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TWENTY-SECOND CONGRESS,
SECOND SESSION.

REVENUE COLLECTION BILL.

SPEECH OF THE HONORABLE FELIX GRUNDY, of Tennessee,

Delivered in the Senate of the United States, on the bill "further to provide for the collection of duties on imports," on the 20th of February, 1833.

Mr. President: In the shortest time practicable, I will endeavor to discharge that duty which has been assigned to me by the Judiciary Committee, which is to close this debate on their part, and rescue, if I can, this bill, its authors, and that department of the government, by which this measure has been recommended, from that unmerited and unmeasured injustice, which has been inflicted upon them, in the course of this discussion.

I am no advocate for despotism, civil war, or blood: on the contrary, it is because I abhor and dread these things, and love the peace, tranquility, and safety of my country, that I support the bill upon your table.

I am an advocate for the empire of the laws. While they govern, I know that American liberty is safe; when they fail of their effect, or in their execution, then follow anarchy, civil strife and bloodshed, with despotism in their train.

Gentlemen who have argued against, and condemned the provisions of the bill, have evaded the true question involved in this discussion, but they shall not be permitted to escape from it. It is not whether the tariff laws are unjust and oppressive. If that were the subject in controversy, I would unite my voice with theirs, in their denunciations against them; nor is the question whether civil war be not among the greatest calamities which can befal this, or any other nation. This, none of the friends of this bill would controvert.

The true question before the Senate is, shall the State of South Carolina be permitted to put down the revenue laws of the Union, prevent their execution within her limits, and no effort be made by this government to maintain the majesty of the laws, and to counteract the measures adopted by that State to defeat and evade them.

This is the true question, and to it, shall my argument be mainly directed.—I shall not attempt to deliver any metaphysical dissertation on the science of government, but will present a plain, practical view, of the subject; and think I can safely promise to prove, that, unless this bill or something equivalent to it, shall pass, this whole government is unstrung, that all its vigor and energy are gone, and that a bare majority of the people of one State, out of the twenty four, will have succeeded in accomplishing a more daring enterprise, than was ever undertaken in ancient or modern times, under similar circumstances. Sir, there is a boldness in this undertaking which commands the admiration of those, whose judgments condemn it. If it be the will of the Senate, that success shall attend the efforts of that State in rendering the laws ineffectual, be it so. I shall acquit myself of all responsibility for the consequences, by endeavoring to prevent it.—Whether this bill proposes extravagant legislation, or not, depends entirely upon the measures adopted, and pursued by that State, and which are intended to be counteracted. If their measures be strong, those adopted here to meet them, must be of the same character, or they will be unavailing.

Let us now see what South Carolina has done, that we may judge what is proper on our part. By her Ordinance it is declared, that the tariff acts of 1828 and 1832 are null, void, and of no effect, and all promises, contracts, and obligations, entered into to secure the payment of duties, utterly void. This embraces bonds given before, as well as those given after the adoption of the Ordinance.—Bonds for duties heretofore given for the payment of moneys necessary to discharge the public debt, and other demands upon the government, are all included. This is a direct infraction of that provision of the Federal Constitution, which forbids any State to pass a law impairing the obligation of contracts. The Ordinance also forbids the enforcement of the tariff laws, either by the State or Federal authorities within the limits of South Carolina. It further directs the Legislature to pass all laws necessary to carry this Ordinance into effect.

Had nothing more been done, no action on the part of this government would have been required. The Judiciary of the State, and of the U. States, would have been left at liberty to decide upon the effect of the acts of Congress, and of this fundamental law of South Carolina, as her Senators chose to denominate the Ordinance. So soon as it was adopted, the Legislature of that State is in session, and the acts passed, of which I will now speak, and against the effects of which this bill is intended to provide.

The first is the Replevin Act. This is a law of force—its certain effect is to produce collision by arms, between the Federal and State authorities, unless the officers of the U. States shall wholly disregard their duty, and submit to the authorities of South Carolina. This act authorizes the owner or consignee, when the goods are in the hands of the Collector, and before the duties are paid or secured, to sue out the writ of replevin, "and the whole proceedings upon it, shall be, as in other cases of replevin, according to the laws and usages of the State," &c.

