

with Dr. Cooper's respects Mr Ingham

V. 13.

CONSOLIDATION.

*Sec. of the Treasury
of the United States.*

AN

ACCOUNT OF PARTIES

IN THE

UNITED STATES,

FROM THE

CONVENTION OF 1787,

TO THE

PRESENT PERIOD.

SECOND EDITION.

BY THOMAS COOPER, M. D.

“The authority of constitutions over governments, and of the sovereignty of the people over constitutions, are truths which are at all times necessary to be kept in mind, and at no time perhaps more necessary than at the present.”

COLUMBIA, S. C.

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*A. S. Alley, Columbia, S.C.
June 2, 1952*

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1852

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PREFACE TO THE SECOND EDITION.

The manifest encroachments of the general Government, have kept alive the attention of the people to its proceedings from the date of the first edition of this pamphlet in 1824 to the present time. The claims of the majority in Congress to unlimited, uncontrollable authority and power over the minority, boldly advanced and desperately acted on, have brought this Union of independent, sovereign states, nearly to its close. The Government of the U. States is now, not a confederated, constitutional, but a consolidated Government; a government, wherein a congress majority claims to be omnipotent; wherein the constitution is construed as the majority chooses to construe it; wherein general welfare is any thing that a majority chooses to call so; and wherein the minority are openly declared to have no rights whatever but what the majority think it prudent to dole out to them. That majority now claims to be the sole and exclusive judge of the extent of the powers committed to it. I know of no definition of Tyranny, but *power usurped, unlimited, and uncontrolled.* If my reader knows of any other definition more accurate, let him apply it to the Government under which we live.

Is this a state of things wherein a Republican may exclaim, "This is to be sure, a subjection to manifest injustice and oppression, but let us wait, let us have patience" Wait! Have we not waited these seven long years? Patience! How has our patience aided us, except by affording time and temptation to our adversaries to heap insult upon injury, and injury upon insult? Is it not the very remedy recommended by our oppressors? The more patience we have while they rivet the yoke on our necks, the better for them. Ought any friend to the American Union, any man who owes allegiance to the constitution of the U. States, wait patiently and submit quietly to every infraction of the national compact, which an unprincipled majority may venture to commit? I think not!

This pamphlet has been republished in various parts of the U. States. A new edition is called for here; and I have thought fit very briefly to draw up an expose of what are now called the *South Carolina Doctrines*, which the very able debate in the senate on Mr. Foot's resolution respecting "the public lands," last winter (1830) has brought prominently before the public. They amount in fact, to the Virginia construction of the U. S. Constitution as her most accredited politicians Jefferson, Madison, Giles

Stephen Thompson Mason, Nicholas, &c., propounded it, at the memorable era from 1797 to 1801; and which, till revived by the spirit of South Carolina, was in jeopardy of being overwhelmed by the consolidationists of the North. To that debate on the public lands, and the expositions of General Hayne on that occasion in reply to Mr. Webster, we owe much that ought never to be forgotten. All the evils of S. Carolina now complained of, were foreseen and foretold by *Patrick Henry* on the 4th of June, 1788, and on the subsequent days of Conventional debate.

My own brief statement of the South Carolina Doctrines I have added to this edition in an appendix. For a more able, as well as a more detailed exposition, I refer the reader to the *Southern Review*, No. XI, for August 1830, page 140.—A review written by one whom S. Carolina may well confide in, and whose mode of viewing the subject has my full concurrence,

THOMAS COOPER.

August, 1830.

PREFACE TO THE FIRST EDITION.

What is meant by Consolidation? What are the distinctive characters of the FEDERAL and ANTI-FEDERAL parties? Many persons use the words without any accurate ideas annexed to them. To throw some light on the subject, I have drawn up a brief history of the two parties, which I submit to the reader's consideration; assuring him that, however I differ from the politicians who have been, and usually are, called Federalists, I concede the same right to them that I take to myself. I firmly believe the majority of that party are as intelligent, as honest, and as patriotic as their opponents; and that the ultimate good of the country is the object of both. The mode of pursuing it makes the difference in opinion, and in conduct.

The following is the statement of an Anti-Federalist; who believes it to be true, and submits it to the consideration of his fellow citizens. He disapproves of the measures, but gives the full credit to the motives of those who differ from him. The tribunal of the public is the proper court of appeal.

DECLARATION OF INDEPENDENCE.

WE, THE REPRESENTATIVES OF THE UNITED STATES, in general Congress assembled, * * * do solemnly publish and declare, that these United Colonies are, and of right ought to be free, sovereign, and independent states: and, that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent states may of right do. 1776.

This language was adopted by the confederation of 1777, which called itself the UNITED STATES of America, and which declares that each state retains its sovereignty; adopting as the end and design of their meeting, "the common defence and general welfare" of the states thus united. The proceedings of the confederation of 1777, were not to be valid till they were confirmed by the several legislatures of all the United States. The probability that this might not be finally obtained to an instrument containing so many provisions, occasioned the subsequent agreement in 1787, that the constitution then adopted should be valid, when ratified by nine out of the thirteen United States.

In each of these cases, the confederation of 1777, and the convention of 1787, consisted of delegates or representatives, not from the people of the United States, but from the several and respective states, in their capacity of states, free, sovereign and independent of each other, as of all the rest of the world. The people of the respective states chose that this should be the mode of transacting the business of the confederation, and they acceded to it when finished. Had they chosen to send representatives in their character of the people of the U. States, or of North America, or of the heretofore British Colonies, they might have done so; but they directed, or permitted their state representatives to send delegates representing each separate, sovereign, and independent state; and to ratify the constitution thus considered, framed, and adopted, in their character as representatives of states, and not as representatives of the people. This mode of transacting the business, throughout the whole period of meeting and debate was, and ever since has been, acceded to by the people.

The independence and separate sovereignty of each state of the Union, therefore, never was at any moment conceded, or in any manner or degree renounced. The confederated states consented that this sovereignty should not be exercised on the objects committed exclusively to the federal government by the constitution of 1787. These objects are separately stated, defined and limited by the constitution: many powers and objects proposed during the debates on the constitution, were rejected, and finally, by the tenth article of the amendments to the constitution, it is declared, that "The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." Demonstrating beyond all doubt, that the constitution of the United States was an instrument conveying specific, expressed, and limited powers, and those only: that the federal government was a creature of the several independent states that consented to it; and that so far from being sovereign, independent, and uncontrollable, it was originally created, is now kept in force, and may be altered, limited, controlled, or annulled, at the will of the several independent states or sovereignties, who united to give it existence.

All this agrees with the plain and obvious meaning of the state instructions to the deputies from the twelve states who met in Philadelphia to form the constitution of the United States; and particularly with the language of South Carolina, whose delegates were instructed to meet on that occasion, and "devise such alterations as may be thought necessary to render the federal constitution entirely adequate to the actual situation and future good government of the confederated states." None of the credentials contained a word of a national government, or national union. This delegation of State, (not national,) representatives, met and was organized at Philadelphia, on the 29th of May, 1787. There were at that time three distinct parties in the delegation, as we learn from the propositions actually made and debated, in Mr. *Justice Yates'* account of their proceedings, and the notes taken and published by Mr. *Luther Martin*, of Baltimore, which are the only authentic documents of the proceedings of that assembly now extant; Major Jackson's, and Mr. Madison's notes will probably be published after their decease. Many accounts and anecdotes might be obtained from private recollections, but they do not exist to the public. Lloyd's Congressional Register embraces an early period of congressional debates after the constitution was adopted. Indeed, so fearful were the members of that federal delegation of their proceedings and designs alarming the people, who were at first the majority, particularly the Consolidation party, that "the members were prohibited even from taking copies of resolutions on which the convention were deliberating, or extracts of any kind from the journals, without formally moving for, and obtaining a vote of permission for that purpose."—*Martin's Secret Proceedings of the Convention*, p. 12.

The three parties were these:

1. One whose object was, to abolish and annihilate all state governments, and to bring forward one general government over this extensive continent, of a monarchial nature, under certain restrictions and limitations. The characteristic expression and countersign of this party was, "NATIONAL." The leaders of this party were Col. Hamilton, whose plan of government to this purpose, was read and proposed by him, in convention, on the 18th June. It was too coercive, and did not succeed. Mr. Randolph, Mr. Pierce Butler, Mr. Gouverneur Morris, Mr. Charles Pinckney, Mr. Madison, were in favor of establishing a NATIONAL government in lieu of a federal union; of giving to this government supreme power; and of annulling every state law that interfered with the acts of the supreme and paramount general government; not much differing from Col. Hamilton's proposal, which converted the several states into provinces. The leading opponents of this plan, and the defenders of state rights, were Mr. John Dickinson, author of the Farmer's Letters, and Mr. Patterson. The consolidation members were at first, six out of eight. Mr. Dickinson's plan of a *federal* government was rejected the day after Col. Hamilton's project was read, viz. June 19th. His party was characterised by the word, "FEDERAL."

