title.

Mr. Wilkins then moved that the bill be made the special order for Thursday next.

Mr. Grundy believed the measure proposed by the bill to be one of the utmost importance. The Senate ought, certainly, to bring it forward at an early day.—The Senate would not be committed by commencing the consideration of the bill. It might be under consideration, and if there then appeared any sufficient reason for delay, it might still be made. Till we take up this subject, we are under great uncertainty: we do not know what will follow. The first of February is near, the time designated for the ordinance of Carolina to take effect. After the Senate shall have done with the bill, it must go through the House, which will consume considerable time. I do not believe there is any great cause to complain, if it should be made the order of the day for Thursday next. No one will be forced into the discussion before he is prepared.

Mr. King said, he should move to have it deferred to a later day. It is one of the most important questions that have ever been agitated; so important, that it shakes the ancient character of our institutions to their very foundations. It ought to be the subject of our most profound and deliberate consideration. I have no reference to the first of February, that fatal first of February, to which reference has so often been made; the subject is one of general importance. I move to postpone it till Monday week.

Mr. Mangum said, as one of the Judiciary Committee he had been opposed to so early a day. He concurred with the gentlemen from Tennessee, that this was vastly the most important question which could be brought forward for discussion at this session. So important was it, that, in his opinion, it would shake the ancient character of our institutions to their very foundation. He concurred in the opinion that it ought to be taken up, and acted on with the most profound deliberation; for it depended on the result of this question whether there would not be a revolution which would change the whole character of our institutions. In moving to postpone the consideration of the bill to a later day, as he should do before he resumed his seat, he should do it without reference to the 1st February. It was impossible that there could be any definitive action on the bill by that time. He deprecated references, the only effect of which would be to keep up an excitement which it would be wiser to allay. He did not refer to the first of February because he believed that there existed any ground of apprehension. When he proposed a more distant day, it was solely with reference to the convenience of this branch of the Government, and of the other House, in order that they might have sufficient time for deliberation upon a subject which touched the very heart's core of our institutions. No one could look at this bill without discovering that it revived all the distinguishing characteristics of the old parties, besides taking in its sweep, much, in his opinion, that was odious, and wholly unknown to either of the old parties. It carried out to their full extent the principles of one of those parties with alarming and startling "addenda;" and came in conflict against all the principles of the other. It touched the fundamental character of our institutions, and on the discussion and decision which would ensue, he conscientiously believed—and he would be constrained so to declare, were they the last words he should ever utter—would materially depend the continuance of our admirable institutions in that wholesome, but, restricted vigor, that would perpetuate a well regulated liberty. He concluded with moving to postpone the bill till Monday week.

Mr. Grundy hoped the Senate would not concur in the motion of the Senator. The gentleman says he at once discovered that the bill is about to change the character of our institutions. No doubt its opposers will be ready to meet it by Thursday. Others think there is nothing in the bill but what will enable the Government to save itself from ruin. Why delay till Monday, when the friends of the bill will consume a day or two in explaining it, and showing its importance and necessity. If its opposers should be then unprepared, it can still be postponed. I hope I am mistaken in my opinion, that nothing will take place to satisfy South Carolina after the first of February, more than before. If I am not mistaken, I now declare I will have no share in the consequences of delay. I will do my utmost to provide all the means necessary to prevent the evils that might otherwise ensue. I hope the Senate will not delay the subject.