Whoever penned this act, was well skilled in all the learning of the ancient law upon this subject; in the execution of this writ, force can be employed; the officer can call out the posse comitatus; armed men can be called in to aid in its execution; doors may be broken open; fortresses and strong fortified places may be reduced and demolished to their very foundations. It is not pretended that the common laws and ancient statutes upon this subject have been changed by the State of South Carolina, or that they are not in force in that State. It is therefore material, to a right understanding of the true character of this proceeding by writ of replevin, that we ascertain, by writ, what kind of force can be employed in its execution. To show this, I will read an extract from the law of distress and replevin, by Lord Baron Gilbert, pages 78 and 79. It is as follows: "If the distress be drawn into a house, castle, or other strong hold, the sheriff or his bailiff, after demand made for the deliverance of the distress, may break open the house or castle to replevy them. This seems to be the common law; for, though a man's house is privileged by common law for himself, his family and his own goods, so that the sheriff cannot break it open to attach any of them, at the suit of a private person, yet a man's house could not privilege or protect the goods of another person, unjustly taken, so as to prevent the officer to make replevin, because, the privilege and security of a man's house could protect his own goods. This practice, however, of driving distresses into strong holds, was so frequent in the Baron's wars, and the poorer sort suffered so much from the men of power, that the statute of West, 1 c. 17, expressly gives this power to the Sheriff or his officer, to break the house, to make delivery of the cattle whether the replevin be by plaint or writ: this as is said, must be after demand made, and notice given to the lord to suffer them to be replevied and to deter the person distraining from refusing or neglecting to deliver the distress, the statute further directs that the castle or strong hold shall be razed and thrown down." Suppose a vessel arrives at Charleston with a cargo subject to duties, and the Collector in discharge of his duty, takes possession of the goods, to secure the duties; a writ of replevin issued out, and placed in the hands of the sheriff; he demands the goods of the Collector who refuses to surrender them, a single blast of the bugle can bring he two thousand city guards who have been raised under another act passed by the Legislature of South Carolina, to carry the Ordinance into effect; the custom house is broken open, and the goods removed under this forcible proceeding, provided by the State of South Carolina; your Collector has no means of preventing this, and the property is wrested from him, although the laws of the U. States require him to retain the possession until the payment of the duties is secured. According to the views of those who oppose the passage of the bill, all this is peaceful, although force be used by the officers of the State; but the moment the friends of the bill say this proceeding is wrong, and this force thus improperly employed should be resisted in preservation of the laws, gentlemen exclaim, you are making war. If the State provides a measure of force to put down the laws, are we making war if we provide similar means to defend and sustain them? If no force be used against the execution of the laws of the U. States, none will or can be employed to enforce them under this bill. The force contemplated is strictly defensive, never to be used except to repel force actually engaged in opposition to the laws of the Union.—Should the Collector succeed in securing the goods and preventing the sheriff from getting possession of them, a capias in Withernam is directed to be issued, by which double the amount of the Collector's property is taken, and the same forcible means are to be employed in the execution of this writ; further, should the Marshal or Collector obtain possession of the goods in either case, under an order or process from the federal Courts, they are to be recaptured by the use and application of the like force, as is provided for the execution of the writ of replevin, and capias in Withernam.

In all these preliminary steps, force armed force, is authorized by the State of South Carolina. The object of which, is to secure the possession of the property in the State Officer, in order that the State Courts alone, may take cognizance of the matters in controversy. In this state of things, the parties are to go into the State Courts of South Carolina, to litigate their rights. The very act of resorting to a Court of Justice, ordinarily conveys to the mind, the idea that a fair, impartial, and unprejudiced hearing, is to take place, that the cause is first to be heard, then decided; not decided and then heard; that the law and facts of the case are to be fully examined, a judgment formed, and then pronounced. But when one of these cases comes on for trial, the judge has been sworn specially to decide the great point in the cause, against one of the parties; every juror is sworn in like manner. These are revolutionary tribunals,—not courts of justice; and the very men who are complaining of injustice and oppression, are practicing them with a higher hand than has ever been witnessed in any country which boasted of free and republican institutions. Men who have been ornaments to the bench of justice in South Carolina, men who have distinguished themselves in this, and the other House of Congress, men who have conducted with skill and ability, our foreign diplomatic intercourse, are disfranchized by this tyrannical ordinance, and such men as Cheves, Smith, Huger, Middleton, and Poinsett, are disqualified to serve their State even as common jurors. Sir, call you this liberty, and the enjoyment of equal rights?—A case is decided against the officer of the United States, and he prays an appeal to the federal supreme court. This by the law of South Carolina is declared to be a contempt of the honorable court of that State, and your officer is fined, and imprisoned for asking for a constitutional and legal right; well he gets out of prison after the expiration of the time for which he has been sentenced, and applies to the Clerk of the State Court, for a copy of the record to enable him to sue out his writ of error; the law of South Carolina denounces fine and imprisonment, against the clerk if he shall furnish a copy of the record; according to this course of proceeding, the officer of the United States is not only deprived of all the means of correcting the errors which have been committed by the State courts, but is denied the privilege of knowing himself, and exposing to the view of his country the injustice and oppression, which has been practised upon him. I certainly did not speak too strongly when I said a few days since, that South Carolina had legislated the general government out of that State.