By this time eleven states had appeared, and the *federal*, or state party, had increased to five; the *consolidation*, or national party, remaining six. The deputies from New Hampshire came in on June 23d. The great question came to issue on June 25th, when it was proposed and seconded, to erase the term NATIONAL, and to substitute the word, UNITED STATES, which passed in the affirmative: this ended the struggle between the party of Col. Hamilton, of Messrs. Randolph, Butler, Morris, Pinckney and Madison—and that of Mr. John Dickinson, and his adherents, who were in favor of the preservation of state independence, state sovereignty, and state rights, in every case not specifically and clearly conceded in the instrument then under debate, called the Constitution.

The *second* party did not advocate the abolition of state sovereignty, or state rights; but they wished to establish such a system as would give their own states some preponderance. This party and the first coalesced for the most part.

The *third* party consisted of the real friends of a federal, not a national consolidated government; to be instituted as the creature of the several states, acting in their sovereign and independent characters; and conceding so much power, and no more, as was necessary to promote the general welfare of this union of states: expressing, limiting, and defining the specific powers so conceded, as cautiously as the occasion seemed to require.

We have seen that this party, (until about the year 1790, called the Federal party, succeeded on the 25th of June. The term *national*, the watchword of the party in favor of consolidation, was therefore relinquished, in all the subsequent proceedings of

the convention. On the 18th of August it was proposed to empower the legislature of the United States, to grant charters of incorporation in cases where the public good may require them, and the authority of a single state may be incompetent; and to establish an university. These, with some other similar propositions, made by the consolidation party, were referred to a committee which had been raised on 23d June. The two propositions above mentioned, were debated, and finally negatived on the 14th September. Affording a full and decisive proof, that the powers conceded to Congress are specific, limited, enumerated powers; that do not emanate as of course from any abstract principle of what the public good may require; but from the deliberate concessions and absolute will of the sovereign and independent states, who then met in convention to define and declare how many, and what powers were *required* by the public good. If Congress acts upon this vague and comprehensive principle of the general welfare, it assumes a power not delegated; and it usurps the authority of the convention, by whose will it was created. The object of the convention was to ascertain what kind and degree of authority the public good actually required to be delegated to Congress. The members of that convention met for that purpose, and for that purpose only; they deliberated, they settled, and enacted whatever they thought necessary for that purpose, and they committed to Congress no part of their own peculiar power. If Congress do exercise the authority of a convention, it is exercised by usurpation: and whether it be done by the ingenious subterfuge of implication and construction—by management and contrivance in any covert and indirect way—or openly, boldly, and directly, it is in either case a fraud on the community. Congress was created and appointed, not as a supreme, but subordinate authority; to put in force the powers committed to its charge by the constitution—not to delegate at its own will and pleasure new powers to itself, unknown to, unthought of, unexpressed, and unsanctioned by the framers of that instrument—a body of men certainly paramount in authority to congress, which owes its powers, properties, and existence, to that convention.

The secrecy enjoined on the members of the convention at the early period of their meeting, and when the national or consolidation party, were six to two, was a most suspicious circumstance. For who would desire to keep the public in ignorance, but those who wish to take some advantage by means of secrecy? It is clear that the propositions made in the early part of that convention, were deemed unpopular by the proposers, or their conduct would have challenged public inquiry, instead of shrinking from it. For all these facts, and the correctness of the preceding statement, I appeal to the minutes of that convention published by Judge Yates, the notes taken by Mr. Luther Martin, and the remarks founded on them by the late John Taylor, of Carolina, in his new views of the constitution. Col. Hamilton and Mr. Madi-

son, notwithstanding their dissonance, very honorably signed the constitution. Mr. Randolph took time for the purpose. Congress first met in March, 1789. Before this, the series of papers called the *Federalist* was published, written chiefly by Col. Hamilton, partly by Mr. Madison, and partly by Mr. John Jay; for the purpose of reconciling the people to the new constitution which the convention had framed in 1787. As we might expect, the party distinctions that took place in the convention are rather concealed than brought into view in that work. It was a conciliatory publication, and the motives of the authors did them honor. But it is ridiculous to cite them as authority for the real views of the prevailing party; to which Col. Hamilton and Mr. Madison did not at that time cordially accede. After this period, the adherents of Col. Hamilton and the consolidation party gradually assumed the denomination of federalists, hitherto applied with great propriety to their opponents: and the real "federalists," the supporters of the independence of the respective states that form our federal union, have been at different times since, branded with the appellation of anti-federalists, jacobins, republicans, democrats, and radicals. Of the fraternity of politicians thus variously designated by the ingenious manœuvring of the federal leaders, who well knew the force and value of a nickname, the writer of these pages requests to be considered as a member: stating it as an historical fact within the knowledge of every man conversant with the history and progress of our republican government, that the distinctive character of the two great leading parties in the United States usually known as Federalists and Democrats, are these.

The *Federalists* approving rather of an American Nation, than of the United States; of a consolidated and single, than a limited and federal government—are desirous of extending the power and authority of the executive, legislative and judicial branches of that government: of increasing the military and naval establishments of the U. States: of augmenting the salaries, the rank and popular estimation of all public functionaries: and of putting the United States into a situation to take part, if necessary, in European politics, and of making them a great and energetic nation, one and indivisible. Hence they would repress the interference, and depress the influence of state authorities, and keep state rights and pretensions in subordination to the powers of the general government. Hence also, they are advocates for the extension of the general, or what is now called *federal* authority, by any means of implication and construction, rather than by an appeal to the states under the prescribed form of an amendment of the constitution; their policy being to keep state interference as much as possible out of view, in theory and in practice. Hence also, the absolute and dangerous control exercised by the Supreme Court of the United States, over state laws, and state decisions. Hence also, the power formerly assumed by this party when the reins of government were in their

hands, of limiting the rights of the people, and clogging the inconvenient practice of free discussion by alien and sedition laws. Hence also, their dislike, not merely to the horrid practices to which the French people were driven or tempted during the French Revolution, but also to the principles of that revolution; and their predilection for the British government and its forms. Hence also, some of the prominent federalists were, and still are, admirers of a limited monarchy; and advocates of course, for Col. Hamilton's energetic plan of government; with a President and Senate, eligible during good behaviour, an absolute veto over all state proceedings, and a President over each state, to be appointed by the general government. This party, however, neither is, or was numerous; the far greater portion of federalists being real friends to a republican form of government, but with a tendency to consolidation as the leading trait in it: the whole of their policy tending to establish one consolidated national government, under the control of one system of authority, instead of a mere confederation of separate states, delegating expressed and limited powers, for expressed and limited purposes.* The origin of modern federalism, the distinctive character of the party in its commencement and in its progress, was consolidation of the states under one government, paramount in all respects; and to this object all their proposals lead. For want of an accurate knowledge of the history of parties in our Republic, and the leading objects of the two great divisions, many of the republicans have been tempted to coincide with federal politics, and many of the federalists are found in the ranks of their usual opponents. Indeed party divisions are productive of consequences so unpleasant, that good men of all sides are desirous of forgetting and of dropping political differences; especially when federalists and republicans, the more they see of each other in common society, the more they are inclined to respect each other's motives, and to approve of each other's general conduct; the public good being indubitably the object of the great majority of both parties. Still it is the duty of a good man, whether of the one party or of the other, to adopt those political measures, and to support that class of public men, whose general opinions and line of conduct tend to advance the public welfare, according to the leading principles which he deems best calculated to promote it. These leading principles will, on examination, be found to be a *single consolidated national government at the expense of state sovereignty; or a federal government, with powers strictly limited, under the authority delegated by independent states; and to be altered and amended by an appeal to them, and in no other way.*

In examining therefore the character and conduct of public

* "It is high time," said Mr. Fenno, (government printer during the reign of Mr. J. Adams,) "that we should get rid of this huge sow with her barrow of pigs;"—alluding to the general government and the thirteen states.

men, we must apply this test to their doctrines and practices. So far as they tend to exalt and increase the character, the powers, and the patronage of the general government, at the expense or beyond the control of, and without appealing to the, state governments they bear clearly the features and physiognomy of federalism, whoever be the proposer, or whatever may be his professions.

The *Anti-Federalist*, Republican, Democrat, Radical, (quocunque nomine gaude,) is of opinion, that as history clearly shows the tendency of all power to exceed its proper limits; no more power should in any case be delegated, than the circumstances imperiously require, to produce the good intended. That the holders of all power should be responsible for the use of it, to those who gave it. That if any excess be excusable on either side, it is better to concede rather too little than too much, as it is much more easy to add than diminish. They are of opinion, that the people and the state governments of this country never meant to institute a magnificent, imposing, expensive *national* government with extensive powers, and high prerogatives, calculated to control or prostrate the quiet, unpretending, cheap and salutary governments of the separate states—but a government with so much power and no more, as might be necessary to manage the political transactions of common and general interest, in which each and every state had the same common concern; interfering with state authorities as little as possible. That the more simple the apparatus, the fewer the officers of government, and the less they required state rights to be conceded, the better. That if power sufficient be not conceded, it ought not to be boldly seized by direct usurpation, or clandestinely obtained by taking advantage of verbal ambiguity, by implication and construction, but applied for by submitting the case under the constitutional form of an AMENDMENT, to the legislatures of the respective states; this being the mode of proceeding specially designated by the framers of our constitution, to meet the case. They are of opinion, that although parsimony be one thing and frugality another, the cheapest government is the best government, if it answer the purpose in other respects. They particularly object to expensive standing armies, and even to a great extent of naval power in time of peace,* not that these institutions should be reduced to insignificance, but kept under cautious control. They hold, that the public character and conduct of all public men and public bodies, from the President to a Tide Waiter, is fair subject for temperate remark; that nothing brings a government so surely into contempt as its dread of discussion and examination; and that in all

(*) Naval power. The principle of the democratic party, was, not to keep up such a military or naval establishment as might tempt us into any contest that could be prudently avoided. But the circumstances of Europe have shown, that we cannot avoid a naval establishment on a more extended scale, than was contemplated at the commencement of Jefferson's administration.

such cases the verdict on trial, ought to be with the jury on the law and on the fact, uncontrolled by the court. They adhere to the principles of public liberty, as set forth in the Declaration of Independence, and in the Federal Constitution, particularly claiming a free press, untrammelled by any previous restriction, and extending to every subject of human investigation, as the dearest and most valuable characteristic of a truly republican government.

