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JAMES MADISON TO DANIEL WEBSTER, 15 MARCH 1833

DEAR SIR,

MONTPELLIER March 15th. 1833

I return my thanks for the copy of your late very powerful speech in the Senate of the United States. It crushes "nullification" and must hasten an abandonment of "Secession". But this dodges the blow by confounding the claim to secede at will, with the right of seceding from intolerable oppression. The former answers itself, being a violation without cause, of a faith solemnly pledged. The latter is another name only for revolution, about which there is no theoretic controversy. Its double aspect, nevertheless, with the countenance received from certain quarters, is giving it a popular currency here which may influence the approaching elections both for Congress and for the State Legislature. It has gained some advantage also by mixing itself with the question whether the Constitution of the United States was formed by the people or by the States, now under a theoretic discussion, by animated partizans.

It is fortunate when disputed theories, can be decided by undisputed facts. And here the undisputed fact is, that the Constitution was made by the people, but as embodied into the several States, who were parties to it, and therefore made by the States in their highest authoritative capacity. They might by the same authority, and by the same process, have converted the Confederacy, into a mere league or treaty, or continued it with enlarged or abridged powers; or have embodied the people of their respective States into one people nation or sovereignty; or as they did, by a mixed form, make them one people, nation or sovereignty for certain purposes; and not so for others.

The Constitution of the United States being established by a competent authority, by that of the sovereign people of the several States who were the parties to it; it remains only to enquire what the Constitution is; and here it speaks for itself: It organizes a Government into the usual Legislative, Executive and Judiciary Departments; invests it with specified powers, leaving others to the parties to the Constitution; it makes the Government like other Governments to operate directly on the people; [it] places at its command the needful physical means of executing its powers; and finally it proclaims its supremacy and that of the laws made in pursuance of it, over the Constitution and laws of the States; the powers of the Government being exercised, as in other elective and responsible Governments, under the control of its constituents the people and Legislatures of the States, and subject to the revolutionary rights of the people in extreme cases. [Such] is the Constitution of the United States de jure and de facto; and the name whatever it be, that may be given to it, can make it nothing more or less than what it actually is. Pardon this hasty effusion, which whether precisely according or not with your ideas, presents, I am aware, none that will be new to you. With great esteem & cordial salutations

JAMES MADISON

RC (owned by Mr. & Mrs. Philip D. Sang, Chicago, Ill.,); draft (DLC); copy, misdated March 15, 1830 (NhD).

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