The question now fairly presents itself, shall nothing be done to reinstate the laws and give them effect in that State? Those who are willing that the whole revenue system shall cease, and cease in this way, may well object to the adoption of this, or any other efficient measure upon this subject. I trust, however, there are but few, who are willing to see this state of things, and therefore it is material that the remedy proposed by the Committee, to meet and counteract this new and unprecedented legislation of a State should be fairly examined and understood, for we, I mean the Judiciary Committee, will be satisfied with the smallest modicum of federal power, which shall secure a certain execution of the laws. The bill proposes neither to declare or make war upon S. Carolina; its provisions are essentially pacific, intended and calculated to prevent, not to produce violence.—The President of the United States has laid the whole subject before Congress, and asks us to devise a remedy by which, the evils threatened by that State may be avoided, and suggests the propriety of authorizing him to remove the custom houses to places of safety, in the event that it should be found that the laws would be obstructed by the employment of adverse force, which would render their execution impracticable. The committee were of opinion, that this recommendation of the President, was prudent, discreet, and well becoming the Chief Magistrate of this nation. This surely is not making war, this is not exercising any harshness towards the citizens of South Carolina, it is getting out of the way, it is stepping aside until the fury of the times shall pass by. If the custom house remains in Charleston, Beaufort, or Georgetown, either the officers of the General Government cannot be protected, or violence will ensue. This is surrendering the whole of the main land to the authorities of South Carolina, and transacting the business of the General Government, upon the islands or upon the ocean. Is this making war? So far from it, it is the most pacific course that could be presented; it is retreating from threatened violence, and this is done upon the recommendation of him, who never retreated to secure his own personal safety.

Should the first section of the bill be adopted, no force can be used under it, unless the State officers shall attempt by force, to take the goods from the Collector at the place to which the custom house may be removed, and if such attempt shall be made at Castle Pinckney, to which place it is understood the President removed the custom house prior to the 1st February, under the authority of existing laws; or any other place to which the custom houses may be removed under the provisions of the first section of this bill, is there a Senator here, who would say the goods should be surrendered without resistance? I should have hoped, and believed, that none such could be found, had I not heard this discussion. I know that some men are of opinion that this provision is yielding too much to the hostile appearances, and threats of South Carolina. This would be so, were she a foreign nation, but in a controversy with a portion of the same political family, the stronger may well yield something to the weake, there is true magnanimity in strength yielding to weakness, rather than proceed to violence; nor can this idea be carried too far, unless an absolute surrender of the rights of the stronger party, shall be required. In the case now existing, I am willing to concede to South Carolina as much bravery, and chivalry of spirit, as her proudest sons can claim; and still it is madness, to think of making war with the United States. Her physical strenth does not amount numerically, to one twenty fourth part of that of the United States, and that strength comparatively small as it is, is nearly equally divided between parties at home, and in addition to this is rendered much weaker by the character and condition of a portion of the population.