For my own part, I go farther, and reviewing the events of the last thirty years, I am decidedly of opinion, that the republican party has forgotten, in great part, the principles that originally characterised it; and they have permitted and acquiesced in one encroachment after another, till the power of the President of the United States, the power of the Congress of the United States, and more than all, the power of the Supreme Court of the United States (the most dangerous body in the Union) **HAS INCREASED, IS INCREASING, AND OUGHT TO BE DIMINISHED.** But on the present occasion, I must abstain from the detailed investigation that would establish my opinion; an opinion, however, which no man, who has observed the progress of our government as long and as anxiously as I have done, will be inclined to deny.

The former opposers of a *federal* and advocates of a *national* government, now seized upon the name by which the series of essays was designated, containing a defence of the constitution of 1787, and an exposition of the principles on which it was founded. An exposition, not likely to be in all respects accurate and authentic, when made by gentlemen, who had opposed its leading features and principle; and who were induced to defend it, from the truly honorable and disinterested motive of promoting obedience and acquiescence in what had been settled upon the best and most deliberate views that could be taken of a very difficult and complicated subject. Mr. Madison, I believe, gradually changed his views of a national government, and came round to the sentiments of the majority of the republican leaders of his own state. Colonel Hamilton and Mr. John Jay, continued of the "national party," who, from 1788 to 1790, gradually assumed their modern appellation of **FEDERALISTS**. In all Col. Hamilton's papers, in the "Federalist," the expression *national government* is sedulously preserved; and he expressly declares, in No. 33, that the principal aim of that series of papers was to inculcate the danger which threatens our political welfare from the encroachments of state governments. To which he might have added the labored justification of the extended powers given to the national government, in the formation of treaties, the regulation of commerce, the imposition of taxes, and the maintenance of a standing army and navy. To the equality of power among the states he was strenuously opposed.

Mr. Madison, in No's 45 and 46, is of the same opinion as Col. Hamilton as to the power and influence of the state govern-

ments. These were wise and honest men, but I think experience has shewn that they were bad prophets. The publication called the *Federalist*, is of a complexion truly federal, in the modern sense of that word; but it did much good at the time, and strongly tended to reconcile the people to a constitution which contains, after all, but one capital defect, viz: the want of a clause appointing a periodical revision of it every thirty years. See numbers forty-nine and fifty of the "*Federalist*." The Pennsylvania Council of Censors, had an admirable effect, and I think should never have been dropped.

General Washington, whose services to the United States, were probably more than any man had ever rendered to a nation, and whose motives and intentions were out of the reach of suspicion, manifestly leaned toward a strong executive. All his officers of government, Col. Hamilton at their head, were more or less of the same opinion, and of the *national* party. The military habits and character of General Washington, had probably no small share in giving this bias to his opinions, and the superior talents of Col. Hamilton, added weight to the party. Nor is it any wonder that a President should be in favor of a strong executive, or that persons in power should be inclined to extend their authority. The *Federalists*, as they were now called, became therefore, the prevailing, the fashionable party. The funding system, the manufacturing and tariff system, were introduced by Col. Hamilton, and with the treaty of commerce with Great Britain, were carried successfully against the opposition of the republican, democratic, or (now) anti-federal party. Every man pretending to good society was expected to be of federal politics, and the opposition was considered as chiefly confined to the ignorant and turbulent mass of the people. The excise upon whiskey, and the termination of that ill-judged insurrection, gave the federalist's (or court party, as they were sometimes called,) a decided pre-eminence over their opponents; possessing, as the federalists certainly did, in a considerable degree, the countenance and confidence of the first man in the nation, General Washington. The banking interest, the mercantile importing interest, the military, all the dependants on government, and all those who sought to be such, were decidedly of the same party; which had undoubted control from Virginia northward. Great force also was given to anti-republican tendencies, by the excesses consequent on the breaking out of the French revolution. These excesses produced in many, an abhorrence for the *principles* of that revolution, as if they were different from our own, and as if the excesses of the exasperated and misguided mob of the Fauxbourgs, were the necessary consequences of an opposition to the execrable tyranny, political and clerical, by which that nation had been so long degraded and weighed down. The federal party made a skilful use of these circumstances; they excited to a very great degree a hatred against French principles, and against the nation itself;

and brought about a strong inclination to admire, to praise, and to imitate the monarchical forms and principles of the British government. The republicans, democrats, or anti-federalist's were now put under the ban of all fashionable society, and every where denounced as jacobins. By degrees the principles of our own revolution, and our separation from Great Britain, were attacked, and every man who did not profess to admire the British constitution was regarded as an enemy to our own existing government, and beyond doubt, a disorganizer and a jacobin. The great mass of the people, however, felt that all this was wrong: they knew that our own revolution, and the French revolution arose from similar causes, and were based on similar doctrines. They revolted at the notion of giving preference to the monarchical principles and forms of Great Britain, which in their operation had forced upon this country the American Revolution; and although the men of superior situation and comparative wealth, soon after the accession of President Adams, began to exclaim without ceasing, and abuse without discrimination, all revolutionary principles as jacobinical, the *people* of America thought otherwise, and felt otherwise. But the violence of the federal party about this time, aided by the political character and complexion of the existing government under General Washington's successor, and by their coincidence with British Mercantile Agents, Importers, and their numerous connexions, among retailers indebted to them, gave them in the great cities, an undoubted predominance; and produced that state of things about two years after the retirement of General Washington which was not improperly or inappropriately denominated *the reign of terror*. The real republicans who are now living, and are old enough to remember the state of parties on the retirement of General Washington, and the administration of Mr. John Adams, *know* the expression was well applied, and that this is not a false and fanciful, but a fair and faithful representation of the public feelings of that day, and I can with perfect safety appeal to them, for the honesty and accuracy of this sketch. The conduct of a Mr. Fitzhugh, to General Sumter, in the Theatre at Philadelphia, in the summer of 1798, may be taken as a sample.

On the retirement of General Washington, the federal party put in Mr. John Adams as President. This gentleman was known to be ultra federalist: the advocate of a strong executive, in which no other branch should have any participation.* He had

* John Langdon, senator from New-Hampshire, and afterwards Governor of that state, in a letter to Samuel Ringold, Esq. dated October 10th, 1800, declared, that Mr. John Adams in his presence, expressed a hope or expectation to see the day, when Mr. J. Taylor of Caroline, and Mr. Giles, (to whom he was then speaking,) would be convinced, that the people of America, would not be happy without a hereditary chief magistrate and senate, or at least, for life.

Mr. Taylor, on the trial of Calender, attended in court and was sworn, ready to prove this fact; but Judge Chase would not permit him to give it in testimony.

written a defence of the American Constitution, as the title of his book imports, but a defence of the British Constitution in reality. It was a thing of checks and balances, with monarchy as an essential part; in which the admiration of the writer for the British system was glaring. Mr. Adams was deemed a fit person to carry on the views of the federal party; and was generally understood to have been chosen by the influential men of that party, because he was likely to be led by Col. Hamilton and his adherents. Col. Hamilton is now dead. The animosities of party as to him, are gone by. I did not, and do not coincide in opinion with that gentleman on any subject within my present recollection: but he was at heart a friend to his country, a man of sterling talent, a bold and fearless politician, of great ambition, above all suspicion of pecuniary bias, and I believe, as honest in his motives as he was daring in his measures. He deserved to be considered as the leader of his party; and it was no arrogance to expect that a man so inferior as Mr. Adams in practical information, in resources, and in energy of character, should be led by him. Of Mr. Timothy Pickering, and the other minor officers of government, I know nothing that can be said in commendation; they were entitled to no praise but for zeal in support of their party.

