20th CONGRESS,
1st SESSION.



# REPORT

OF

## A SPECIAL COMMITTEE

OF

## THE SENATE OF SOUTH CAROLINA,

ON THE

RESOLUTIONS SUBMITTED BY MR. RAMSAY,

ON THE

SUBJECT OF STATE RIGHTS.

JANUARY 11, 1828.
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# RESOLUTIONS.

The following resolutions were submitted by Mr. Ramsay, and referred to a special Committee, consisting of Messrs. John Ramsay, S. D. Miller, H. Deas, Alfred Huger, D. R. Evans, W. B. Seabrook, and Catlett Conner:

1. *Resolved*, That a Committee be appointed to inquire into the origin and nature of the Federal Government, so as to ascertain whether it emanates from the people of the United States at large, or whether it be a compact between the people of the different States with each other, as composing separate and independent communities.

2. That they do also inquire, whether, in the event of abuse of power, or violation in the letter or spirit of the said compact, on the part of the Congress of the United States, it belongs to the people, as its constituents, or to the State legislatures, to remonstrate; and, if to the State legislatures, what measures ought to be adopted by South Carolina for the preservation of her sovereignty.

3. That they do also inquire, whether there be any clause in the Constitution of the United States, which can authorize Congress so to legislate, as to protect the local interests of particular States, at the expense of all the United States; and whether domestic manufactures be a general or a local interest.

4. That they do also inquire, whether Congress can construct roads and canals, within the limits of a State, with or without the assent of the legislature of such State.

5. That they do also inquire, whether Congress, under a power to appropriate money "to promote the general welfare," can appropriate the same to any purposes, not immediately referable to the enumerated objects of the Constitution.

6. That they do also inquire, whether Congress can legislate, directly or indirectly, upon the subject of slavery, by promoting the object of any society which contemplates the melioration of the condition of any portion of the free colored or slave population of the United States.

JOB JOHNSTON, C. S.

# REPORT.

The Committee, to whom was referred certain resolutions, directing an inquiry into the nature and origin of the Federal Government, and whether certain measures of Congress are, or are not, a violation of the letter and spirit of the federal compact,

REPORT:

That they have maturely weighed and considered the subject intrusted to them, and are of opinion,

1st. That the Constitution of the United States is not a compact between the people of the United States at large, with each other, but is the result of a compact originally formed between the people of thirteen separate and independent sovereignties, to produce and constitute a new form of government; as will abundantly appear by a reference to the journals of the old Congress, and of the General Convention which framed the Constitution.

The first Congress in America was that formed by the Colonies in 1774 and 1775. It possessed, as is well known, no authority but what arose from *common consent*. The Declaration of Independence having absolved the Colonies from all allegiance to the crown of Great Britain, it became necessary that the powers of Congress should be accurately defined; and hence arose the confederation of 1781. This confederacy not producing the blessings which had been anticipated, and the war of the revolution having entailed upon the States a large public debt, and the States, at the same time, becoming careless or indifferent in furnishing their *quotas* of this burthen, and many of them indeed unable so to do, from the distresses incident to the want of a common head to regulate commerce, the necessity of new modelling the existing government became evident to all. The old Congress, taking advantage of this state of the public sentiment, wisely recommended that a Convocation of the States should be held, for the purpose of framing a constitution better suited to the exigencies of the Union. This constitution, when finished, was to be submitted in the shape of a proposal, for the adoption or rejection of the different States. Deputies, from all the States, were accordingly assembled in General Convention, and a constitution having been finally agreed upon, it was ordered to be published for the information of the people; and each State Legislature was solicited to call a Convention, for the purpose of ratifying or rejecting it. State Conventions were accordingly assembled, under the authority of the State Legislatures; and as soon as the ratifications of nine States were transmitted to the

old Congress, arrangements were made to put the new Constitution into operation, and the old government expired as a matter of course.

If attention be given to the rise, progress, and completion of the new government, as above stated, it will be seen, that the government of the Union does not emanate from the people of the United States at large, but from the people of the *different States*, as composing so many *distinct and independent sovereignties.*

First. The general convention was recommended by the old Congress, which was a pure *confederacy* of States.

Secondly. The deputies to that convention were elected by the *State* legislatures.

Thirdly. In all the deliberations of the Convention, as to the best form of government for the Union, the votes were taken by *States*, and no measure agreed upon which was not approved of by a majority of the States represented. And

Lastly, The ratifications of such States as were willing to accede to the new government, were transmitted as the ratifications of so many sovereign States, the assent of each State counting as one vote, in making up the majority of *three-fourths* of the States; such an assent of three-fourths of the States being deemed a pre-requisite to the Constitution's going into operation. The mere fact of the constitution not resulting from a *majority of all the people* of the Union, nor from that of a *majority of the States*, but from the unanimous consent of the several States, who were to be parties to it, proves beyond the possibility of doubt, that the act establishing the constitution, and giving it its binding efficacy, was purely the act of the people of the different States, as STATES, and not of the people at large. The constitution was thus clearly FEDERAL in its conception and in its CREATION.