I have shown the only case in which force can be applied under the first section of the bill. Let us now examine in what cases it can be used under the fifth section of the bill, which is the only remaining one which contemplates the employment of military force. The provision is, that whenever the President of the United States shall be officially informed by a circuit or district Judge, that the laws cannot be executed by reason of the employment of an armed or military force, or other means too powerful to be resisted by the Marshal with the ordinary means in his power, the President shall then issue his proclamation, and in case it shall be ineffectual, he may use force to execute the laws. It will be remarked, that the only case in which force is authorized by this section, presupposes an opposition by an armed force—or of other means too powerful to be resisted by the civil powers of the United States.—The authority conferred by this section is confined strictly to repelling force by force, in the execution of the laws.—The idea of employing military force as contemplated by this bill, is not new.—The necessity of its occasional employment was felt by the framers of the Constitution; it was known to them that the stability and even existence of the government might depend upon it. Power was, therefore, given by the Constitution to Congress, to provide for calling forth the militia to execute the laws, to suppress insurrections, and repel invasions; nor has Congress permitted the power thus conferred by the Constitution, to remain dormant. It has frequently exercised it when circumstances have occurred which demanded it. The act of 1795, which is the standing law of the country, authorizes the President to employ the military force of the country as amply as he can do it under the provisions of this bill. Still it was proper that he should consult the representatives of the people and of the States, when a case novel in its appearance, new and imposing in some of its characteristic features presented itself. It will be recollected that in 1807, the famous embargo law passed, which operated with peculiar severity upon the New England States; it gave universal discontent in that quarter; it was pronounced unconstitutional and void in town meetings and legislative assemblies, resistance to it was threatened, and it was anticipated that the eastern States or some of them at least, would interpose their authority to prevent its execution. To meet and counteract these mediated infractions of the embargo laws, Mr. Jefferson, then at the head of the Government, recommended, and the Congress passed an act, entitled an act "to enforce and make more effectual, an act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto." This act was approved on the 9th January, 1809—the eleventh section is as follows:

"Section 11. And be it further enacted, That it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces, or militia of the U. States, or of the territories thereof, as may be judged necessary, in conformity with the provisions of this and other acts respecting the embargo, for the purpose of preventing the illegal departure of any ship or vessel, or of detaining, taking possession of, and keeping in custody, any ship or vessel, or of taking into custody and guarding any specie, or articles of domestic growth, produce, or manufacture, and also for the purpose of preventing, and suppressing any armed or riotous assembly of persons, resisting the custom house officers, in the exercise of their duties, or in any manner opposing the execution of the laws laying an embargo, or otherwise violating, or assisting and abetting violations, of the same."

This act of Congress, of which I have read a part, passed in what the southern gentlemen are pleased to call the best days of the republic, and was passed too, by a unanimous southern vote in both houses of Congress, and was sanctioned by that great republican statesman, Mr. Jefferson, who has justly been styled the apostle of civil liberty. The Judiciary Committee have copied and inserted in their bill, these military provisions which I have read, and they are now denounced as clothing the executive with despotic powers. But in 1809, the predecessors of these same gentlemen considered them as perfectly consistent with democratic principles, and indispensable to save the republic from ruin. For my part, I can see no difference, except that the act of 1809, was designed to operate upon the eastern section of the Union, which then threatened to annul and set aside the embargo laws, and the bill upon your table, is intended to operate upon South Carolina, which now threatens to annul and set aside the revenue laws of the country. The New England representation in Congress then opposed the enforcement of the embargo laws; S. Carolina assisted to enforce them; Carolina now opposes the execution of the revenue laws, and I am happy to see that the Senators from New England are aiding us to enforce their execution. At that period, no voice from the south was heard, denouncing the enforcement of the embargo law as tyrannical, and despotic, but now, when the same measure is dealt out to them, which they dealt out to others under the same circumstances; they apply the epithets of Boston port bill, Botany Bay bill, war bill, and other appellations of a like kind. Gentlemen seem to forget that our citizens are a reading and intelligent people, and will not be misled by sounds; that they will look into this bill; and will examine and judge for themselves.

I will now proceed to another subject which is closely connected with the bill under consideration; I mean the Proclamation, lately issued by the President of the United States. To that instrument great injustice has been done in this debate. The President sets out with the view to establish two great conclusions; first, that the State of South Carolina has no right to annul the revenue laws; second, that no State has a constitutional right to secede from the Union. Is he wrong in either? Except the South Carolina Senators not one of the gentlemen who have uttered such denunciations against it, have ventured to make an argument to prove that the President has erred in his conclusions, although they take great exception to the arguments and reasoning by which he arrives at them. If his friends concur in the object, and purpose of the proclamation, I do not think it should be matter of serious complaint, that he has argued precisely in the same way that they might have done. Time will not permit me to go into a critical examination of the doctrines contained, or advanced in that paper, but justice requires that I should make this remark, that if that instrument be construed as in all fairness it should be, and the expressions used be applied to the subject matter upon which the President is speaking, or writing, none of these ultra federal doctrines would be found in it of which gentleman complain. The Proclamation however is before the public, and justice has been and will be done to it by that tribunal, whatever may be said of it in this body.