Mr. J. Adams, however, would not be led. He was irritable, conceited, and deficient in practical knowledge. He went with his party for some time, to the utmost length of their views and wishes. He ardently longed for a rupture with France, and he was the devoted admirer of every thing British. The alien law, giving power to the President to banish at his pleasure, any foreigner, whether alien friend, or alien enemy, whom he deemed obnoxious; and the sedition law, checking all freedom of discussion, and protecting all political delinquency from investigation any where but within the walls of congress—forbidding the people to speak or to write in disapprobation of the conduct of their rulers—the violence of the federal Judges in putting that law in force—the exclusion from office of every description, of all persons whose politics were not ultra federal, (a measure advocated as equally wise and necessary by every federal representative in congress, in full debate)—the gross and fulsome adulation that disgraced the addresses to Mr. Adams, and his corresponding replies, equally arrogant and bombastic, at length completely disgusted the sober part of the nation, and prepared the way for that revolution in public opinion, which ultimately took place. It was manifest that all the barriers of republican government were to be thrown down—that state rights were to be trampled on—that all opposition was to be suppressed by violence—that the federal judiciary was expected to be the mere instruments of governmental vengeance—that doubt and hesitation about the measures of government were to be treated in all companies, as disaffection and sedition, and the spirit of the nation to be broken down. Mr.

Pickering,* as secretary of state, exhibited in his communications, an overbearing insolence of language, which has no parallel but in the violence of the present secretary of state, in his communications with Spain.† These gentlemen forgot that all attempts at fine writing on grave subjects, and all intemperance of language on any subject, are marks of an inferior character, producing no effect but ridicule or irritation, and always operate as obstacles to conviction. The essential character of dignity of mind, is mildness, clearness, and simplicity, in acting, in speaking, in writing. Colonel Hamilton could understand this; but it would be a sentiment unintelligible to Mr. John Adams, or Mr. Pickering.

Fortunately, the necessities of government required an additional revenue, and the system of *assessed taxes* was resorted to, with a host of assessors, inspectors, supervisors, receivers, and collectors, in the pay and under the controul of government, throughout the Union. The people disliked direct taxes of all kinds, and on whatever pretence. They preferred that mode of taxation which would put into every man's power, and remit to his own discretion, how much he would pay, by using or abstaining from the article on which an impost was levied. The murmurs of the agriculturists therefore, became loud and general.

About this time a quarrel arose in the administration. Mr. John Adams had revolted at the guidance and control of Colonel Hamilton and Mr. Pickering. Indeed, the latter gentleman was Mr. Adams' equal in no respect but petulance, violence, and overbearing—a man of small information and great vanity. I refer in proof, to his communications and despatches on French affairs in particular. No wonder Mr. Adams felt disgust at the imperious manner of a person so ill qualified to direct. Be the causes what they may, the President threw off all deference for the opinions of Col. Hamilton, Mr. Pickering, and their friends; he dismissed Pickering and M^r. Henry from office, and determined to act for himself. Forsaken by his party; the object of profound dislike to the whole body of republicans, he was compelled to quit the presidential chair, and retire to a private station. His affecting afterward, to be an anti-federalist and republican, and his lately published letters to Mr. Cunningham, have not enabled him to regain one particle of his lost reputation: nor has Colonel Pickering's attack upon him produced any other effect than to show, that however irritable and ill-tempered Mr. Adams may be, Col. Pickering is not less so. Whatever bad qualities, politically,

* This gentleman is said to be a leading member of the Essex Junto, a club of ultra-politicians, strongly suspected of being far more devoted to the institutions of Great Britain than of their own country. The Essex Junto began the Hartford Convention, which Mr. Otis, of Massachusetts, has lately attempted to defend; but he has completely failed in that attempt to wash the Blackamoor white.

† John Quincy Adams, afterwards unfortunately President of U. States.

these gentlemen may respectively possess, it must at least be allowed that they merit Dr. S. Johnson's commendation of being "good haters."

During General Washington's administration three questions arose, which called forth and brought into discussion the *distinctive* doctrine of the federal party, viz. That congress ought to be considered as a national legislature, empowered to enact, and carry into effect all objects which in the opinion of that body, were expedient to the general welfare, and to make the necessary appropriations for the purpose.

The three points to which I allude, were the proposal to establish a manufacturing system: the proposal to establish a National Bank: and the discussions on the treaty-making power.

Col. Hamilton, as secretary of state, made a report to congress in favor of the manufacturing system, on the 5th of December, 1791, in which he insists (in conformity to the consolidating notions which he never relinquished, even in his defence of our present federal constitution) "that it belongs to the discretion of the national legislature to pronounce upon the subjects which concern the GENERAL WELFARE, and for which under that description, an appropriation of money is requisite and proper. And there seems to be no room for a doubt, that whatever concerns the general interests of learning, of agriculture, of manufactures, and of commerce, are within the sphere of the national councils, as far as regards an appropriation of money."

From this passage, it is evident that Mr. John Quincy Adams, a thorough-going pupil of the same school, is mistaken in supposing that he was the original propagator of this doctrine, which in the polished language, so peculiarly his own, he insinuates a man must be "ineffably stupid" to deny.

I should wonder at Col. Hamilton's venturing this broad assertion, when he knew that the convention, of which he was a member, formally and by express vote, refused to give to congress the power to erect a national university, if I were not well acquainted with the boldness, pertinacity, and decisive character of Col. Hamilton.

Even in his defence of the present constitution—the present *federative* constitution—in his own publication, the "Federalist" he never desists from the NATIONAL expressions, which were on debate, and by formal vote rejected in the convention, by which the constitution was framed.

This doctrine was adopted to its full extent, by a committee of Congress in January, 1797, the first year of Mr. John Adams' administration.

This creed of the federalists was discussed, when the question of the United States' Bank was first agitated. I have not the debates by me, and we labor under great inconvenience for want of a repository of these most interesting discussions. Col. Hamilton's influence prevailed. This was the first great practical inroad on

the plain meaning of the constitution.* Col. Hamilton's extended views of the great effect of this powerful machine in aid of his favorite measures, will undoubtedly prove correct. Under such managers as Mr. Cheves and Mr. Biddle, we have not yet had much to alarm us. But no man can view its progress, and reflect on its power, without being satisfied, that like the serpent of Aaron's rod, it is destined to swallow up all the minor establishments of a similar description. The debate on the treaty-making power, involved the question of the ultimate concurrence of the house of representatives, by means of their conceding, or refusing the requisite appropriations. The consolidation question had its secret influence on this debate, which ended without settling the principle.

The only questions of importance during the administration of Mr. Madison, which involved the leading doctrines of the two parties was the bank bill, with the internal improvement clause in 1817, and the establishment of the present Bank of the United States, the year after. To the bank bill of 1817, a clause was added (I think by Mr. Calhoun) appropriating the gains of the bank to internal improvements. Mr. Madison gave the bill his decided negative, on the ground that congress had no power to legislate on internal improvements. This was March 3, 1817. The national bank was carried through afterwards by the great talents of Mr. Dallas, one of the ablest men this country has seen. Mr. Dallas was led away by his duty as financier, and by his long connexion with the great mercantile interests of Philadelphia, with whom a national bank was a favorite measure; or

* Chief Justice Marshall, in his life of Washington, vol. 5, p. 295 to 299, gives a brief account of this debate (1791) and delineates the characters of the two great parties in the Union substantially as I have done. He has also given in the notes to that volume, p. 3, a short account of the arguments used by the opponents and supporters of the Bank bill. This gentleman is a federalist, with a decided leaning to the NATIONAL politics of Col. Alexander Hamilton. Yet, I think it is impossible to read the plain, unvarnished arguments of the anti-federal minority, on the bank question, as Marshall has stated them, and the more labored account of the reasoning of their opponents, (notes, p. 6 and 7,) without giving a preference to the intelligible simplicity of the first, over the metaphysical, and wire-drawn deductions of the federal party on that occasion.

All the difference between Chief Justice Marshall and myself, in our views of the characters of the two parties is, that *he* insinuates a design on the part of the anti-federalists, to encroach on the power of the general government, in favor of state authorities. I reply—1st. Every political event bearing on the question from the year 1790, to the present day, has shown not only that his representation is not accurate, but that the reverse is: 2dly. It is manifestly impossible for the states thus to encroach, because the powers conceded are fully expressed, and cannot be recalled while the present constitution is in force: 3dly. The quibbles of implication and construction have given rise to the usurpation of power on the part of the general government, which can never arise in favor of state pretensions; and have never, indeed, in any instance, been set up. I conclude, therefore, the danger is all one way, and experience shows it to be so.

he never would have been the advocate of that measure himself. But the sanction given to this chartered monopoly, by a series of decisions implying its constitutionality, rendered by the supreme court, made it extremely difficult for congress to decide otherwise. So it is: let in but the giant foot of usurpation, and the whole body of the monster will soon force its way. Good citizens, accustomed to reflect, have long viewed with silent horror the portentous progress of the federal judiciary. This body is now, as from the beginning it has been, the strong right arm of consolidation. The Judges of that court, are as wise, as learned, and as honest, as any other Judges constituting any other court. They are men like other men. They are creatures of the executive: Judges whose motto is, *ampliare jurisdictionem*, to extend their authority; and they have faithfully pursued it. When have they ever doubted the constitutionality of an act of congress? And what occasion have they passed over of deciding on the constitutionality of state laws? They seem to regard themselves as an insulated body, far above all state authorities, whose proceedings they have a full right to annul or control. The doctrines of court, I regret to say, are fashionable among the members of the bar; and as I think, have given a federal leaning—a propensity to defend the consolidation measures, to very many of the best heads of our country.