It is with great pain that your Committee are constrained to observe that this does not appear to be the view of the Supreme Court of the United States. By the reasoning of the Court, in the case of *McCullock vs. the State of Maryland*, it would appear that the Constitution is regarded by that tribunal as emanating from the *people*, and not from the State *sovereignties*. But it is evident that this opinion is founded on a misconstruction of the term State sovereignty, the Supreme Court contemplating the *State legislatures* as the only State *sovereignties;* and seeing that the ratifications of the instrument did not proceed from the State legislatures, but from State conventions of the people, it was natural, under such a view, that the court should deny the doctrine of the government of the Union as proceeding from the States. It is scarcely necessary to remind the legislative body, that it is an incontrovertible axiom in Republican politics, as founded on the inherent and natural RIGHTS OF MAN, that the PEOPLE alone, in a State Convention, constitute the *true sovereignty* of that particular State, their power, at such a period, being without limits and without control. The ratification of the compact thus proceeding from the State Conventions, they necessarily became acts of more binding efficacy, and consequently of more complete sovereignty, than if they had been done by the State Legislatures. It is not competent for any

State Legislature to associate its constituents, the people, in any new form of government with the people of other States. No legislative body can pretend to a power of this kind. A Legislature might have bound its constituents in a league or confederacy—in a confederacy of States the acts of the common council are not exercised directly on the people, but in practice go forth with no better authority than as recommendations to the different sovereignties, who are parties to the league. It is the people alone in *Convention*, who can enter into compact, associating themselves in a new political relation with the people of other States; and when they do enter into such compacts their acts become the acts of sovereign States, and the compact is compact of States with each other, and not of the people of those States, as if they had constituted an entire people. In the formation of the Constitution of the United States, it might have been ordered had the Convention willed it, that its ratification was to be derived from the people of the United States, considered aggregately; in which case the will of the majority of all the people of the United States would have been necessary before it should go into operation. But no such rule was adopted, or even proposed in the general Convention. Though the assent of the people was required to be given by deputies selected for the purpose; the assent was nevertheless given by the people, not as *individuals* composing one *entire nation*, but as composing the separate and *independent communities*, to which they severally belonged. The votes of each particular State Convention were transmitted as the vote of the State, as a SOVEREIGN BODY, and not the act of the individuals of that State, as forming its proportion of the aggregate of all the inhabitants of the United States. If there be a fact which determines beyond all dispute, the clear intention of the Convention that the government of the Union was to emanate from the State sovereignties, it is that provision in the instrument, which regards the ratification as complete, as soon as the people of nine States should assent to the Constitution. Such a provision as this would be utterly inconsistent with the opposite plan of making the consent of the people at large pre-requisite to its operation—because it might have happened under such a plan, that four *large States*, rejecting the Constitution, might have composed the majority of all the inhabitants in the different States. It would be a reproach to the sagacity and foresight of the Convention, to imagine, that if it was the intention of that body that the government should be *national* and not *federal* in its creation—that it would set forth a proposal, or adopt a plan, by which it was possible that the then existing government should cease, and a new government should go into operation, with the assent of such nine States, as might form a *minority* of the people of the United States.

The doctrine of the Constitution of the United States, emanating from the people, and not from the States, is, in the opinion of your committee, one of the most dangerous doctrines that can be promulgated; for by it is established the principle, that the federal government is not responsible for any violation of the compact, excepting

the people at large as its constituents. This would be CONSOLIDATION in its *very essence;* it would be to break down the lines which separate the powers of Congress from the powers of the States. It would at any time enable a combination of the people of such States as might constitute a majority of all the inhabitants of the United States, and who have particular local views, or State interests to promote, to carry any measure whatever in Congress; and to the people of such of the States as might form the minority, there would be no hope of redress. Congress, with the most unfair intentions to the smaller States, might even keep within the *letter* of the constitution, by assigning for its acts of oppression to those States, such constitutional motives and reasons, as to defy all efforts to counteract its career of injustice, by a resort to the tribunals of justice; on the other hand, the doctrine that the constitution is a compact between the States, as so many separate and distinct sovereignties, is a doctrine full of comfort and security to every real friend of union, and of the liberties of the people. The necessary consequence of such a doctrine is, that if the social compact be violated in its spirit or its letter, and that the States have the right to remonstrate, and to call back the parties to the original covenant, the remonstrance coming from such a quarter will be promptly attended to, and the redress will be comparatively easy and certain, which never can be the case where the people, as a minority, are left to seek their remedy.

