what are their rights, and what their respective covenants and stipulations?—And where are their rights, covenants, and stipulations expressed? The States engage for nothing, they promise nothing. In the articles of confederation, they did make promises, and did enter into engagements, and did plight the faith of each State for their fulfilment; but, in the constitution, there is nothing of that kind. The reason is, that, in the constitution, it is the people who speak, and not the States. The people ordain the constitution, and therein address themselves to the States, and to the Legislatures of the States, in the language of injunction and prohibition. The constitution utters its behests in the name and by authority of the people, and it exacts not from States any plighted public faith to maintain it. On the contrary, it makes its own preservation depend on individual duty and individual obligation. Sir, the States cannot omit to appoint senators and electors. It is not a matter resting in State discretion or State pleasure. The constitution has taken better care of its own preservation. It lays its hand on individual conscience, and individual duty. It incapacitates any man to sit in the Legislature of a State, who shall not first have taken his solemn oath to support the constitution of the United States. From the obligation of this oath no State power can discharge him. All the members of all the State Legislatures are as religiously bound to support the constitution of United States, as they are to support their own State constitution. Nay, sir, they are as solemnly sworn to support it as we ourselves are, who are members of Congress.

No member of a State Legislature can refuse to proceed, at the proper time, to elect senators to Congress, or to provide for the choice of electors of President and Vice President, any more than the members of this Senate can refuse, when the appointed day arrives, to meet the members of the other House to count the votes for these officers, and ascertain who are chosen. In both cases, the duty binds, and with equal strength, the conscience of the individual member, and it is imposed on all by an oath in the same words. Let it, then, never be said, sir, that it is a matter of discretion with the States, whether they will continue the Government, or break it up by refusing to appoint senators and to elect electors. They have no discretion in the matter.—The members of their Legislatures cannot avoid doing either, so often as the time arrives, without a direct violation of their duty and their oaths; such a violation as would break up any other Government.

Looking still further to the provisions of the constitution itself, in order to learn its true character, we find its great apparent purpose to be, to unite the people of all the States under one General Government, for certain definite objects, and, to the extent of this union, to restrain the separate authority of the States. Congress only can declare war—therefore, when one State is at war with a foreign nation, all must be at war. The President and the Senate only can make peace; when peace is made for one State, therefore, it must be made for all.

Can any thing be conceived more preposterous, than that any State should have power to nullify the proceedings of the General Government, respecting peace and war? When war is declared by a law of Congress, can a single State nullify that law, and remain at peace? And yet she may nullify that law, as well as any other. If the President and Senate make peace, may one State, nevertheless, continue the war? And yet, if she can nullify a law, she may quite as well nullify a treaty.

The truth is, Mr. President, and no ingenuity of argument, no subtlety of distinction, can evade it, that, as to certain purposes, the people of the United States are one people. They are one in making war, and one in making peace; they are one in regulating commerce, and one in laying duties of imposts—The very end and purpose of the constitution was to make them one people in these particulars; and it has effectually accomplished its object. All this is apparent on the face of the constitution itself. I have already said, sir, that to obtain a power of direct legislation over the people, especially in regard to imposts, was always prominent as a reason for getting rid of the confederation, and forming a new constitution. Among innumerable proofs of this, before the assembling of the convention, allow me to refer only to the report of the committee of the old Congress, July, 1785.

But, sir, let us go to the actual formation of the constitution, let us open the journal of the convention itself, and we shall see that the very first resolution which the convention adopted, was, "THAT A NATIONAL GOVERNMENT OUGHT TO BE ESTABLISHED, CONSISTING OF A SUPREME LEGISLATURE, JUDICIARY, AND EXECUTIVE."

This itself negatives all idea of league, and compact, and confederation. Terms could not be chosen, more fit to express an intention to establish a National Government, and to banish forever all notion of a compact between sovereign States.