Mr. Miller, after some remarks inaudible in the gallery, said that he did not perceive how the measures proposed by the Senator from Tennessee were to be accomplished by the passage of the bill under consideration. The first of February, he said, had been referred to by that Senator, as a day likely to produce much evil to the country, and it had been consequently urged that this bill, or something similar to it in substance, was necessary to prevent it. But, said Mr. M., the first of February will be here before that bill can possibly pass, and if the Senator from Tennessee is disposed, as he alleges, for conciliation, he can easily avoid the evils he so much deprecates, by a repeal or modification of the tariff laws. Sir said Mr. M., any modification will be, *ipso facto*, a repeal of the ordinance of South Carolina, and the acts of her legislature passed in consequence of it, and require new proceedings on the part of the State. The Senator from Tennessee apprehends, continued Mr. M., some ideal danger on the day mentioned, and how does he propose to avoid them? Why, by putting at the disposal of the Executive, the whole physical force of the United States—not for the purpose of putting down any unlawful acts of the people, but for the purpose of putting down the rightful act of a sovereign and independent member of the confederacy. This, Sir, said Mr. M., is the grand panacea by which the gentleman from Tennessee proposes to cure the evils he so much apprehends on the first of February? And what were they? There was nothing in South Carolina that had not occurred in many other instances in other parts of the Union.—South Carolina had said that the tariff laws were unconstitutional, and that she would not obey them. Let the gentleman from Tennessee procure a repeal or modification of the tariff laws, and that will do more to cure the evil he dreads, than the panacea he so highly recommends. Mr. M., said he did not rise to enter into the merits of the bill before the Senate, but to express his utter astonishment that the Senator from Tennessee should suppose that this bill could accomplish the object he had in view.—He was not then prepared to say how far South Carolina would be satisfied by a modification of the tariff; that was no the subject under discussion; but this much he would say that the measure proposed by the Judiciary Committee, and commended by the Senator from Tennessee, could be productive of no good. He had always understood that the Constitution placed the civil above the military power. Pass this bill, Sir, said Mr. M., authorizing the President, if he cannot act by the ordinary tribunals, to act with armed force, and you at once put the military above the civil power. This, then, is the way in the opinion of the Senator from Tennessee, to obviate the difficulties by which we are threatened. Sir, said Mr. M., the only way, is to abate the nuisance—to repeal the unjust and unconstitutional legislation by which we are oppressed, and this will supercede any use of State authority.

There was one thing, Mr. M. said, he would advert to while he was up. He had seen among the documents accompanying the President's message, one that was described as a test oath act. He was surprised at this, as he knew that no act, bearing that title, had been passed by the Legislature of South Carolina, and he was gratified to see among the papers in the message to-day, an authentic copy of the act referred to, whose title is different from that described in the former message, and forms a part of the documents printed therewith. What was the character of that act, might be seen from the certified copy now on the files of the Senate. It was this:

The people of South Carolina, in their highest sovereign character, had passed an ordinance declaring that every officer of the State shall swear to respect the constitution and laws; and the act referred to was passed in pursuance of the high authority thus given. In no case, said Mr. M., could it be considered a test oath act. It was not intended for every citizen of the State, but for those citizens who held offices under it. The State simply required all the agents in the pay to take an oath to support the laws; and Sir, said Mr. M. if they have not a right to pass a law to make their own officers and agents obey them, I would not give a brass farthing for State rights. This, Sir, said Mr. M., is the nature of the act and yet it is called by the President a test oath act. Was this oath more a test than that taken by every Senator at the Secretary's table? or essentially different from that taken by the officers of the Government? We swear to support the Constitution of the United States, and yet this is not considered a test oath.—What course, asked Mr. M., does the General Government pursue, when its officers refuse or neglect to obey its mandates? The moment, said Mr. M., that an U. States officer refuses to obey the will of the Executive, he is dismissed from office without ceremony, with or without having taken an oath. There was no proscription, Mr. M. added, in the act of South Carolina. The ordinance, added Mr. M., was passed by the people of the State in their highest sovereign capacity, was a part of the Constitution of the State, and every man, when he takes an office under the State, is rightfully required to swear that he will support her Constitution; and when the ordinance itself came before the Senate, Mr. M. said he would be prepared to show that the oath to support it did not conflict with the obligation to support the Constitution of the United States. There was, however, one part of the ordinance which might be supposed to conflict with the Constitution of the U. States. It is that which denies the right of the Federal Court to review the decisions of the State Court The ordinance, however, in this only was intended to operate on the State officers, and did not command resistance by force to the decrees and proceedings of the Federal Court; it was passive—the agents of the State were simply required not to act. But, said Mr. M., it will be recollected that the 25th section of the Judiciary act, which gives this right to review, was believed by many of the best informed, and if he mistook not, by the President himself, to be unconstitutional, and therefore null and void

Mr. M. further said that when the ordinance of South Carolina came before the Senate, he would not only be prepared to show that it was not contrary to the Constitution of the United States, but that it was not contrary, as alleged, to the Constitution of South Carolina. It was absurd, he said, to pretend that the ordinance conflicted with the constitution of South Carolina. It was framed by the people of the State, in Convention, in their highest sovereign capacity; and consequently a part of the Constitution itself, and a repeal of all parts conflicting with its provisions.