It is most fortunate for the people of the southern States, that the truth of a doctrine so indispensable to their safety, is so immoveably founded on the inherent, unalienable rights of man. All legitimate government is in the nature of a trust, and is the result either of a compact between the people with one another, as is the case with a simple consolidated government; or of States with each other, under a compound or mixed government. There is no reasoning which can impair a truth so evident. The constitution of the United States, according to all our ideas of the origin of governments, is strictly and emphatically a form of government emanating from the States, and the manner in which its powers are to be exercised, is matter of convention between those States. The federal government has no rights. It has certain duties to perform, and to this end is invested with certain powers. If it exercises any powers not delegated, there must be a responsibility somewhere. And this brings your committee

2dly, To the inquiry, whether in the event of any abuse of power, or violation of the letter or spirit of the Constitution, it belongs to the people at large, or to the State Legislatures, to remonstrate. In the opinion of your committee, the responsibility of the federal government is of a *two-fold* character. First, it is responsible in certain cases to the people at large, upon whom, by the constitution, *its power is wholly to operate.* Secondly, it is amenable to the State Legislatures, as representing the same people, distributed in separate sovereignties, by whom alone *the government was created.* In its CREATION, the government is thus as entirely FEDERAL, as in its operation it is strictly *national.* The *first* responsibility accrues, whenever the

government abuses any of its delegated powers, or rather, injudiciously exercises them to the injury of the people at large as its constituents. The *second* can only occur, when power not delegated is *assumed*, to the injury of the people in their separate sovereignties. This distinction, as to the responsibility of the national rulers, results from the mixed nature of our government. In a simple government, the only "safeguards for arresting usurpation and preserving the liberties of the people, are the *positive restrictions* on power, and the political *responsibility* of those who exercise power to the people on whom it operates." In that state of affairs, where the people are held together as one political society, and as regards civil and political rights, have but one common interest, and have it equally in their power to change their rulers, it is difficult to conceive how power abused or usurped can operate beyond its responsibility. But in the anomalous scheme of the mixed government of the United States, where many representative governments are bound together in one comprehensive whole, and where it becomes essential that precise limits should be assigned to the jurisdiction of the supreme and the subordinate legislative authorities, it becomes indispensable, that the responsibility should be *as well to the people* in their *State* governments, *as to the people* considered as one *entire* nation. For mal-administration, therefore, in the affairs of the government, which is neither more nor less than an abuse of the people's trust, it belongs to the people alone, as a nation, to call their rulers to account—this can only be effected at the periods prescribed by the constitution, when all power returning again at those periods to the people, they may thereafter commit it into other and safer hands—but to the people of the different States, through their organs, the State legislature, it equally appertains to remonstrate, and to restrain Congress, when it would pass the boundary line of its powers, and usurp those which were reserved to the States.

To abuse power, and to usurp power, are two things in their nature totally distinct. Congress, in exercising the discretion with which it is unavoidably intrusted on many subjects, may so abuse that discretion, as not only to impair the prosperity, but actually to endanger the safety, of the nation: for wrongs of this nature there is no remedy but in a change of rulers; there ought to be no other remedy. There is here no violation of the terms of the social compact of government, between the confederated members, so as to alter the relations in which they stand to each other, and to the federal government. But when Congress assumes to itself a power unknown to the Constitution, and thus encroaches upon what is reserved to the States, here is an interference which goes to *the destruction of the compact itself;* and to the parties to that compact, it solely belongs to insist upon a fulfilment of that compact. These parties being the people of each different State, it not only is their right, but it becomes a high duty of their local legislatures to interfere. To consider the right to be in the people at large, and not in the State legislatures, is, as has been already observed, to place the smaller States in the power of the larger; for it is not to be concealed, that the usurpations most

likely to take place, under the federal government, will not be such as will endanger any principle of public liberty, or the rights *expressly* reserved to the States, because there would be but one feeling amongst the people to resist them, and the remedy would be in the hands of the people; but the usurpations to be apprehended, will be such as are calculated to promote the interest of such States as form the majority, at the expense of others, which must always be in the minority. To the will of a majority of Congress, when it is in the exercise of its legitimate powers, it is the duty of the minority to submit. At such a time, the government assumes its consolidated form, and obedience is as strictly due to its measures, however injuriously they may operate against the minority, as if it were a simple and not a mixed government. Not so, however, is it, when under a compact between States. The question presents itself, whether the convention between those States has been adhered to in good faith, or not. In a case of this kind, *majority* and *minority* are relations which can have no existence; each State having entered into the compact as a *sovereign body*, and not in conjunction with any other State, must judge for itself whether the contract has been broken or not.