This resolution was adopted on the 30th of May. Afterwards the style was altered, and, instead of being called a National Government, it was called the Government of the United States: but the substance of this resolution was retained and was at the head of that list of resolutions which was afterwards sent to the committee who were to frame the instrument. [illegible]

It is true, there were gentlemen in the convention, who were for retaining the confederation, and amending its articles; but the majority was against this, and was for a National Government. Mr. Patterson's propositions, which were for continuing the articles of confederation with additional powers, were submitted to the convention on the 15th of June, and referred to the committee of the whole. And the resolutions forming the basis of a National Government which had once been agreed to in the committee of the whole, and reported, were recommitted to the same committee, on the same day. The convention then, in committee of the whole, on the 19th of June, had both these plans before them; that is to say, the plan of a confederacy, or compact between States, and the plan of a National Government. Both these plans were considered and debated, and the committee reported, "That they do not agree to the propositions offered by the honorable Mr. Patterson, but that they again submit the resolutions formerly reported." If, sir, any historical fact in the world be plain and undeniable, it is that the convention deliberated on the expediency of continuing the confederation, with some amendments, and rejected that scheme, and adopted the plan of a National Government, with a legislative, an executive, and a judiciary of its own. They were asked to preserve the league; they rejected it. They were asked to continue the existing compact between States; they rejected it. They rejected compact, league, and confederation; and set themselves about framing the constitution of a National Government, and they accomplished what they undertook.

If men will open their eyes fairly to the light of history, it is impossible to be deceived on this point. The great object was to supercede the confederation, by a regular government; because under the confederation, Congress had power only to make requisitions on States; and if States declined compliance, as they did, there was no remedy but war against such delinquent States. It would seem, from Mr. Jefferson's correspondence, in 1786, and 1787, that he was of opinion that even this remedy ought to be tried. "There will be no money in the treasury," says, "till the confederacy shows its teeth;" and he suggests that a single frigate would soon levy on the commerce of a delinquent State, the deficiency of its contribution. But this would be war; and it was evident that a confederacy could not long hold together, which should be at war with its members. The constitution was adopted to avoid this necessity. It was adopted, that there might be a government which should act directly on individuals, without borrowing aid from State Governments. This is clear as light itself on the very face of the provisions of the constitution, and its whole history tends to the same conclusion — Its framers gave this very reason for their work in the most distinct terms. Allow me to quote but one or two proofs, out of hundreds. That State, so small in territory, but so distinguished for learning and talent, Connecticut, had sent to the general convention, among other members, Samuel Johnston and Oliver Ellsworth. The constitution having been framed, it was submitted to a convention of the people of Connecticut for ratification on the part of that State, and Mr. Johnston and Mr. Ellsworth were also members of this convention. On the first day of the debates, being called on to explain the reasons which led the convention at Philadelphia to recommend such a constitution, after showing the insufficiency of the existing confederacy, inasmuch as it applied to States, as States, Mr. Johnston proceeded to say—

"The convention saw this imperfection in attempting to legislate for States 'in their political capacity; that the coercion of law can be exercised by nothing 'but a military force. They have therefore, gone upon entirely new ground.—'They have formed one new nation out 'of the individual States. The constitution vests in the General Legislature a 'power to make laws in matters of national concern; to appoint judges to decide 'upon these laws; and to appoint officers 'to carry them into execution. This excludes the idea of an armed force. The power which is to enforce these laws, is 'to be a legal power, vested in proper 'magistrates. The force which is to be 'employed is the energy of law; and this 'force is to operate only upon individuals, 'who fail in their duty to their country. 'This is the peculiar glory of the constitution, that it depends upon the mild and 'equal energy of the magistracy for the 'execution of the laws."

In the course of the debate Mr. Ellsworth said:—

"In Republics it is a fundamental principle that the minority comply with the 'general voice. How contrary then to 'republican principles, how humiliating, 'is our present situation! A single State 'can rise up, and put a veto upon the 'most important public measures. We 'have seen this actually take place; a single State has controlled the general 'voice of the Union, a minority, a very 'small minority, has governed us. So 'far is this from being consistent with republican principles, that it is in effect the 'worst species of monarchy.