I will in a few words, present to the Senate my own views of the history and theory of the constitution of the United States. I consider it the work or production of the people of the States acting as separate and distinct communities, and not the production of either the State Governments, or of the whole people of the United States acting en masse, or as a nation. The latter idea, if adopted, and acted upon, would tend to consolidate the Government, prostrate the States, and make this a Government of unlimited powers.

The correctness of the idea that the Constitution shall be considered and treated as having been formed by the people in the different States acting separately, and distinctly, is proved by the following considerations:

In its formation, each State upon every article in it, and upon every question which arose in the convention, had one vote. The voice of Delaware was as strong as that of Virginia, Pennsylvania, New York or Massachusetts; it was ratified by each State for itself, and the people of no State were bound by it, until they had ratified it for themselves. When amendments of the Constitution are proposed by Congress, they are to be adopted not by the number of the people who may be in favor of them, but by the number of States: so in calling a Convention to amend it, it depends on the number of States that concur in making the call, not on the number of people who demand it. When a new Convention shall meet, to amend the Constitution, that body will vote by States, without regard to the difference of population in the respective States. It is, however, a matter of much more importance, to settle what the Constitution is, than how or by whom it was formed, or is to be amended. It is admitted to be binding on all the States, and all the people, having been assented to, and ratified by all. My opinion is, that it is not a league, nor is it a mere compact according to the meaning which gentlemen have affixed to that term in their arguments; I consider it as a frame of Government, and that the Government thus constructed, is wholly independent of the State Governments. The States were originally sovereign and independent in every respect.—The Articles of Confederation were only binding upon them as sovereign States; no means of coercion existed in the Old Congress, either against the States, or thier citizens. Congress had no power to enforce its enactments upon the States, nor could it operate directly upon the citizens of the States. A failure on the part of a State to comply with the requisitions made by Congress, had no remedy, except that which exists among sovereign States, a resort to force. It was discovered from every day's experience that this weak & inefficient confederacy, would not answer the great objects desired, and anxiously wished for, by every enlightened patriot. Hence the necessity of a change, and the call of the Convention of 1787. Did that wise body of men, brought together on account of the weakness and imbecility of their government, and to provide a remedy for them, make an instrument still weaker or more inefficient? This cannot be believed, unless we find it in the instrument itself. No, sir, they formed a government capable of self preservation and bestowed upon it powers sufficient to sustain itself and perform all its constitutional duties and functions without relying on the States. The evil which was felt under the confederation, was, that the State governments had to be consulted, and the movements of the general government depended upon the will and pleasure of the different States, who could at any time defeat the effect of the enactments of Congress, by refusing to comply with the requirements of that body. The reliance on the States in practice had entirely failed, and one great object in the formation of the Constitution was to enable the general government to pass by the state governments, and act directly upon the citizens, and this single important circumstance changed that, which was before a league or mere compact, into a government, a substantial and efficient government. The Convention looking to the great interests of the country bestowed on the new government which they were forming, a power over such subjects as in its judgment were of general concern, and for the transaction or management, of which the States separately were incompetent. The true view of our political institutions is this,—The sovereignty is in the people, and they acting in separate communities, have created two governments. To those who may be appointed to administer this government, in its various departments, they have said, to you we confide the great and general subjects, in which, we as a united people are interested, war, and peace,—foreign intercourse, with all nations—coinage of money—regulating its value—commerce, foreign and domestic—imposition of duties on imports, &c. On these subjects you are to operate and act out our sovereignty; nor are the State Governments to touch or interfere with these subjects. To the State Governments, the people have said, in like manner,—upon all other subjects not prohibited by the State Constitutions, you are to act as the sovereign power. Hence my conclusion is, that we owe a double allegiance, one to the General Government, and one to the State in which we respectively live. We owe obedience and allegiance to the General Government in all things committed to its charge by the Constitution; to the State Governments in all other things. No citizen will ever be embarrassed if the two Governments will confine themselves within their constitutional limits. But suppose they so act as to render obedience to both impracticable, what then? If the law, passed by the General Government, be constitutional, that law of the State which enjoins disobedience to it, is an encroachment on the federal power, is itself an act of usurpation, and, of course, not binding on the citizen.—Take the case which might arise out of the existing controversy: can a citizen of South Carolina, with impunity, resist the existing tariff laws? This will, in my judgment, depend entirely upon the constitutionality or unconstitutionality of these laws. I admit that disobedience to an unconstitutional act is not criminal, nor is resistance to it treason, but if Congress possess the power under the constitution to pass these acts, the State of South Carolina has no power to release her citizens from their obedience to them; her w. of proceedings, in judicial language, are coram non judice, and void, and can afford no protection to the citizens of that State for their disobedience and resistance to these acts of Congress. To my mind, it is strange that gentlemen should have imagined that a State had a right to interpose in any form or manner in a case of this kind, and that interposition be considered constitutional, and not revolutionary. The power of laying imposts is, by the Constitution, confided exclusively to Congress, and the States are forbidden to exercise it. I would, therefore, enquire of gentlemen in what part of that instrument they find this authority which they claim for the States? If they say that it is among the reserved rights of the States, my answer is, that a right wholly surrendered cannot be considered as reserved, and that when the State is forbidden to act upon any general subject, it could not have been intended that they should have the power of controling those, to whom the subject was entrusted. If gentlemen will place their argument upon the natural and unalienable right of every people to resist oppression, come from what quarter it may, I am ready to admit, that, that right exists and was at the very foundation of the American revolution. American liberty, and our republican institutions have their origin in it and grew out of its exercise. In the latter case, the people resisting their government do it at their peril, and so it must be in the case supposed as likely to occur, because the State having no constitutional authority to act, cannot shield the citizen from the effects of his resistance to the laws, nor can the State absolve him from his allegiance to this Government. Although I cannot admit that the federal judiciary is the final arbiter between the General and State Governments upon a question of disputed power, yet I have never doubted that such questions when presented incidentally in the progress of a trial between parties properly before the court; might be decided by the court, and the decision would be binding upon the individuals concerned.