The committee here take occasion to observe, that, though under the constitution a tribunal is appointed to decide controversies, to which the United States shall be a party, and the States may often be willing to leave to such a tribunal many controversies, yet it must be evident that collisions will sometimes arise between the States and Congress, when it would not only be unwise, but even unsafe, to submit questions of disputed sovereignty to any judiciary tribunal. In theory, it may be delightful "to contemplate the spectacle of a supreme court, sitting in solemn judgment upon the conflicting claims of National and State sovereignty, and tranquillizing all jealous and angry passions, and binding this great confederacy in peace and harmony, by the ability, moderation, and equity of its decisions;" but our own experience has already satisfied us, that it belongs not to mortals to erect a tribunal that shall feel itself wholly impartial, on a question between the State and the National government; and, least of all, ought the States to consent to make the Supreme Court of the United States, the arbiter finally to decide points of vital importance to the States. The conduct of this Court, as far as your committee can judge of it, has inspired an universal and a justly merited confidence in the equity of its decisions, in general, where the suit is substantially and in fact between citizens of one State and citizens of another State; nor can they for a moment doubt its competency to decide, with the utmost impartiality, all conflicting claims between one State and another State; but it is due to truth to declare, that, whenever the constitutionality of any act of the federal government has been called in question, this Court has not so conducted itself as to be entitled to be esteemed a sufficiently impartial tribunal.

The Court which can confer, by *implication*, on the Congress of the United States, *a power to create a corporation*, when there exists on the Journals of the Convention, published under the authority

of Congress, the irrefragable evidence that such a power was *proposed* to be *invested* in Congress, but *rejected by the vote of that body*, is not more likely to do justice to the State sovereignties, than the tribunal which would regard the Federal Constitution as emanating from the people at large, and not from the States, in the face of history and well attested fact. Into both of these errors, has the Supreme Court unhappily fallen—but there is a peculiar propriety in a State Legislature undertaking to decide for itself, when the Constitution shall be violated in its *spirit*, and not in its letter; these being cases in which no court, however well disposed, can be expected to give relief. Three memorable instances of this species of usurpation occurred in the years 1816, 1820, and 1824, where Congress, under every appearance of adhering to the letter of the compact, substantially has violated its spirit—a fourth instance may, probably, soon occur, which leads your committee to consider,

*Thirdly*, Whether Congress can so legislate as to protect the local interests of particular States at the expense of all the people of the United States, and whether domestic manufactures be a local or a general interest?

On the first part of this inquiry, it is believed that there exists no difference of opinion; it being admitted in and out of Congress, that local interests cannot be protected by the national government. It is, however, insisted that domestic manufactures must be considered as a general interest.

Your committee do not feel themselves bound to enter at large into reasons to show the little foundation there is for such an opinion; and the less disposed are they to argue the question, when they recollect, that from every quarter of the State there has been an almost unanimous expression of the public opinion, that manufactures are not a general interest, and that Congress has no power to foster and cherish them. But it certainly belongs to the subject to state, that your committee have examined the constitution with the greatest care, and they can find in no part of it any grant of power to promote any branch of internal industry, or any of the useful arts, by any other means than by the conferring of patent rights for new inventions. That the convention designedly withheld such a general power, abundantly appears from the journals of that body, already referred to. Two distinct propositions were at different periods made to amend the reported draft of the constitution, by conferring on Congress the power in question; but these propositions, together with others, in relation to *science* and *agriculture*, were not adopted; the convention finally coming to the conclusion, that Congress should "promote the progress of science and the useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries;" a clause thus so exclusive in its mode of expression, as to leave no doubt in the minds of your Committee that all other modes of encouraging the useful arts, excepting by patents, were to be prohibited.

This view coincides with, and is considerably enforced by, a power reserved to the States "to lay imposts," *with the consent of Congress*, for *other* purposes than the execution of their inspection laws; a clause, which, in the opinion of your Committee, is not susceptible of any other explanation, than as a provision to enable such States as might be desirous of protecting their domestic manufactures against foreign rivalry, to do so, by imposing in their own ports, imposts on the imported fabrics, with the consent of Congress. By referring to the secret debates of the Convention, it clearly appears that the insertion of this clause was for this purpose alone.

In addition, it may be urged that no interest can be recognised as a *general* interest, within the meaning of the Constitution, which each State does not possess in COMMON with EVERY OTHER STATE.—The design of union amongst the States was, not that Congress should legislate in cases to which the States were separately competent, but simply to regulate such general concerns as would have suffered by the exercise of individual or State legislation. Amongst those general concerns, which the States were incompetent to regulate with any advantage, on account of conflicting interests, the most prominent was COMMERCE. To the necessity of a general controlling power to regulate foreign trade, and to no other motive, does the Constitution OWE ITS EXISTENCE.