"Hence we see how necessary for the 'Union is a coercive principle. No man 'pretends the contrary. We all see and 'feel this necessity. The only question 'is, shall it be a coercion of law, or a coercion of arms? there is no other possible alternative. Where will those who 'oppose a coercion of law come out?—'Where will they end? A necessary consequence of their principles is a war of 'the States one against another. I am 'for coercion by law; that coercion which 'acts only upon delinquent individuals —'This constitution does not attempt to coerce sovereign bodies, States, in their 'political capacity. No coercion is applicable to such bodies, but that of an 'armed force. If we should attempt to 'enforce the laws of the Union, by sending an armed force against a delinquent 'State, it would involve the good and bad, 'the innocent and guilty, in the same calamity. But this legal coercion, singles 'out the guilty individual, and punishes 'him for breaking the laws of the Union."

Indeed, sir, if we look to all contemporary history, to the writings of the Federalist, to the debates in the conventions, to the publications of friends and foes, they all agree, that a change had been made from a Confederacy of States, to a different system; they all agree, that the convention had formed a Constitution for a National Government. With this result, some were satisfied, and some were dissatisfied; but all admitted that the thing had been done. In none of these various productions, and publications, did any one intimate that the new constitution was but another compact between States in their sovereign capacities. I do not find such an opinion advanced in a single instance. Every where, the people were told that the old confederation was to be abandoned, and a new system to be tried; that a proper government was proposed, to be founded in the name of the people, and to have a regular organization of its own. Every where, the people were told that it was to be a government with direct powers to make laws over individuals, and to lay taxes and imposts without the consent of the States. Every where it was understood to be a popular Constitution. It came to the people for their adoption, and was to rest on the same deep foundation as the State Constitutions themselves. Its most distinguished advocates, who had been themselves members of the convention, declared that the very object of submitting the constitution to the people was, to preclude the possibility of its being regarded as a mere compact. "However gross a heresy," say the writers of the Federalist, "it may be to maintain that a party to a compact has a right to revoke that compact, the doctrine itself has had respectable advocates. The possibility of a question of this nature, proves the necessity of laying the foundation of our national government deeper than in the mere sanction of delegated authority. The fabric of American empire ought to rest on the solid basis of THE CONSENT OF THE PEOPLE."

Such is the language, sir, addressed to the people, while they yet had the constitution under consideration. The powers conferred on the new government were perfectly well understood to be conferred, not by any State, or the people of any State, but by the people of the United States. Virginia is more explicit, perhaps, in this particular, than any other State. Her convention assembled to ratify the Constitution "in the name and behalf of the people of Virginia, declare and make known, that the powers granted under the Constitution, being derived from the People of the United States, may be resumed by them whenever the same shall be perverted to their injury or oppression."

Is this language which describes the formation of a compact between States or language describing the grant of powers to a new Government, by the whole people of the United States?

Among all the other ratifications, there is not one which speaks of the constitution as a compact between States. Those of New Hampshire and Massachusetts express the transaction, in my opinion with sufficient accuracy. They recognize the divine goodness "in affording the people of the United States an opportunity of entering into an explicit and solemn compact with each other, by assenting to and ratifying a new Constitution."—You will observe, sir, that it is the PEOPLE of all the United States. These conventions, by this form of expression, meant merely to say, that the people of the United States had, by the blessing of Providence, enjoyed the opportunity of establishing a new constitution founded in the consent of the people. This consent of the people has been called by European writers the social compact; and, in conformity to this common mode of expression, these conventions speak of that assent, on which the new constitution was to rest, as an explicit and solemn compact, not which the States had entered into with each other, but which the people of the United States had entered into.

Finally, sir, how can any man get over the words of the constitution itself?—"WE, THE PEOPLE OF THE UNITED STATES, DO ORDAIN AND ESTABLISH THIS CONSTITUTION." These words must cease to be a part of the constitution—they must be obliterated from the parchment on which they are written, before any human ingenuity or human argument can remove the popular basis on which that constitution rests, and turn the instrument into a mere compact between sovereign States.