During the administration of Mr. Monroe, much has passed which the republican party would be glad to approve, if they could. But the principal feature and that which has chiefly elicited these observations, is the renewal of the SYSTEM OF INTERNAL IMPROVEMENT. The scruples of this gentleman on the subject of the Cumberland Road, have subsided; and for reasons and for motives of very manifest operation, he has become a thorough convert to the doctrines of his ancient enemies. Mr. Calhoun, I dare say, had little difficulties in overcoming the doubts of the President, when he set before his eyes the glittering prospect of ten millions to be distributed in jobs to fortification-contractors, and as much in the construction of roads and canals throughout every part of the union, except in those states which chiefly contribute to supply the funds. These splendid projects of Mr. Calhoun, coincided also with Mr. Monroe's favorite plan of fortifications on every part of our coast, requiring of necessity a considerable increase of the standing army to man them. But the main objects are the power and patronage—the prodigious influence that the President for the time being, and the Secretary of War would acquire, by controlling the expenditure of every cent that would otherwise form a surplus revenue. It is hardly one time in ten that the ostensible reason of a public proposal is the real one. Let any man look at Mr. Calhoun's report on fortifications, in which he proposes to lay out about one million of dollars *south*, and nine and a half millions *north* of the Potomac, and one main object of this project, will start up undisguised, and

stare him in the face. When Mr. Jefferson proposed to abolish the internal taxes, it was not on account of the burthen of taxation from which the people would be thus relieved, but to take away the executive influence over a host of dependents, in the pay and under the control of that department. But Mr. J. was a *radical* at that time; and report says he is so still. He well knew the use that might be made of this executive influence, and he needed it not. Indeed, no man ought to be President, who does need it; * or who wishes to administer the fashionable folly of the day,
 A PATRONIZING GOVERNMENT.

In January, 1824, Mr. Smith and Mr. Findlay, of the Senate, moved separate resolutions, in substance, that the committee of roads and canals do report on the expediency of requesting the President to employ a part of the engineer corps to ascertain the practicability of uniting the Schuylkill and the Delaware, and the Alleghany and the Susquehanna, in Pennsylvania. Which on the application of the Pennsylvania delegation to Mr. Calhoun, has been extended to the Susquehanna and the Chesapeake; and to several places in the middle, the north-eastern states, and in Florida; upon pretences and for purposes, not yet, so far as I know, developed. The application of the Pennsylvania delegation was cordially received and instantly granted; and Mr. Calhoun himself, has been lately surveying some of the creeks in the Alleghany mountains, no doubt for some great national object hereafter to be explained. The influence of the Pennsylvania delegation was to be expected.

This power assumed by congress, to make roads and canals through the states at their will and pleasure, was regarded as an usurpation by the democratic party, who called on their opponents to point out what clause in the constitution contained this power expressly, or from what express grant it was derived by necessary implication.

This was attempted to be done by some,

From the power given to regulate commerce with foreign nations, and among the several states,

By others for the power given to raise and support armies, to which military roads were necessary.

By others, from the power given to establish post-offices and post-roads.

* In 1817, Mr. J. C. Calhoun, was a strenuous advocate for re-imposing the long catalogue of internal taxes, abolished by Mr. Jefferson.

1830. Whatever Mr. J. C. Calhoun was in 1817, when the extravagant character of the system of internal improvements had not yet been developed, and the principle had not yet been fully discussed, I am inclined to believe that this able man views that system at present, as too dubious in its origin, and too dangerous in its exercise, to be adopted or defended at the present day, 1830. The profligate and desperate system of state bribery, of which it has been made the instrument, by the advocates of the "American System," ought to bring it into utter disgrace with every honest man. It is the most widely-extended plan of highway robbery ever devised.

These pretences were so discordant, so manifestly strained, and forced into the service, and one might say, without much danger of departing from truth, so absurd, that the speeches of Mr. Holmes, of Maine, and Mr. Barbour, of Virginia, in the senate, were triumphant in point of argument.

On the 10th of February, the bill to obtain the necessary plans and estimates in relation to roads and canals, were carried in the House of Representatives, 115 to 86—16 members absent. Seven out of 24, from New-York, voted against it: South-Carolina, voted four and four, one member absent. Among the minor objections to this bill, were, 1st. That it contemplated no equitable principle of expending the public money, neither in any ratio of taxation, or representation. 2d. That the states which had already meritoriously expended their domestic revenues in public improvements, like New-York and South-Carolina, were for that very reason to be left out, and their taxes appropriated to supply and make good the parsimonious or negligent deficiencies of the states who had done nothing for themselves.

The pretences of deriving this assumed authority on which the bill in question, was based from the military clause, or the regulating commerce clause, on the post-road clause, were seen to be not merely weak, but farcical. Which of them, for instance, will apply to Mr. Calhoun's frolic to Deep-Creek, on the top of the Allegany? Who can read the account of his journey for this purpose with any gravity? In the House of Representatives a broader position was taken; viz. That *Congress had a right to pass any measure conducive to the general welfare.* This is the true and only ground which furnishes any thing like a defence of the bill in question, or that can be argued with due seriousness.

Mr. M'Duffie's speech on this occasion, in favor of the bill, comprises every thing that can be urged in its defence, and was, beyond all doubt, the most able and eloquent support of that measure which had been heard in either house fallacious as it was.

We now come to the broad and ancient line of discrimination between the federal and the republican parties; between the advocates of a consolidated national government, and the defenders of state rights and limited powers. From the very opening of the debates in the convention of 1787, through every period of political discussion, the present day, the position taken by the friends of the internal improvement bill, in the last congress, has been the distinctive, the characteristic, the exclusively appropriate doctrine of the consolidating or federal party. For if congress may adopt any measure, or pass any act, which, to a majority of that body may seem conducive to the general welfare, what can they not do? *Who* is to limit them, or *where* is the limitation? All the barriers of the constitution are thrown down; all state rights are prostrated, as of minor consideration; all the powers which the convention *refused* to grant, are claimed over again as of right; all the conclusions that are deducible from the constitution, being

a compact for mutual benefit between confederated states, conceding so much power and no more as was necessary to the purpose of the confederation, are at one breath annulled and annihilated.

This was the position taken by Col. Alexander Hamilton, in the debates in convention: this was the position taken by him in his report on manufactures: this was the position assumed by the ultra-federal committee of the House of Representatives in 1797; no other position is necessary to convert these United States into one national government, under one hereditary chief, and one hereditary senate, as Mr. John Adams urged on Messrs. Taylor and Giles. No not one. The warmest friend of the Holy Alliance, would not desire safer or broader ground to stand upon. If congress may enact whatever it may deem expedient for the general welfare, its power is unlimited, absolute and despotic.

Mr. John Q. Adams, Mr. J. C. Calhoun, and his partizans, assumed this ground. The former gentleman has boasted of being the first person to urge it, but he was mistaken. The honor belongs to Col. Alexander Hamilton. The following letter, however, of Mr. J. Q. Adams, will serve as a proof of his zeal in the cause, and furnish some elegancies of expression, and samples of moderation in style, that may be inserted among the beauties of his diplomatic correspondence,

The opinion of John Quincy Adams on the subject of Internal Improvements.

“The question of the power of congress to authorize the making of internal improvements, is, in other words, a question whether the people of this Union, in forming their common social compact, as avowedly for the purpose of promoting their general welfare, have performed their work in a manner *so ineffably stupid*, as to deny themselves the means of bettering their own condition. I have too much respect for the intellect of my country to believe it. The first object of human association is the improvement of the condition of the associated. Roads and canals are among the most essential means of improving the condition of nations; and a people, which should deliberately, by the organization of its authorized power, deprive itself of the faculty of multiplying its own blessings, would be as wise as a creator who should undertake to constitute a human being without a heart.”—[*Ohio National Crisis*.

The following are the remarks of the Richmond Enquirer on the above quotation:

“These doctrines may be calculated for the meridian of Ohio; but surely not of Virginia.

“We shall not examine the opinion of Mr. Adams as to roads and canals only—but we would throw out a few suggestions as to the main principles itself. Can Mr. Adams be a friend to a limited construction, when he goes *thus for the whole*? Can one, who

takes such broad ground, be considered as of the old republican school of '98 and '99? Whatever promotes 'their *general welfare*'—whatever betters or is supposed to be the 'means of bettering their condition'—whatever 'improves the condition' of the nation, is, according to him, within the purview of the powers of the general government. Where, then, is the limitation?—When can we say 'thus far and no further?' What cannot the federal government do? What power is denied to them, which they may suppose calculated to *better the condition* of the nation?

"Is it not enough to say, as the old republicans said, is this particular power given—or if not given, is it the means necessary and proper, for carrying any particular given power into execution?—But we are now to arrive at the true reading of the constitution by a much shorter process. We are only to ask, does a particular power better the condition of the nation? If so, it follows of course—and the man is '*ineffably stupid*,' who will not immediately admit it. If Mr. A. is to be believed, we need no longer trouble ourselves with any enquiry as to the terms on which these separate states have associated together—for the very object of the association cancels all limitations, and endows the government with undefined and undefinable powers. If the United States can do any thing to better their condition, whether the states have conceded the power or not, there was no necessity for a 'particular enumeration of powers' in the constitution. They may establish roads and canals *ad libitum*—universities, colleges and schools—in fact, where is the limitation?