This power the old Congress did not possess. The States had repeatedly refused to grant such a power, because each State thought itself competent to regulate its own trade. But the experience of the first four years which succeeded the war of the revolution, having taught them their error, the people afterwards entreated their local assemblies to grant such a power to the common head of the confederacy. In the mean time, propositions were made for a convention to frame a new Constitution. Thus it is plain, that it was not until the States were reminded by their own dear bought experience, that commerce *was* a general interest, that they were disposed to unite even for this, so great and so common a blessing to them all. The Convention having been convened to form a Constitution, it adopted, as the basis upon which were to be built the powers of the new government, th PRINCIPLE that all such interests as the States could not separately manage, should be transferred to the federal head. It is to be observed, that neither in the *old*, nor in the *new* compact, is there a single subject specified for the legislation of the general council, in which EVERY State has not an immediate and a very important interest. All the enumerated powers in these two memorable instruments, are referable to WAR, PEACE, INDIAN TRADE, COMMERCE, AND FOREIGN NEGOTIATION. The present Constitution was designed to supply all the deficiencies of the confederation, and by the unanimous vote of the Convention, it was early decided, as appears by its journals, that the enumerated powers of the new government should extend to EVERY subject of GENERAL interest. It results then, as a fair and conclusive argument, that whatever subject was *purposely* excluded from the enumerated powers of Congress, by the vote of the Convention, as an

unfit subject for the care of the general government, could not have been regarded as a general interest. A general power to promote manufactures, agriculture, and science, and to construct roads and canals, was positively and peremptorily excluded. And this, in the opinion of your Committee, is an unanswerable reason why these subjects ought to be deemed LOCAL, and not general, if it were not already demonstrable to our senses, that any particular pursuit of human industry, followed by the people of some States, and in which those of other States are not at all engaged, must be a local interest of such States.

*Fourthly.* Your committee are of opinion that Congress has no power to construct roads and canals, within the limits of a State, without a violation of the Constitution. The power of making roads and canals is not an incidental, but is as primary and as original a power as any that government can possibly exercise. That must be a substantive power, in the strongest acceptation of the term, which involves a right of *jurisdiction* over *soil* and *territory*. From this species of jurisdiction, Congress is clearly prohibited by those clauses in the Constitution which confine their jurisdiction to their forts, magazines, dock-yards, &c. But independent of the plain intent of the instrument itself, as collected from its language, the journals of the Convention afford the evidence that it was deemed unadvisable to intrust Congress with any such power. All the *propositions* to include roads and canals amongst the enumerated subjects for the national legislation, were *rejected*. There existed a reason for the refusal of such a power to Congress, which your committee must ever regard as conclusive, which is, that such a power in Congress, as well as in the States, would have been repugnant to the whole scheme and theory of the Constitution. The design of the Convention was so to *discriminate the objects* which were to appertain to the different departments of power, that what was to be committed to the charge of one government, should not be interfered with by the other. The great difficulty in distributing power was to adjust the *quantity* with which the general government should be invested. That point once arranged, each government was then to be supreme in legislation as to the particular objects intrusted to its care. As the States had been in the habit of making roads, and were fully competent to exercise such a power, and to the greatest advantage, it was not to be expected that they would be willing to yield this their power over internal improvements. To have admitted, therefore, that a similar power ought to be invested in Congress, would involve the absurdity of causing the same object of legislation and government, to belong to the Federal and the State authorities. There is no such hideous feature as this in the federal compact. If the Constitution be examined with accuracy, it will be found that, with the exception of the two first enumerated powers of Congress, (which are *means* and not the *ends* of government, or rather the power of the government coupled with the trusts of the government,) that Congress must be regarded as supreme in legislation, for all the objects intrusted to its management; and upon the

same principle, that Congress is supreme within its prescribed sphere of action, are the States equally supreme as to all objects reserved to them. If Congress, therefore, can legislate on the subject of roads and canals, the States cannot interfere by exercising a similar power, (for both cannot have jurisdiction,) and *vice versa*. The subject of internal improvement is either a general or a local interest, in the view of the Constitution. It cannot be both. If it be a general interest, Congress must either be supreme in its jurisdiction over the subject, by extending its laws to such roads and canals, to the exclusion of State authority, or it cannot act at all. There can be no concurrence of legislation, excepting as to the means of executing the different trusts for which each government was created. The bare admission that a State can lawfully exercise sovereignty on any particular object of civil government, deprives Congress of any power over the same object; the States having always exercised the power over roads and canals, and there being no specific grant of any such power to Congress, the right is in the States and not in Congress. Nor can your committee conceive that the assent even of a State legislature, to internal improvements made by Congress within its limits, can confer on that body the power in question. Congress has no right to exercise any power whatever, but what it receives by special grant from the States. If a State were to give to another State a power to construct a road or a canal within its limits, this would amount to a transfer to that State of a portion of its sovereignty. Were Congress to be permitted to receive such a power as a gift from any particular State, it would be to say, that Congress can exercise a new sovereign power, unknown to the Constitution, with the consent of, or by the act of, one State. This principle will hardly be contended for. It is too clear that Congress can exercise no powers but what it receives from the States, by the terms of the Constitution. If, the better to promote union, it needs additional powers, the mode prescribed is an amendment of the Constitution. If a State can part with the smallest portion of its sovereignty, to Congress, it can part with the whole: and if Congress could receive an accession of power in this way, it would be to put it in the power of one State to amend the Constitution, when the instrument requires the assent of three-fourths, and that assent to be given in another way. There are other views of this subject, but they have been so often taken, and are so familiar to our citizens, that your committee forbear to dwell longer on this head, but proceed to that part of their inquiry which asks,