The second proposition, sir, which I propose to maintain is, that no State authority can dissolve the relations subsisting between the Government of the United States and individuals; that nothing can dissolve these relations but revolution; and that, therefore, there can be no such thing as secession without revolution. All this follows, as it seems to me, as a just consequence, if it be first proved that the constitution of the United States is a Government proper, owing protection to individuals, and entitled to their obedience.

The people, sir, in every State, live under two Governments. They owe obedience to both. These Governments, though distinct, are not adverse. Each has its separate sphere, and its peculiar powers and duties. It is not a contest between two sovereigns for the same power, like the wars of the rival Houses in England, nor is it a dispute between a government de facto, & a government de jure. It is the case of a division of powers between two governments, made by the people, to which both are responsible. Neither can dispense with the duty which individuals owe to the other; neither can call itself master of the other: the people are masters of both. This division of power, it is true, is in a great measure unknown in Europe. It is the peculiar system of America; and though new and singular, it is not incomprehensible. The State constitutions are established by the people of the States. This constitution is established by the people of all the States.—How, then, can a State secede? How can a State undo what the whole people have done? How can she absolve her citizens from their obedience to the laws of the U. States? How can she annul their obligations and oaths? How can the members of her Legislature renounce their own oaths? Sir, secession as a revolutionary right, is intelligible; as a right to be proclaimed in the midst of civil commotions, and asserted at the head of armies, I can understand it. But, as a practical right, existing under the constitution, and in conformity with its provisions, it seems to me to be nothing but a plain absurdity: for it supposes resistance to Government, under the authority of Government itself; it supposes dismemberment, without violating the principles of union; it supposes opposition to law, without crime; it supposes the violation of oaths without responsibility; it supposes the total overthrow of Government, without revolution.

The constitution, sir, regards itself as perpetual and immortal. It seeks to establish a union among the people of the States, which shall last through time. Or, if the common fate of things human must be expected, at some period, to happen to it, yet that catastrophe is not anticipated.

The instrument contains ample provisions for its amendment, at all times; none for its abandonment at any time. It declares that new States may come into the union, but it does not declare that old States may go out.—The union is not a temporary partnership of States. It is the association of the people, under a constitution of government; uniting their power, joining together their highest interests, cementing their present enjoyments, and blending, in one indivisible mass, all their hopes for the future. Whatsoever is steadfast in just political principles—whatsoever is permanent in the structure of human society—whatsoever there is which can derive an enduring character from being founded on deep laid principles of constitutional liberty, and on the broad foundations of the public will, all these unite to entitle this instrument to be regarded as a permanent constitution of government.

In the next place, Mr. President, I contend that there is a supreme law of the land, consisting of the constitution, acts of Congress passed in pursuance of it, and the public treaties. This will not be denied, because such are the very words of the constitution. But I contend further, that it rightfully belongs to Congress, and to the courts of the U. States, to settle the construction of this supreme law, in doubtful cases. This is denied; and here arises the great practical question, *Who is to construe finally the Constitution of the United States?* We all agree that the constitution is the supreme law; but who shall interpret that law? In our system of the division of powers between different Governments, controversies will necessarily sometimes arise, respecting the extent of the power of each.—Who shall decide these controversies? Does it rest with the General Government, in all or any of its departments, to exercise the office of final interpreter? Or may each of the States, as well as the General Government, claim this right of ultimate decision? The practical result of this whole debate turns on this point. The gentleman contends that each State may judge for itself of any alleged violation of the constitution, and may finally decide for itself, and may execute its own decisions by its own power. All the recent proceedings in South Carolina are founded on this claim of right. Her convention has pronounced the revenue laws of the U States unconstitutional; and this decision she does not allow any authority of the U. States to overrule or reverse. Of course she rejects the authority of Congress, because the very object of the ordinance is to reverse the decision of Congress; and she rejects, too, the authority of the courts of the U. S. because she expressly prohibits all appeal to those courts. It is in order to sustain this asserted right of being her own judge, that she pronounces the constitution to be but a compact, to which she is a party and a sovereign party. If this be established, then the inference is supposed to follow, that being sovereign, there is no power to control her decision, and her own judgment on her own compact is and must be conclusive.