"When the Virginia legislature adopted Madison's report in 1800, they were '*ineffably stupid*.' This '*ineffably stupid*' report demonstrated, that the phrase '*general welfare*' was to be found in the '*articles of confederation*;' and that the phrase in this very limited instrument was surely not understood 'to be either a *general grant of power*, or to authorize the requisition or application of money by the old congress to the common defence and general welfare, *except in the cases afterwards enumerated which explained and limited their meaning*.'

"How '*ineffably stupid*' was the Federalist (1st vol.) when it asked, 'what would have been thought of that assembly (the Federal Convention) if attaching themselves to these general expressions, and disregarding the specifications which ascertain and limit their import, they had exercised an unlimited power of providing for the common defence and general welfare?'

"How '*ineffably stupid*' was James Madison, when on the 3d of March, 1817, he 'was constrained by the *insuperable* difficulty (he felt) in reconciling the (internal improvement) bill to the constitution of the United States, though to negative that bill, he admits his capacity to '*better the condition*' of the people?'

"If these doctrines be so '*ineffably stupid*,' we are content to abide by them. But at least let us hear no more of John Q. Adams' being of the Virginia school of politicians. Can the constitution

be safe in his hands? It would be a nose of wax—moved this way or that, as EXPEDIENCY might point out!”

Mr. M'Duffie is willing to qualify this unlimited claim of power, by confining it to those objects which can be effected by *an appropriation of money*, concerning which, the constitution, according to him, makes no limitation whatever on the discretionary power of congress. The position he assumes, therefore, is, that congress may adopt any measure whatever, that they may deem necessary to the “common defence and general welfare,” if money be necessary to carry it into effect, and appropriate any sum of money whatever for the purpose.

He justifies this by three cases of legislation that he thinks can be justified on no other principle. Congress appropriated a sum of money for the relief of the French emigrants from St. Domingo, who were compelled to take refuge here in a very destitute condition. And they appropriated another sum, for the relief of the sufferers by an earthquake at the Caraccas. I reply, that congress did not stop to enquire whether they had an indisputable right to indulge this honorable feeling, and perform these urgent acts of charity at an expense too insignificant to be an object of debate. Neither will I.

But Mr. Jefferson, by treaty, purchased Louisiana, for “the common defence and general welfare,” and congress appropriated the money. Well: could they avoid it? Is it not the received opinion that the house of representatives are *bound* to make the appropriations necessary to carry into effect a treaty agreed to by the executive and ratified by the senate? I express no opinion of my own upon this question, but this, the common opinion, has always been acted upon. At any rate, even those who deny it to be the duty of the house, agree that there is no objection to their doing so, if they see fit. This case, then, is involved essentially and forms a part of one of the powers expressly vested in, and delegated to congress by the constitution. The abstract principle of its being a duty, or not a duty, was discussed, but not settled in the debates on Jay's Treaty, but the right of appropriating in such a case, was never for a moment denied then or at any time since. Mr. M'Duffie, therefore, must look out for some other precedent equally in point, to support the stand he has taken.

In fact, I see no difference between Mr. J. Q. Adams and Mr. M'Duffie. For does not absolute power reside in the purse of the nation, and with him who has absolute control over the contents? What federalist would not embrace Mr. Adams' proposition, with Mr. M'Duffie's limitation? If you are left at full liberty to do whatever can be done with money, what is it you cannot do? If Mr. Monroe and Mr. Calhoun, can place at their own disposal ten millions to be expended in jobs for fortifications, and as much in jobs for post roads, and military roads, and commercial roads, and post canals, and military canals, and commercial canals, in every

corner of the union, where influence is to be acquired, I believe the less we say about the "public welfare," the better.

I am by no means an enemy to internal improvements, but much otherwise, if they are executed upon some plan of equality among the respective states. But no system of expenditure is proposed, which shall contain the principles of equality and equity; and a more wanton dissipation of the money of the United States, I can hardly suggest, than the projected improvements in the state of Pennsylvania. Every exercise of usurped power, is tyranny. Every assumption of power by congress, not *clearly* and *indubitably* conceded, is a fraud on the several states. Do you want power to make internal improvements? Take the constitutional mode of obtaining it, and apply for an amendment to your constitution. Why do you refuse so to do? Because you are in doubt whether you can fairly and honestly convince the several states of the necessity for it: because you distrust your own cause, and dare not confide in your own arguments.

But such is now the case, and the leading characteristic doctrine of ultra-federalism and consolidation, is now the fashionable doctrine in congress: and one half, at least, of the South Carolina representation are the advocates for it! Very many of our young politicians seem inclined to favor the pretensions of power and patronage, and to enlist under the banners of ultra-federalism.

Fellow-citizens, it is in vain to talk of an amalgamation of parties, while the dividing line of 1787, has continued to be the dividing line from thence forward, to 1825. Is South Carolina destined to be a federal state? Do you mean to join the ranks of that party? If you do, so be it. Things must take their course, and the friends of state rights must be content to remain in their minority. If not, the politics of Mr. Adams, Mr. Calhoun and General Jackson, are not the politics of this state; for these gentlemen supported to the utmost of their power, a principle and a measure, which, from the very moment of party difference, has decidedly characterized the federal party.—Consolidation is the motto of their flag.

This accusation will involve some of the most honorable, some of the most able, some of the most zealous and useful sons of South Carolina. Men, who with industry, perseverance, knowledge and ability, worthy of all praise, defended the rights of the South, against the ignorant and selfish speculations of the tariff-men. But it is remarkable, that neither Mr. Webster, Mr. Poinsett, or Mr. M'Duffie, advocated the rights of the South *on principle*. Maj. Hamilton, of Charleston,* in his very able view of that

* This pamphlet was first printed early in the winter of 1824. Major James Hamilton, having seen the dangerous tendency of the Consolidation doctrines, has published with a frankness that does him honor, his change of opinion. The masterly defence of Carolina doctrines, in the 11th No. of the Southern Review (Debate on Foot's Resolution) is by Major Hamilton.

question, went into the *right* claimed by congress to legislate the money of the planter, into the coffer of the manufacturer. Yet, I see not how that gentleman could, on principle, take the ground he so ably supported: for if congress have a right to pass any act which they may deem conducive to the general welfare, why may they not pass an act to protect domestic and prohibit foreign manufactures? Why may they not legislate on the Missouri question? In half a dozen years Arkansas will apply to be a state: suppose Mr. John Q. Adams, elevated to the presidency, with his known views on that subject, will it not encourage the enemies of the South to bring it up again? Surely it will.

Fellow-citizens, it is in vain to say the monster party may be destroyed: people who honestly, and with views and intentions equally honest, *differ on principle*, must ever remain two parties. There need be no animosity, because going both of us to the same point C. you prefer the road A. and I think better of the road B. Still the difference of opinion must and will remain; nor do I believe the country would gain much by amalgamation. It is well for both of us to be watched.

The question here discussed is a very leading and important one. The tendency to consolidating opinions among all our *young* politicians, is manifest: the road to hereditary office is breaking upon the view, and monarchy is dimly seen at the end of the vista.

I close these remarks; submitting them, under the sanction of the following opinions on the subject, by James Madison, our former president.

*Proceedings in the Virginia Assembly, passed in December, 1798, with the review of the committee thereon, presented Tuesday, January 7, 1800.**

The other questions presenting themselves, are—1. Whether indications have appeared of a design to expound certain general phrases copied from the “articles of confederation,” so as to destroy the effect of the particular enumeration explaining and limiting their meaning. 2. Whether this exposition would by degrees consolidate the states into one sovereignty. 3. Whether the tendency and result of this consolidation would be to transform the republican system of the United States into a monarchy.

1. The general phrases here meant must be those “of providing for the common defence and general welfare.”

In the “articles of confederation,” the phrases are used as follows, in article VIII.—“All charges of war and all other expenses that shall be incurred *for the common defence and general welfare*, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any person, as such

* See also to the same purpose, Mr. Madison’s paper in the *Federalist* 1 on the public welfare, No. 23, No. 41; and on construction, No. 33.

land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in congress assembled, shall from time to time direct and appoint."

In the existing constitution, they make the following part of section 8. "The congress shall have power, to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States."

This similarity in the use of these phrases in the two great federal charters might well be considered, as rendering their meaning less liable to be misconstrued in the latter; because it will scarcely be said, that in the former they were ever understood to be either a general grant or power, or to authorize the requisition or application of money by the old congress to the common defence and general welfare, except in the cases afterwards enumerated, which explained and limited their meaning; and if such was the limited meaning attached to these phrases in the very instrument revised and remodelled by the present constitution, it can never be supposed that when copied into this constitution, a different meaning ought to be attached to them.

That notwithstanding this remarkable security against misconstruction, a design has been indicated to expound these phrases in the constitution so as to destroy the effect of the particular enumeration of powers by which it explains and limits them, must have fallen under the observation of those who have attended to the course of public transactions. Not to multiply proofs on this subject, it will suffice to refer to the debates in the federal legislature, in which arguments have on different occasions been drawn, with apparent effect, from these phrases in their indefinite meaning.