*Fifthly*, Whether, under the power "to promote the general welfare," Congress can expend money on internal improvements, or for any purposes not connected with the enumerated objects in the Constitution? What has already been urged in the preceding inquiry, will be equally applicable to this. If Congress has not the power to construct roads and canals in the States, it cannot appropriate money for such purposes. Congress has either all power over certain trusts, or it has no power at all; there can be no such operation in either government as *indirect* legislation. In order to arrive at any

particular object, each government is fully invested with complete authority to approach the legitimate objects of its own special or general care, *honestly, fairly, and openly.* If, in the desire to attain any particular object, either government discovers that it cannot reach that object otherwise than circuitously, this is conclusive to show that it belongs not to itself, but to the opposite government. The term "general welfare," in the opinion of your Committee, means nothing more than the national welfare. That can only be deemed an appropriation for national purposes, which can be referred to objects of general interest in all the States. These objects being all specified in the federal compact, it follows, that if any appropriation of money has not a direct and a natural relation to some one or other of those objects, it cannot constitutionally be made. The enumerated objects in the Constitution, (with the exception of the power to levy and appropriate money,) are the trusts which Congress is to execute. The power to appropriate money to the general welfare, is not a *naked* power. It is the power, *coupled* with the trusts, to execute which the government was created.

*Sixthly.* As to that part of the duty of the Committee which solicits an inquiry whether Congress can extend its legislation to the means of meliorating the condition of the free colored or slave population of the United States, your Committee have no hesitation in saying, that this is a subject in which there can be no reasoning between South Carolina and any other government. It is a question altogether of feeling. Should Congress claim a power to discuss and to take any vote upon any question connected with the domestic slavery of the Southern States, (excepting it be to devise the means of prohibiting the slave trade, the only power which it has by the terms of the Constitution,) it is not for your Committee to prescribe what course ought to be adopted to counteract the evil and the dangerous tendency of public discussions of this nature. The minds of our citizens are already made up, that if such discussions appertain as a matter of right to Congress, it will be neither more nor less than the commencement of a system by which the peculiar policy of South Carolina, upon which is predicated her resources and her prosperity, will be shaken to its very foundation. In the opinion of your Committee, there is nothing in the catalogue of human evils which may not be preferred to that state of affairs in which the slaves of our State shall be encouraged to look for any melioration in their condition, to any other body than the Legislature of South Carolina. Your Committee forbear to dwell on this subject. It is a subject on which no citizen of South Carolina needs instruction. One common feeling inspires us all with a firm determination not to submit to a species of legislation which would light up such fires of intestine commotion in our borders, as ultimately to consume our country.

*Lastly.* It remains for your Committee to report what measures, in their judgment, the Legislature ought to take, in order to preserve the State sovereignty. This is an inquiry of awful importance, and

the Committee are not disposed to shrink from the duty thus devolved on them.

That the Congress of the United States has been in the exercise of powers not warranted by the Constitution; and that the tendency of some of their measures is calculated seriously to impair the vital interests of South Carolina, by diminishing her foreign commerce, whilst the effect of other measures is to augment the patronage of the general government, and thus to diminish that necessary *State* influence which is essential to the preservation of the State sovereignties, and which State influence can only exist when the States are to manage all internal concerns, are truths daily becoming more and more evident to all our citizens. South Carolina has uniformly exhibited, as your Committee believe, an illustrious example of a steady and an unalterable devotion to the Constitution of the United States. She has never, at any time, arrayed herself against the government of the Union, but has discharged all her duties as a member of the great American family, with fidelity and cheerfulness. When the national treasury was exhausted, and the enemy pressing us at every point of our long extended coast; when it became necessary to relieve the embarrassments of the general government, by a direct tax upon our citizens, this State, in anticipation of the assessment by Congress, threw open her treasury, and subjected it to the national demands, and actually appropriated her funds for the general welfare, before the passage of the law. If she has not hitherto carried her complaints to the great council of the nation, it was not because she had no cause of dissatisfaction, but because she always cherished the hope that some reaction in public sentiment throughout the United States, might take place, and that the people themselves would, in time, be made sensible of the danger of a limited body, like that of Congress, being permitted to transcend its powers, and would apply the remedy. But these hopes, your Committee regret to state, are all dissipated; and they too plainly perceive that, to submit longer to the evils of misrule, founded on usurpation, can have no other tendency than to invite such assumptions of power, from time to time, as must inevitably merge all power and all influence in one consolidated government.