He was in favor of harmonizing the country He was not for secession; nor was he for disunion. When Congress should declare war against South Carolina, and should put it in the power of the President to assail her with the military and naval forces of the United States, it would then be the height of absurdity to talk of secession as a constitutional right. Secession would then be revolutionary in its nature, and would be forced on the State by the war carried on against her. The secession in the ordinance was predicated on the Federal Government disregarding its peaceful obligations to South Carolina.

Mr. M. continued. If the object was to avoid the danger to the Union apprehended by the Senator from Tennessee, it could not be accomplished by the passage of the bill before the Senate. But, he said, if by Monday week, the day named by the Senator from North Carolina, a bill for the modification of the tariff should be reported in the Senate, or the bill now discussed in the House of Representatives, should come from that body, it will then be time enough to say whether this bill should pass. And in either case, he would ask the Senator from Tennessee if the Senate would think it necessary to pass a bill of the nature now before them.

The President here reminded Mr. Miller that it was not in order, on a mere motion for postponement, to discuss the merits of the bill.

Mr. M. continued, that it was not his intention to discuss the bill, or its general principles. His object was only to delay action on the bill, until it could be seen whether there was a probability of the passage of a bill in modification of the tariff. By Monday week, he presumed the other house might be heard from, and it was possible that something might emanate from the Committee of Finance in this body. But, said Mr. M. if the Senate will only now pass a resolution declaring the tariff shall not be modified, I will at once agree to proceed to the consideration of the bill. If delayed, something may occur of a more peaceful character than that contemplated by the Committee on the Judiciary; but, added Mr. M. if the pacification of the Senator from Tennesse is to be the only relief extended to the people of South Carolina, I can only say, Lord deliver me from such relief.

Mr. Clay said he did not design at present to debate the principal subject. He concurred with the Chairman that it ought to be agreed with the Chairman that it ought to be avoided. It would be premature now to enter upon it. It is not important what particular day is designated for its consideration; but that day ought to be without reference to the first of February, or any other day, aside from the consideration of the bill itself. The progress of the Government should not be retarded. The only question is, what is the suitable time for the consideration of the bill in its order That time should not be too short. Thursday is too soon; Monday too distant. I am in favor of investing the Government with all necessary power to carry the laws into execution. I am in favor of giving the bill a full, deliberate, and careful examination, but not of bestowing on the Government any unconstitutional powers. I make the motion, and hope it will meet the general concurrence of the Senate, to postpone the subject till Monday next.

Mr. Bibb said, the bill necessarily brings us into the consideration of first principles. The discussion must involve the fundamental principles of the whole Government. Those who would deny that I am ready to give the Government all necessary power, keeping an eye to the Constitution and to liberty, do not know me But at the proposal to confer novel and unconstitutional discretionary power on the President, it is the duty of the Senate to pause and reflect. This subject, embraces a vast extent of research. It is my earnest desire to put off the discussion to the farthest possible day. These are not the best of times for the discussion and calm consideration of a subject. Events may happen to render this subject far less exciting.

Mr. Poindexter next addressed the Chair. He said that his object in rising was to ask that the question on the postponement of the consideration of the bill to Monday next, might be taken by ayes and noes; but while up, he said he would avail himself of the opportunity, to offer some of the views he had taken of the provisions of the bill, not for the purpose of entering into the general discussion of questions so momentous, but as justifying his vote in favor of the motion made by the honorable Senator from North Carolina, (Mr. Mangum.) He concurred in the suggestions of the honorable Senator from Kentucky, (Mr. Clay.) that in fixing a day for the consideration of the bill, no particular examination of its details was either proper or necessary; but it was important to look the great principles which it embraced full in the face, and to afford ample time to investigate them maturely, before the measure was called up for the final action of the Senate. He considered the bill as one of a permanent and general character, co-extensive with the Union—aiming a deadly blow at the free institutions under which we live, and not as limited, according to its obvious intention, to the attitude assumed by South Carolina, in reference to the existing system of protection to domestic manufactures.