I have already endeavoured, sir, to point out the practical consequences of this doctrine, and to show how utterly inconsistent it is, with all ideas of regular government, and how soon its adoption would involve the whole country in revolution and absolute monarchy. I hope it is easy now to show, sir, that a doctrine, bringing such consequences with it, is not well founded; that it has nothing to stand on but theory, and assumption; and that it is refuted by plain and express constitutional provisions. I think the Government of the U. States does possess, in its appropriate departments, the authority of final decision on questions of disputed power. I think it possesses this authority, both by necessary implication, and by express grant.

It will not be denied, sir, that this authority naturally belongs to all Governments. They all exercise it from necessity, and as a consequence of the exercise of other powers. The State Governments themselves possess it, except in that class of questions which may arise between them and the General Government, and in regard to which they have surrendered it, as well by the nature of the case, as by clear constitutional provisions. In other, and ordinary cases, whether a particular law be in conformity to the constitution of the State, is a question which the State Legislature or the State Judiciary must determine. We all know that these questions arise daily in the State Governments, and are decided by those Governments, and I know no Government which does not exercise a similar power.

Upon general principles, then, the Government of the U. States possesses this authority; and this would hardly be denied, were it not that there are other Governments. But since there are State Governments, and since these, like other Governments, ordinarily construe their own powers, if the Government of the United States construes its own powers also, which construction is to prevail, in the case of opposite constructions? And again, as in the case now actually before us, the State Governments may undertake, not only to construe their own powers, but to decide directly on the extent of the powers of Congress. Congress has passed a law as being within its just powers; South Carolina denies that this law is within its just powers, and insists that she has the right so to decide this point, and that her decision is final. How are these questions to be settled?

In my opinion, sir, even if the constitution of the United States had made no express provision for such cases, it would yet be difficult to maintain that, in a constitution existing over four and twenty States, with equal authority over all, *one* could claim a right of construing it for the whole. This would seem a manifest impropriety—indeed, an absurdity. If the constitution is a government existing over all the States, though with limited powers, it necessarily follows that, to the extent of those powers, it must be supreme. If it be not superior to the authority of a particular State, it is not a national Government. But as it is a Government, as it has a legislative power of its own, and a judicial power co-extensive with the legislative, the inference is irresistible, that this Government, thus created *by* the whole, and *for* the whole, must have an authority superior to that of the particular Government of any one part. Congress is the Legislature of all the people of the United States; the Judiciary of the General Government is the Judiciary of all the people of the United States. To hold, therefore, that this Legislature and this Judiciary are subordinate in authority to the Legislature and Judiciary of a single State, is doing violence to all common sense, and overturning all established principles. Congress must judge of the extent of its own powers so often as it is called on to exercise them, or it cannot act at all; and it must also act independent of State control, or it cannot act at all.

The right of State interposition strikes at the very foundation of the Legislative power of Congress.—It possesses no effective legislative power, if such right of State interposition exists; because it can pass no law not subject to abrogation. It cannot make laws for the Union, if any part of the Union may pronounce its enactments void, and of no effect. Its forms of legislation would be an idle ceremony, if, after all, any one of four and twenty States might bid defiance to its authority. Without an express provision in the constitution, therefore, sir, this whole question is necessarily decided by those provisions which create a legislative power and a judicial power. If these exist in a Government intended for the whole, the inevitable consequence is, that the laws of this legislative power, and the decisions of this judicial power, must be binding on and over the whole. No man can form the conception of a Government existing over four and twenty States, with a regular legislative and judicial power, and of the existence, at the same time, of an authority, residing elsewhere, to resist, at pleasure or discretion, the enactments and the decisions of such a Government. I maintain, therefore, sir, that, from the nature of the case, and as an inference wholly unavoidable, the acts of Congress, and the decisions of the national courts, must be of higher authority than State laws, and State decisions. If this be not so, there is, there can be no General Government.