It therefore seems to me, that it is entirely competent for the federal judiciary, to try and punish any individual who may resist the execution of these laws, provided the court shall be of opinion, that they are constitutional and obligatory upon the citizens. I have never felt the force of the arguments which have been employed to prove their unconstitutionality. The power to lay imposts is conferred on Congress without restriction or limitation. It may be, and has been in my judgment abused in this instance, but this by no means proves them unconstitutional. There is a manifest difference between the excessive action of Congress upon a subject, which by the constitution is subjected to its legislation, and its action upon a subject not placed under its control by the Constitution. In the first instance, the act is obligatory; in the latter, it possesses no binding force, it being a usurpation of undelegated power—in regard to the tariff laws, Congress had the right to exercise its discretion and judgment. It has done so, and has decided very improperly, as I believe. Still I can see no remedy except through the medium of congressional enactments; upon this whole subject, which at present so much agitates the country; the conclusions at which my mind has arrived are—

1st. That Congress had the constitutional power to pass the tariff laws, but has exercised that power injudiciously and oppressively.

2d. That the State of S. Carolina possesses no coonstitutional right or power; to obstruct the execution of these laws.

3d. That the Federal Judiciary is competent to decide whether these laws are valid or not upon the trial of any individual who may disobey or resist them, and that the ordinance and laws of South Carolina, will afford the citizen thus tried no shield or protection whatever.

I was much gratified when I heard an illusion made to the debate on Foot's resolution, as it furnishes me an opportunity of correcting an error, which exists not here, but elsewhere, in relation to my sentiments as delivered on that occasion. It will be recollected that, the discussion which attracted so much public attention, at that time arose between a Senator from Massachusetts, (Mr. Webster,) now in his seat, and a Senator from South Carolina, (Mr. Hayne,) not now a member of this body. The former contended, as I then understood him, that in all questions of political power, between the Federal and State Governments, that the former was the ultimate judge of the extent of its own powers. In this opinion, I could not concur I thought, and still think, that in controversies for power between two parties, if one of them is to be the final arbiter, the other will, in time, be stripped of all its powers; and believing then, as I now do, that the States in Convention constituted the proper, ultimate, constitutional tribunal, I made an argument against the doctrines advocated by the Senator from Massachusetts. The Senator from South Carolina, insisted that the Legislature of a State possessed the power to annul an act of Congress, which it deemed unconstitutional. From him I also differed in sentiment, and entertaining the opinion that had been expressed by Mr. Jefferson, that a convention in the State was a safer body to act in a controversy with the Gen-