It is fortunate for South Carolina that she has hitherto endured with so much patience, and certainly with not less patriotism, the aggressions of Congress upon her sovereign rights. If, after all her efforts to dissuade the national councils from persisting in claims, which, if pursued further, must inevitably cut us off, limb by limb, from the great body politic, Congress shall, contrary to the hopes of your committee, still persevere in its claims to exercise extensive powers by construction, and thus drive into alienated feelings a portion of the Union hitherto so devoted to union, South Carolina, in such an event, will have at least the consolation to know that the fault will not be hers.

But, in the opinion of your Committee, it is all-important that whatever is to be done by South Carolina ought to be so done as to im press upon the minds of the Congress of the United States that she does not, at this conjuncture, approach the National Legislature as a sup-

pliant, or as a memorialist, but as a SOVEREIGN and an EQUAL. When Congress acts within the sphere of its expressly delegated powers, the supremacy of its laws and its power must be acknowledged by all the States; and from no State in the Union will obedience to the decrees of the Supreme Council be more cheerfully rendered than by South Carolina. But when the ground of complaint is a violation of that great covenant which binds together the confederacy, each member is as sovereign, when it demands a fulfilment of that compact, in its spirit as well as in its letter, as it was when it originally ratified that agreement. In all communications, therefore, which may be necessary between a member of the confederacy and the common head, it behooves that member not to forget her RANK as a SOVEREIGN. She must cause her sentiments to be conveyed to Congress in a manner so imposing as to evince that she would have the intercourse regulated as is proper between one sovereign and another; and that, whilst she would earnestly solicit a continuance of that friendship and good feeling which has so long been characteristic of the American family, she is yet unwilling to yield rights of vital importance. To the safety of the States it is indispensable, that Congress should be in perpetual remembrance that it is a sovereign and supreme body, only when it extends its authority to its legitimate objects of government; and that, at ALL OTHER periods, the States are equally supreme, and never so supreme as when they are about to demand the fulfilment of the original compact. If there be one feature in our well contrived and complicated system of government, which justly demands the admiration of the world—upon which the eye of the patriot loves to gaze, and the hopes of millions of freemen in both hemispheres seem to be suspended—it is that contrivance in the great work of the Constitution, by which one general, and so many subordinate and local sovereignties, all of them so many orbs differing from each other in magnitude and in splendor, most wonderfully move together in "concerted and harmonious action," diffusing the blessings of the light of knowledge, and of civil and religious liberty, over a portion of the globe, made up of a people dissimilar and heterogeneous in their habits, and differing from each other in almost every thing but in their innate love of liberty. Let not then the harmony, order, and connexion, by which our comprehensive scheme of representative governments has been hitherto preserved, be interrupted by the falling of any of the orbs from their spheres; but let "their motions and their influences be all so regulated and exercised, that whilst they shall, in a very intelligible and striking manner, declare the wisdom" of their great author, the Convention, and for ever "constitute the magnificent heralds of a praise" which belongs to that body, to which neither speech nor language is adequate, they shall, at the same time, distribute all that is necessary for the political health, comfort, and security of all the inhabitants of the United States.

In the opinion, however, of your Committee, this harmony of the several State governments can only be preserved by the promptest notice by the State Legislatures, of any infraction of the Constitution,

however unimportant it may appear at the time, in its effects upon the general community. In a system by which so many political bodies are to be in constant motion, the most trifling aberration of any one, from the circuit in which it is designed to move, breaks up the great design. It thus becomes a high duty, in every State Legislature, to use its best exertions to bring back the government to its first principles, whenever it departs from the compact; and this it may always do, with calmness, with moderation, and yet with becoming firmness. If the United States government can construct one road or canal within the body of a State, it may construct a thousand; and thus draw within the vortex of its influence what properly belongs to the States. If Congress can expend one thousand dollars to purposes not enumerated in the Constitution, it may expend an hundred millions; and, in this way, so increase its patronage, by jobs and contracts, as to leave little or nothing for the subordinate authorities to do. If Congress can promote the domestic manufactures of some States, it can, with the same propriety, encourage, at its caprice, northern or southern agriculture, or other branches of internal industry, and thus constantly *impinge* upon the local concerns of the States. If it can legislate in one way on the colored population of the United States, it may legislate in various other ways. If, in a word, the general government is to use constructive powers, or can pass any laws but such as are *necessary* and *proper* to the execution of its enumerated powers, then is the object of the enumeration of powers in the instrument defeated. In stepping across the boundaries of power, presented by the Constitution, there are no degrees in the guilt of that government which is the trespasser, whether the trespass be committed by the State or the Federal authorities. It is the intention which accompanies the act which constitutes the crime, and this intention is as much embodied into the guilt of usurpation, if one dollar be taken out of the pockets of our citizens to encourage a monopoly, as if Congress by one "fell swoop" were to prostrate all the powers of the State Legislatures.