To these indications might be added, without looking farther, the official report on manufactures by the late Secretary of the Treasury, made on the 5th of December, 1791; and the report of a committee of congress in January, 1797, on the promotion of agriculture. In the first of these, it is expressly contended to belong "to the discretion of the national legislature to pronounce upon the objects which concern the *general welfare*, and for which, under that description, an appropriation of money is requisite and proper. And there seems to be no room for a doubt, that whatever concerns the general interests of *learning*, of *agriculture*, of *manufactures*, and of *commerce*, are within the sphere of the national councils, *as far as regards an application of money.*" The latter report assumes the same latitude of power in the national councils, and applies it to the encouragement of agriculture, by means of a society to be established at the seat of government.—Although neither of these reports may have received the sanction of a law carrying it into effect, yet, on the other hand, the extraordinary doctrine contained in both, has passed without the slightest positive mark of disapprobation from the authority to which it was addressed. (*Congress.*)

Now, whether the phrases in question be construed to authorize every measure relating to the common defence and general

welfare, as contended by some;* or every measure only in which there might be an application of money, as suggested by the caution of others,† the effect must substantially be the same same, in destroying the import and force of the particular enumeration of powers, which follow these general phrases in the constitution.— For it is evident that there is not a single power whatever, which may not have some reference to the common defence, or the general welfare; nor a power of any magnitude which in its exercise does not involve or admit an application of money. The government, therefore, which possesses power in either one or other of these extents, is a government without the limitations formed by a particular enumeration of powers; and consequently the meaning and effect of this particular enumeration, is destroyed by the exposition given to these general phrases.

This conclusion will not be effected by an attempt to qualify the power over the “general welfare,” by referring it to cases where the *general welfare* is beyond the reach of *separate* provisions by the *individual states*; and leaving to these their jurisdictions in cases, to which their separate provisions may be competent. For as the authority of the individual states must in all cases be incompetent to general regulations operating through the whole, the authority of the United States would be extended to every object relating to the general welfare, which might by any possibility be provided for by the general authority. This qualifying construction, therefore, would have little, if any tendency, to circumscribe the power claimed under the latitude of the terms “general welfare.”

The true and fair construction of this expression, both in the original and existing federal compacts, appears to the committee too obvious to be mistaken. In both, the congress is authorized to provide money for the common defence and *general welfare*.— In both, is subjoined to this authority, an enumeration of the cases, to which their powers shall extend. Money cannot be applied to the *general welfare*, otherwise than by an application of it to some particular measure conducive to the general welfare. Whenever, therefore, money has been raised by the general authority, and is to be applied to a particular measure, a question arises, whether the particular measure be within the enumerated authorities vested in congress. If it be, the money requisite for it may be applied to it; if it be not, no such application can be made. This fair and obvious interpretation coincides with, and is enforced by, the clause in the constitution which declares that “no money shall be drawn from the treasury, but in consequence of appropriations by law.” An appropriation of money to the general welfare, would be deemed rather a mockery than an observance of this constitutional injunction.

2. Whether the exposition of the general phrases here com-

* John Quincy Adams' position. † Mr. M'Duffie's position.

bated, would not by degrees, consolidate the states into one sovereignty, is a question concerning which, the committee can perceive little room for difference of opinion. To consolidate the states into one sovereignty, nothing more can be wanted, than to supercede their respective sovereignties in the cases reserved to them, by extending the sovereignty of the United States to all cases of the "general welfare," that is to say, to *all cases whatever*.

3. That the obvious tendency and inevitable result of a consolidation of the states into one sovereignty, would be to transform the republican system of the United States into a monarchy, is a point which seems to have been sufficiently decided by the general sentiment of America. In almost every instance of discussion, relating to the consolidation in question, its certain tendency to pave the way to monarchy, seems not to have been contested.—The prospect of such a consolidation has formed the only topic of controversy. It would be unnecessary, therefore, for the committee to dwell long on the reasons which support the position of the General Assembly. It may not be improper, however, to remark two consequences evidently flowing from an extension of the federal powers to every subject falling within the idea of the "general welfare."

One consequence must be, to enlarge the sphere of discretion allotted to the executive magistrate. Even within the legislative limits properly defined by the constitution, the difficulty of accommodating legal regulations to a country so great in extent, and so various in its circumstances, has been much felt, and has led to occasional investments of power in the executive, which involve perhaps as large a portion of discretion, as can be deemed consistent with the nature of the executive trust. In proportion as the objects of legislative care might be multiplied, would the time allowed for each be diminished, and the difficulty of providing uniform and particular regulations for all, be increased. From these sources would necessarily ensue a greater latitude to the agency of that department which is always in existence, and which could best mould regulations of a general nature, so as to suit them to the diversity of particular situations. And it is in this latitude, as a supplement to the deficiency of the laws, that the degree of prerogative materially consists.

The other consequence would be, that of an excessive augmentation of the offices, honors and emoluments depending on the executive will. Add to the present legitimate stock, all those of every description which a consolidation of the states would take from *them*, and turn over to the federal government, and the patronage of the executive would necessarily be as much swelled in this case, as its prerogative would be in the other.

This disproportionate increase of prerogative and patronage must, evidently, either enable chief magistrate of the union, by quiet means, to secure his re-election from time to time, and finally, to regulate the succession as he might please; or, by giving so

transcendent an importance to the office, would render the elections to it so violent and corrupt, that the public voice itself might call for an hereditary, in place of an elective succession. Which ever of these events might follow, the transformation of the republican system of the United States into a monarchy, anticipated by the General Assembly from a consolidation of the states into one sovereignty, would be equally accomplished; and whether it would be into a mixt or an absolute monarchy, might depend on too many contingencies to admit of any certain foresight. *So far Mr. Madison.*

UPON THE WHOLE, it appears, that the Convention of 1787, who framed our present constitution, were of the politics now sneered at as *radical*; that our present constitution is *radical* in all its principles, that our oldest and best tried politicians were, and are *radicals* in their politics; attempting so far as they could foresee, to lay the axe to the root of all useless expense, and of all constructive usurpation: averse to all measures that might tempt us to engage in national quarrels, which could be prudently and honorably avoided. They were no friends to magnificent, expensive and dazzling forms and principles of government; to governments aiming at extensive patronage; to needless grants of power; or of money, which is synonymous with power; being well persuaded that the difference between a good and bad government is, that the last is expensive beyond necessity, while frugality without parsimony, is the characteristic of the former. The principle is universally true, that the cheaper we can purchase what we really want, and the less we expend on what we do not want, the greater surplus remains at our disposal; whether we apply it to a form of government, or a yard of muslin.

Such are the political tenets of the men who are stigmatized as "penny wise and pound foolish" —, as Anti-Federalists, Republicans, Democrats, Levellers, Disorganizers, Jacobins, and **RADICALS**; names attempted at various periods of political warfare to be affixed to the leaders of that party, which after all seems to me to be the **PARTY OF THE PEOPLE**. Whether they be so or not, let the people judge.

SOUTH CAROLINA DOCTRINES.

ON THE CONSTRUCTION OF THE CONSTITUTION OF THE U. S. ON
THE POWERS OF THE FEDERAL GOVERNMENT, AND
THE RESERVED RIGHTS OF THE STATES.

The following tenets that now seem to characterize the politics of South Carolina, are not new. To investigate their history and authority, and the grounds and reasons on which they are based, it will be expedient for those who desire accurate examination and are willing to take the very useful labour required for that purpose, to read carefully the following books.

The Constitution of the U. States, finally drawn up on the 17th September, 1787.

The Journals, acts and proceedings of the Federal Convention, published by order of the President of the U. States. Boston, 1819.

Secret debates of the Federal Convention, from the notes of Mr. Yates and Luther Martin. Albany, 1821.

Proceedings of the Virginia Assembly, Jan. 7, 1800; drawn up by Mr. Madison.

The Resolutions of the Assembly of Kentucky, 1799, drawn up by Mr. Jefferson.

The debate on Mr. Foot's Resolution, relating to the Public Land, 1830. Charleston, 1830.

The very able Review of that debate, in the 11th No. of the Southern Review for August, 1830, p. 140. The best summary of the doctrines in question, yet published.

The last publication would supercede the necessity of any other, if it were not for the extreme importance of pressing on the people the doctrines in question, in every form and shape, and continually, till they are generally known and fully discussed. If the confederated Republic of America is to be saved from despotism, it can only be by the prevalence of the South Carolina doctrines. They cut up by the roots the prevailing tenets on which the friends of Consolidation found the AMERICAN SYSTEM of general welfare, the omnipotence of a legislative majority, Internal Improvements, and a protecting Tariff; those hideous offsprings of public robbery and arbitrary power. They fall, when their foundation is subverted. I enter therefore, into no details on these branches from the trunk of Despotism. I proceed, then, at once to a summary of the *political tenets of South Carolina*.

1st. When a Convention took place in 1787, to form the present union called the United States, and to frame the Constitution as we have it, that convention was not a representation,

Of the American people: or of the people of North America: or of the people of the heretofore British Colonies: or of the people of the confederated States of North America: or of the people in their capacity as people, under any form of expression or designation whatever.