Mr. President, said he, if the title of this bill corresponded with its provisions, it might with equal justice and propriety, be called "a bill to repeal the Constitution of the United States, and to vest in the President despotic power." Such is its spirit, and such is the import of the words used to carry out the purposes intended by its enactment. No measure had ever been presented to the consideration of Congress, from the close of the Revolution to the present moment, so vitally destructive of public liberty, or so palpably conflicting with the plain and positive provisions of the Constitution.

The first section of the bill clothed the President with the extraordinary and dangerous power of controlling, by the exercise of his own judgment, and at his own will and pleasure, the liberty of speech and of the press, and the right of the people peaceably to assemble to deliberate on the condition of the country, and petition for a redress of grievances;—rights secured by the very letter of the Constitution, and inestimable to freemen. At the head of the amendments proposed by the States at the adoption of the Federal Constitution, and which now form a component part of that instrument, is an article which declares that Congress shall make no law respecting an establishment "of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the Government for a redress of grievances." Sir, compare the checks interposed in this section to the encroachments of arbitrary power, with the language of the bill. "Whenever, by reason of unlawful obstructions, combinations, or *assemblages of persons*, or unlawful *threats* and *menaces* against officers of the United States, it shall become impracticable, in *the judgment of the President*, to execute the revenue laws," &c; then he is authorized to remove the custom house to a secure place, and execute all the imposts and prerogatives with which the bill proposes to invest him. What shall constitute "unlawful obstructions, combinations, or assemblages of persons," is not defined—even a *threat* or a *menace*, consisting of mere words, is considered criminal, and it is left exclusively to the *judgment* of the President, to determine for himself, what is the character and intention of "assemblages of personages," what words amount to a *threat* or a *menace*, and on his own interpretations of these acts or expressions, to call forth the military force of the country, to enable him to carry into effect this new system of pains and penalties! May it not happen, that an "assemblage of persons," for the most innocent and necessary purposes, in a particular quarter of the Union, will be construed into an unlawful combination to obstruct the execution of the revenue laws, and, in the judgment of the President, authorize the employment of the army to disperse it? Do the people of the several States hold their constitutional privileges by a tenure so feeble and so uncertain, as the will, the mere caprice of the Chief Magistrate?

Sir, let us throw off the mask at once; enact the riot act of Great Britain, put it into the hands of one of those myrmidons of the President to read aloud at every assemblage of persons, which, in the judgment of the President, is unlawful: warn the multitude to disperse, and go peaceably to their homes, and in case they refuse to obey, call out an armed force and bring them to submission. This is substantially the powers which it is now proposed to confer on the President as the basis of all the other high prerogatives enumerated in the bill on your table. But, this is not the most extravagant feature in this novel and unprecedented transfer of arbitrary power to the executive branch of the government. An assemblage of the people dare not denounce an unjust, oppressive, and unconstitutional act of Congress, imposing burdens on them by an onerous system of imposts, in *the presence of an officer of the U. States*, without being liable to have their words interpreted to mean a *threat* or *menace* against the officers, and thereby subject themselves to be dealt with as the *judgment* of the President shall direct, under the provisions of this bill. The same consequences might result from the publication of a paragraph in a newspaper, denouncing an unconstitutional act of Congress, and complaining of the manner in which it is executed by an officer of the United States. This too, might, in the *judgment* of the President be a *threat* or a *menace* calling for his interposition. Sir, the idea cannot be credited that the free citizens of this confederacy will submit to these shackles on their dearest privileges in contravention of the compact of union which secures them. It is an encroachment on personal liberty not to be endured, and amounts almost in terms to a repeal of the Constitution, which secures to every man the freedom of speech, and guards from evasion the liberty of the press, and the right of the people peaceably to assemble and declare their opinions of public men and measures.—All those solemn guarantees are now to be placed in the custody of one man, and to be regulated according to his "judgment!"