If there be an evil in our country, the anticipation of which we ought to dread, and which, if it ever were to take place, would destroy civil freedom itself, it is that which would consolidate all the influence which is now distributed between so many States, into the hands of the federal government. From the consolidation of all *influence*, the transition is natural and easy, to the consolidation also of all *power*. Such a government, in a country where the interests of its different sections must be more or less dissimilar, would be the worst species of tyranny which a minority of some States could possibly endure by the oppression of others. The only remedy, as your Committee have already observed, is for the State Legislatures to be watchful, and to remonstrate with Congress when necessary. That the period has arrived, when remonstrance is not only proper, but its neglect would be a crime, seems to be the voice of South Carolina.

The Committee, in conformity with the above report, recommend the adoption of the following resolutions:—

1. *Resolved*, That the Constitution of the United States is a compact between the people of the different States with each other, as separate independent sovereignties, and that for any violation of the letter or spirit of that compact by the Congress of the United States, it is not only the right of the people, but of the Legislatures who represent them, to every extent not limited, to remonstrate against violations of the fundamental compact.

2. *Resolved*, That the acts of Congress, known by the name of the Tariff Laws, the object of which is not the raising of revenue, or the regulation of foreign commerce, but the promotion of domestic manufactures, are violations of the Constitution in its spirit, and ought to be repealed.

3. *Resolved*, That Congress has no power to construct roads and canals in the States, for the purposes of internal improvements, with or without the assent of the States in whose limits those internal improvements are made; the authority of Congress extending no further than to pass the "*necessary* and *proper* laws" to carry into execution their enumerated powers.

4. *Resolved*, That the American Colonization Society is not an object of national interest, and that Congress has no power, in any way to patronise, or direct appropriations for the benefit of this or any other society.

5. *Resolved*, That our Senators in Congress be instructed, and our Representatives requested, to continue to oppose every increase of the tariff, with a view to protect domestic manufactures, and all appropriations to the purposes of internal improvements of the United States, and all appropriations in favor of the Colonization Society, or the patronage of the same, either directly or indirectly by the general government.

6. *Resolved*, That the Governor be requested to transmit copies of this preamble and resolutions to the Governors of the several States, with a request that the same be laid before the Legislatures of their respective States; and also, to our Senators and Representatives in Congress, to be by them laid before Congress for consideration.

SENATE, *Wednesday, December* 12, 1827.

*Resolved*, That the Senate agree to the report. *Ordered*, That it be sent to the House of Representatives.

JOB JOHNSTON, *Clerk Senate.*

IN THE HOUSE OF REPRESENTATIVES,
*December* 19*th*, 1827.

*Resolved*, That the House do concur with the Senate in the foregoing resolutions. *Ordered*, That they be returned.

By order of the House,

R. ANDERSON, *C. H. R.*

THE STATE OF SOUTH CAROLINA,

By His Excellency, JOHN TAYLOR, Governor and Commander-in-Chief, in and over the State aforesaid,

To all to whom these presents shall come:

Whereas I have diligently and carefully compared the preamble and resolutions (in writing) hereunto annexed and appended, with the original of said preamble and resolutions, as contained in the archives of the Senate of the State of South Carolina, as well as with the minutes of the proceedings had on the same by the House of Representatives of the said State:

Now Know Ye, That the said writing hereunto annexed or appended, containing thirty-eight pages, is a true and perfect copy of the preamble and resolutions adopted by the Senate and House of Representatives of the State of South Carolina, in December last, and that the extracts of the minutes of the proceedings had thereon, is also true, and that Job Johnston, Esq. is Clerk of the Senate aforesaid, and R. Anderson is Clerk of the House of Representatives aforesaid.

Given under my hand and the seal of the State, at Columbia, this first day of January, in the [L. S.] year of our Lord, one thousand eight hundred and twenty-eight, and in the fifty-second year of the Independence of the United States of America.

JOHN TAYLOR.

By the Governor:
R. H. WARING,
*Deputy Secretary of State*, for
ROBERT STARK,
*Secretary of State.*