The Declaration of Independence was issued by the *Representatives of the United States of America, in Congress assembled.*

The credentials of the members of the Convention, declare them to be Deputies or Delegates (not of or from the People, but) from the respective States, represented in that Convention: which therefore was a convention of the several independent, sovereign States of North America, in their character of independent Sovereign States. Such was the form of proceeding to which the People acceded, and by which they chose to be bound.

The union or confederation which then took place, was an union not of the whole people but of the separate States, having separate interests as well as a common interest; and accordingly the name adopted was, *The United STATES.*

During the whole of the sitting of the Convention, the votes were taken not by counting the individual members, but *by States.* Hence, as every thing was settled by the votes of the majority of States present, that majority might very often be as it was, a minority of the people. Thus, suppose Massachusetts, New-York, Pennsylvania, Maryland, and Virginia to vote one way (1787) and New-Hampshire, Connecticut, New-Jersey, Delaware, North Carolina, South Carolina and Georgia the other way—it is obvious that this majority of States would contain a very manifest minority in population. But the decision of the Convention would conform to the majority of States.

These United States, are a Federal Union: of what? of the mass of the people of one large community? Can the term “federal” be thus applied? Is it not a grammatical absurdity, unless applied to the confederation of distinct independent States? Was such a thing ever known as a confederation of the people of one and the same community?

The original articles of Confederation, 9th July, 1778, are entitled “articles of Confederation and perpetual Union between the STATES of New-Hampshire, Massachusetts, &c.” It has well been asked by Mr. Raguett, whether the term “a more perfect Union” employed in the present constitution of the U. States, could refer to any thing but this confederation and perpetual union of STATES?

The government of the United States, then, is a government framed by and for the *common benefit* of several, distinct and independent States, that agreed to unite together for that purpose. A truth of no slight importance on the present occasion.

2d. When the Convention thus met and until they broke up and separated, having concluded the purposes of their convening, there was no government of the U. States, no Constitution, no President of the Union, no Congress, no Federal judiciary. All these are of subsequent institution; the creatures of that Convention; subordinate to the power that gave them existence; the authority they possess, is delegated by and derived from the several confederated, independent and sovereign states, then convened; an authority delegated for express and limited purposes, and for no other.

3d. The General Government of the United States, now consisting of the Legislative, Executive and Judicial authorities, is the AGENT of the confederated or United States; an agency, constituted for limited purposes, and with limited powers. The power that authorizes and legalises the doings of this Agency, is the Constitution of the United States. This written document, prescribes what acts the government aforesaid may and shall do; and how, and by what means the general welfare shall be consulted and pursued: and it is therein declared, that the powers and authorities not clearly and expressly granted by the Constitution, do not fall within the jurisdiction of this agency, but are reserved and belong to the several independent states, to be by them exercised, and by them only. (12th amendment.)

4th. Hence the Government of the United States is not based on a compact to which that Government was a party—it is not a power pre-emi-nent and superior, but an agency only, subordinate to the several indepen-

dependent sovereignties, that by common consent gave it existence for common purposes. Those sovereignties in convention, may alter, modify, abolish, and reinstate this agency, when and how it may at any time hereafter suit their interest so to do. The several States remain as before; independent of each other and of the United States. They are not merged and absorbed in this latter. From what has been said it follows, that the Federal Government, is not the government of a Nation one and indivisible—or of the majority of the people of such a nation—that it possesses no control over the several States of the Union beyond what the Constitution has given it for common purposes—but is strictly and truly an agency invested with limited powers, which it cannot honestly exceed. Those powers are to be found in the Constitution and no where else: and if not plainly and clearly found there, are not to be usurped by means of ingenious but disputable construction.

This view of the subject is an essential feature in the Carolina Doctrines. Their opponents say, that the Government and the Constitution of the United States is the Government and Constitution of the whole people of the U. S. That the Representation in Congress, is the representation of the whole people of the U. S. That as the majority of the people of the U. S., like the majority in every other political community, constitute the supreme power; the majority in Congress as the representative of the majority of the whole people, also possess supreme power, and are entitled to bind the minority upon all questions, and in all cases whatever. That the good of the majority being the great end and aim of all government, is so of this: that such is the meaning of general welfare: the minority therefore have no right to complain if the interest of the majority be in all cases preferred and pursued, though at the expense of the interest of the minority: this being a circumstance necessarily inherent in every government. Hence they conclude in fact, and act upon that conclusion, that in every question presented to the consideration of Congress, the majority in the Legislature is omnipotent and uncontrolled.

It becomes of great consequence therefore to ascertain the *fact*, Is this a government made by and for the whole people of N. America, eo nomine, or by and for the several independent and sovereign states? The Supreme Court of the United States, Mr. Daniel Webster, and all the friends and all the advocates of "the American System" adopt the opinions just stated, viz. that the Federal Government emanates from the People alone in their popular character and capacity; that the majority of their representatives in Congress possesses supreme power; that the interest of the majority, is of right, the great, the sole object of this and every other government; and which the majority in Congress have a right and are bound to pursue, regardless of every obstacle. On this plan, the General Welfare *as determined by Congress* is the only guide of the national government.

It is manifest, that on this scheme, the Constitution is null and void; the government is not a limited but an unlimited government; the minority have no rights; and the States are converted into petty, subordinate municipalities, adapted to local jurisdictions and to them only.

The fruits and effects of this despotic theory are seen, in the Tariff of protection; in the contemplated annihilation of all foreign commerce and interchange; in that system of unexampled waste, of enormous and most wanton extravagance, called the system of Internal Improvements; in the bribery and corruption of State after State, by means of it; and in the permanent systematic disregard of all Constitutional limitation, so as to convert the American Union of States, into one great, all-absorbing, uncontrolled consolidated Despotism. Of this intention no man who has duly considered the rise, progress and history of these questions and measures, during the last dozen years, can entertain any reasonable doubt: and that it will be fully carried into effect if not opposed by the acknowledgement and practice of a State Veto, is equally certain.

That as a *general rule*, the majority must decide against the minority, is undoubted, unless there be a special contract which takes the particular case out of the general rule: The Constitution is such: by which the power of the majority is limited in its exercise to the objects therein pointed out, and does not extend to the reserved rights of which the Constitution guarantees to the separate states the exclusive exercise.

5th. The Constitution being the written declaration of the purposes for which this agency was instituted, it is to be construed like all other powers given by a principal to an agent. The powers granted cannot be honestly exercised, but with a view to the Trusts for which they were granted. Whatever is done by the General Government *within* the authority delegated, is binding on all the States and the people of States: what is not done under and by virtue of, and within the plain and obvious meaning of the authority contained in the Constitution, is not binding: it is null and void, like every other unauthorized act of every other agent, in every known or supposable case. This is the universal Law of Powers and Agencies in every known civilized community: it is the doctrine of the Civil Law of Rome, of every nation on the continent of Europe, of Great Britain particularly; of the United States; and of every state in the Union. It is so, because it is the dictate of common sense. An agent who exceeds his powers and instructions, is not in this respect an agent at all. Neither his principal nor any other person is bound by such acts, which may be legally denied and resisted by any one.

6th. Hence also it follows, that the majority in the National Legislature have no right, power, or control over the minority, but what is given by the Constitution of the United States, and subject to the limitations therein contained.

That no law passed by the National Legislature has any binding force, unless the right of passing it be clearly and undoubtedly found in the Constitution of the United States; for Congress has no authority whatever out of that Constitution. That no law, in any wise affecting the reserved rights of the States, can be binding on any State, or any citizen of any state. Such a law is, ipso facto, null and void, Congress being expressly prohibited from passing it. 12th Amendment. That when Congress passes a Law, the burthen of proof that it is a law clearly authorized by the Constitution, rests upon those who claim the right, and exercise the power of passing it.

7th. If an unconstitutional law be passed, it may be declared to be unconstitutional, or otherwise, by the federal judiciary, in the cases expressly committed to that tribunal by the third article of the Constitution, and no other. Any act of Congress conferring powers on the judiciary, not authorized by that article, is itself unconstitutional and void. The constitution itself has traced the outlines of judicial power.

The powers so delegated to the federal judiciary, do not include a question *between the government of the United States and any State, growing out of the reserved rights of the States*. Had such a power been intended to be included, it is of too great importance not to have been given by clear and express words, leaving no doubt of that intention on the mind. No such jurisdiction is to be found in the words of the article referred to: it therefore does not belong to the federal judiciary. The jealousy of the people, lest the federal judiciary should interfere improperly with state rights, gave birth to the 11th amendment of the Constitution. Moreover, it could never have been intended to have been given, from the nature of the case. Can a principal authorize an agent to dispute or decide on a question whether his principal be such or not? Can a sovereign State commit to a delegated authority, the right of deciding whether it be a sovereign State or not? The same principle is recognized throughout municipal law: Can a tenant dispute his landlord's title? The reserved rights of the States are placed, by the 12th amendment, and by express words impossible to be misunderstood, *out of the jurisdiction of the general government and every part and portion of it*. They can never, therefore, form a question directly, or indirectly, to