Mr. P. then adverted to the second section of the bill. He said it was not his intention at present to enter minutely into an examination of that scheme to prostrate the sovereignty of the States, and vest the President with extraordinary powers; but he claimed the indulgence of of the Senate while he glanced at a part of the bill which conflicted with an express provision of the Constitution. He then read from the third article of the Constitution, to show the limitation on the jurisdiction of the courts of the U States: among other defined cases, it is declared that it shall extend "to controversies between a State and citizens of another State; between *citizens of different* States, &c." It cannot be denied that these courts possess no jurisdiction, which is not expressly conferred on them by the Constitution: they are not courts of general jurisdiction, they have no common law powers and can only resort to that code to illustrate the powers specially granted in the article of the Constitution referred to. This bill enlarges the jurisdiction of the circuit courts of the United States, and extends it to controversies between *citizens of the same State!* The provision is written in language not to be misunderstood or misconstrued. "If any person shall receive any injury to his person or property, for or on account of any act by him done under any law of the United States for the protection of the revenue, or the collection of duties on imports, he shall be entitled to maintain *suit for damage* therefor, in the Circuit Court of the U. S, in the district wherein the party doing the injury may reside, or shall be found." It is manifest, that this provision transcends the jurisdiction of the courts of the U. States, and is to that extent a repeal of the Constitution. An officer of the customs at the port of Boston, receives a supposed injury from a citizen of Massachusetts, which in the discharge of his official duties, both being citizens resident in the *same State*, will any man having the least respect for his character as a statesman, hazard the opinion that the Circuit Court of the United States for the district where the injury was done, can take cognizance of a civil action between the parties for the recovery of damages? No, Sir, there is not a respectable pleader in any part of the Union who would venture to justify a departure so gross and palpable from the plain letter of the Constitution. But we have arrived at a crisis in the progress of this government, when the tide of popular impulse set in the direction of power and patronage, and the barriers of the Constitution no longer afford protection to the States or to the people against the overwhelming influence of the Executive and the dominant party in the National Legislature.

Pass this bill, and the very idea of State sovereignty will be treated as a vision of the imagination—a tale of by-gone days, no longer to be remembered, but to be spurned and blotted out of our political history for ever. Mr. President, (said Mr. P.,) when we turn our attention to the recent State papers under the signature of the Chief Magistrate, of the principles contained in which this bill is the consummation, the friends of constitutional liberty have abundant cause of alarm and apprehensions. The alternative is presented to us in a manner not to be blinked, between our original beautiful system of confederacy, composed of separate independent sovereignties, united for the great purposes of common defence and general welfare, under defined and specified powers, and a vast consolidated empire, with a despot to rule and direct its destinies. In such a contest there can be *no neutrals*—he who is not for us is against us; there is not one inch of neutral ground on which the friends of State rights can stand; no one can wink so hard as not to see, that upon the issue of this struggle must depend the fate of this free and enviable confederacy Shall the States retain the rights reserved to them by the patriots who framed the Constitution; or shall we throw our liberties at the feet of a military despot, clothed with unlimited powers, throughout this widely extended country, backed by the army and navy, ready at the sound of the bugle, to rally around their chieftain and execute his mandates? To enable each honorable Senator to deliberate well on the important question involved in the passage of this bill, and to recur to our political history, from the close of the revolution up to this present time, in order to demonstrate the true character of this Government, by a review of the meaning and intention of its framers, I shall vote to postpone the consideration of this subject to the longest time proposed.

Mr. Frelinghuysen said he would make a few remarks, for he wished to know if the character of unconstitutionality ascribed to the bill, implicated him, as a member of the Judiciary committee. Had I believed that the bill proposed to confer any power contrary to the Constitution, I would not have concurred in its favor with the other members of the committee. The Senator from Mississippi misapprehends the character of the bill. The first section of the bill is nothing more nor less than an investment of authority in the President to exercise constitutional power. It refers nothing more to the discretion of the President than the impossibility to execute the laws. The general object of the bill is to furnish him with the means of executing them, where they otherwise cannot be executed: and for that purpose he is authorized simply to remove the custom house, where resistance to the revenue laws is attempted. There is nothing in the bill unconstitutional. If only meets combinations of an illegal character. When South Carolina declares that she will nullify the laws, the bill enacts a power in the President to maintain them. No military force is to be called forth till it is employed by the insurgents. Is this making the President a despot? Then it is such a despot as the Constitution makes him. When force shall be used to put down the majesty of the laws, then power to resist such force is conferred on the President Sir, I felt myself called upon to give these views of the character of the measure, in order to vindicate it. The bill enables the President to do his duty, and it shall have my cordial support.

Mr. Wilkins was not anxious that the sub-

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