But, Mr. President, the constitution has not left this cardinal point without full and explicit provisions. First, as to the authority of Congress. Having enumerated the specific powers conferred on Congress, the constitution adds, as a distinct and substantive cause the following, viz:—"*To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof.*" If this means any thing, it means that Congress may judge of the true extent, and just interpretation of the specific powers granted to it; and may judge also of what is necessary and proper for executing those powers. If Congress is to judge of what is necessary for the execution of its powers, it must, of necessity, judge of the extent and interpretation of those powers.

And in regard, sir, to the judiciary, the constitution is still more express and emphatic.—It declares that the judicial power shall extend to all cases in law or equity arising under the constitution, laws of the U. States, and treaties; that there shall be one Supreme Court, and that this Supreme Court shall have appellate jurisdiction of all these cases, subject to such exceptions as Congress may make. It is impossible to escape from the generality of these words. If a case arises under the constitution, that is, if a case arises depending on the construction of the constitution, the judicial power of the U States extends to it.—It reaches the case, the question; it attaches the power of the national judicature to the case itself, in whatever court it may arise or exist; and in this case the Supreme Court has appellate jurisdiction over all courts whatever. No language could provide with more effect and precision, than is here done, for subjecting constitutional questions to the ultimate decision of the Supreme Court. And, sir, this is exactly what the convention found it necessary to provide for, and intended to provide for. It is, too, exactly what the people were universally told was done when they adopted the constitution. One of the first resolutions, adopted by the convention, was in these words, viz. "that the jurisdiction of the national judiciary shall extend to cases which respect the collection of the national revenue, and questions which involve the national peace and harmony." Now, sir, this either had no sensible meaning at all, or else it meant that the jurisdiction of the national judiciary should extend to these questions, with a paramount authority. It is not to be supposed that the convention intended that the power of the national judiciary should extend to these questions, and that the judicatures of the States should also extend to them, with equal power of final decision. This would be to defeat the whole object of provision. There were thirteen judicatures already in existence. The evil complained of, or the danger to be guarded against, was contradiction and repugnance in the decisions of these judicatures. If the framers of the constitution meant to create a fourteenth, and yet not give it power to revise and control the decisions of the existing thirteen, then they only intended to augment the existing evil, and the apprehended danger, by increasing, still further, the chances of discordant judgments. Why, sir, has it become a settled axiom in politics that every government must have a judicial power co-extensive with its legislative power? Certainly, there is only this reason, viz. that the laws may receive a uniform interpretation, and a uniform execution. This object can be no otherwise attained. A statute is what it is judicially interpreted to be; and if it be construed one way in New Hampshire, and another way in Georgia, there is no uniform law. One Supreme Court, with appellate and final jurisdiction, is the natural and only adequate means, in any government, to secure this uniformity. The convention saw all this clearly; and the resolution which I have quoted, never afterwards rescinded, passed through various modifications, till it finally received the form which the article now wears in the constitution. It is undeniably true, then, that the framers of the constitution intended to create a national judicial power, which should be paramount, on national subjects. And after the constitution was framed, and while the whole country was engaged in discussing its merits, one of its most distinguished advocates, (Mr. Madison) told the people, that it was true that, in controversies relating to the boundary between the two jurisdictions, the tribunal which is ultimately to decide is to be established under the General Government. Mr. Martin, who had been a member of the convention, asserted the same thing to the Legislature of Maryland, and urged it as a reason for rejecting the constitution. Mr. Pinckney, himself also a leading member of the convention, declared it to the people of South Carolina. Every where, it was admitted, by friends and foes, that this power was in the constitution. By some it was thought dangerous, by most it was thought necessary, but, by all, it was agreed to be a power actually contained in the instrument. The convention saw the absolute necessity of some control in the National Government over State laws. Different modes of establishing this control were suggested and considered. At one time it was proposed that the laws of the States should, from time to time, be laid before Congress, and that Congress should possess a negative over them.—But this was thought inexpedient and inadmissible; and in its place, and expressly as a substitute for it, the existing provision was introduced; that is to say, a provision by which the federal Courts should have authority to overrule such State laws as might be in manifest contravention of the constitution. The writers of the Federalist, in explaining the constitution, while it was yet pending before the people, and still unadopted, give this account of the matter in terms, and assign this reason for the article as it now stands. By this provision Congress escaped from the necessity of any revision of State laws, left the whole sphere of State legislation quite untouched, and yet obtained a security against any infringement of the constitutional power of the General Government. Indeed, sir, allow me to ask again, if the national judiciary was not to exercise a power of revision, on constitutional questions, over the judicatures of the States, why was any national judicature erected at all? Can any man give a sensible reason for having a judicial power in this government, unless it be for the sake of maintaining a uniformity of decision, on questions arising under the constitution and laws of Congress, and insuring its execution? And does not this very idea of uniformity necessarily imply that the construction given by the national courts is to be the prevailing construction? How else, sir, is it possible that uniformity can be preserved?

Gentlemen appear to me, sir, to look at but one side of the question. They regard only the supposed danger of trusting a government with the interpretation of its own powers. But will they view the question in its other aspect; will they show us how it is possible for a government to get along with four and twenty interpreters of its laws and powers? Gentlemen argue, too, as if, in these cases, the State would be always right, and the General Government always wrong. But, suppose the reverse; suppose the State wrong, and, since they differ, some of them must be wrong, are the most important and essential operations of the government to be embarrassed and arrested, because one State holds a contrary opinion? Mr. President, every argument which refers the constitutionality of acts of Congress to State decision, appeals from the majority to the minority; it appeals from the common interest to a particular interest; from the councils of all, to the council of one; and endeavors to supersede the judgment of the whole by the judgment of a part.

I think it is clear, sir, that the constitution, by express provision, by definite and unequivocal words, as well as by necessary implication, has constituted the Supreme Court of the U. States the appellate tribunal in all cases of a constitutional nature which assume the shape of a suit, in law or equity. And I think I cannot do better than to leave this part of the subject by reading the remarks made upon it by Mr. Ellsworth, in the Convention of Connecticut; a gentleman, sir, who has left behind him, on the records of the Government of his country, proofs of the clearest intelligence and of the deepest sagacity, as well as of the utmost purity and integrity of character. "This constitution," says he, "defines the extent of the powers of the General Government. If the General Legislature should, at any time, overleap their limits, the judicial department is a constitutional check. If the United States go beyond their powers; if they make a law which the constitution does not authorize; it is void; and the judiciary power, the national judges, who, to secure their impartiality, are to be made independent, will declare it to be void. On the other hand, if the States go beyond their limits; if they make a law which is a usurpation upon the General Government, the law is void, and upright, independent judges will declare it to be so."

And let me now only add, sir, that, in the very first session of the first Congress, with all these well known objects, both of the Convention and the people, full and fresh in his mind, Mr. Ellsworth reported the bill, as is generally understood, for the organization of the judicial department, and, in that bill, made provision for the exercise of this appellate power of the Supreme Court, in all the proper cases, in whatsoever court arising; and that this appellate power has now been exercised for more than forty years, without interruption, and without doubt.

As to the cases, sir, which do not come before the courts, those political questions which terminate with the enactments of Congress, it is of necessity that these should be ultimately decided by Congress itself. Like other Legislatures, it must be trusted with this power. The members of Congress are chosen by the people, and they are answerable to the people; like other public agents, they are bound by oath to support the constitution. These are the securities that they will not violate their duty, nor transcend their powers. They are the same securities as prevail in other popular Governments; nor is it easy to see how grants of power can be more safely guarded, without rendering them nugatory. If the case cannot come before the courts, and if Congress be not trusted with its decision, who shall decide it? The gentleman says, each State is to decide it for herself. If so, then, as I have already urged, what is law in one State is not law in another. Or, if the resistance of one State compels an entire repeal of the law, then a minority, and that a small one, governs the whole country.

Sir, those who espouse the doctrine of nullification, reject, as it seems to me, the first great principle of all republican liberty; that is, that the majority *must* govern. In matters of common concern, the judgment of a majority *must* stand as the judgment of the whole. This is a law imposed on us by the absolute necessity of the case; and if we do not act upon it, there is no possibility of maintaining