

MR. BYNUM'S SPEECH.

LEGISLATURE OF NORTH CAROLINA.

HOUSE OF COMMONS, Dec. 27, 1830.

resolutions protesting against the expediency and right of the General Government to carry on works of Internal Improvements within the individual States being taken up and read, Mr. BRYNUM rose and said, Mr. Chairman,—The subject before us is admitted by all parties to be the first magnitude, involving principles of the most momentous consequences, no less to the permanency and stability, than the prosperity and happiness of the government under which we live. Sir, I do not intend separately to discuss the resolutions which have been called up for consideration; but shall treat the whole as one subject directed to one end. Although I do not promise the committee a talented, splendid or elegant display in the discussion of this subject; yet I flatter myself I shall be able to give a true and faithful exposition of the Constitution of the United States, under the authority of which the Federal Government alone acts. I readily admit the dryness of all constitutional discussions, depending as they do for the most part on the recitation of authorities and official facts. At the Congress of the United States, for years past, has exercised powers of a most doubtful nature in the promotion of objects of Internal Improvement, is a fact that will not be denied by the greatest latitudinarians, and in the exercise of these powers, that the friends of this doctrine have sheltered themselves under implication and construction, is equally indisputable. As on the pathless Ocean, the mariner, to ascertain his longitude and latitude, is compelled often to refer to his compass and chart, a frequent recurrence to fundamental principles is absolutely necessary to the security of liberty, and the preservation of our Constitution and government in their pristine purity. To ascertain the original object of the Federal Government, and the Constitution under which it was formed, let us advert to the history of the times at which, and the party by whom it was framed. I shall endeavor to show thereby that the powers now assumed by Congress over the subject of Internal Improvement within the limits and jurisdiction of the individual States, is an assumption and exercise of authority never contemplated by the Constitution of the United States. The exercise of this power by Congress pre-supposes a want of sovereignty in the individual States, and their entire subordination to the Government of the United States. To expose the fallacy of this doctrine, we turn to the history of 1776, when the States threw off their allegiance to Great Britain, and became thirteen States, free, sovereign and independent, each possessing the sole and exclusive jurisdiction over its own territory. That such was their understanding at that time, the following extract from the Declaration of Independence will prove: "We, the Representatives of the United States in Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these colonies, solemnly declare, and declare, that these United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the said Great Britain, is and ought to be totally dissolved; and that, as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which INDEPENDENT STATES may of right do. And for the support of this declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other, our lives, our fortunes and our sacred honor." Here, sir, it is most emphatically declared, that the States were to be free and independent. If such was the intention of the illustrious signers that immortal declaration—if they were then free and sovereign States, then their respective spheres, when and by what means have they become subordinate to, and dependent on the powers of Congress? In 1778, years after the Declaration of Independence, the States found themselves under the necessity of entering, for their common defence, into a confederacy, which was done on terms of perfect equality and reciprocity adopting the articles of confederation on the 8th July, 1778. What was the language of that confederation? Read the 1st, 2d and 3d articles. Article the 1st. "The style of this confederacy shall be the United States of America." Article the 2d. "Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right which is not by this confederation expressly delegated to the United States in Congress assembled." I entreat the committee to mark the words "expressly delegated," as, in my opinion, they are the salvation of the Constitution, consequently of our present form of government. They are the very essence of implication and construction, which are now about to subvert the powers enumerated in the Constitution, and erect on their ruins the dangerous hydra of a government of unlimited powers. Article the 3d. "The States hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberty and their mutual and general welfare, binding themselves to assist each other against all force, offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever." Here again the States expressly reserved to themselves perfect sovereignty; and it appears the object of entering into the league, was not all to support the sovereignty of each, and to oppose all force or attacks made on each, on account of religion, sovereignty or trade. In less than two years after, you will find in the Declaration of Rights, which is fixed to the Constitution of Massachusetts, the following clause: "The people of this Commonwealth have the sole and exclusive right of governing themselves, as a free, sovereign and independent State; and do and forever hereafter shall exercise and enjoy every power, jurisdiction and right which is not or may not hereafter be by them expressly delegated to the United States of America in Congress assembled." Here Massachusetts declares the sole and exclusive sovereignty over her State and its perfect independence, including every object except those (not implicitly or constructively) expressly delegated to the United States. New York, for several years after the declaration of our Independence, was governed by a series of resolutions; one of which contains the following declaration: "Whereas doubts have arisen whether this Congress is vested with sufficient power and authority to deliberate and determine on important subjects as the necessity of erecting and constituting a new form of government and internal police, to the exclusion of ALL FOREIGN INTERFERENCE, DOMINION and CONTROL whatever; and whereas it appertains solely to the people of this colony to determine the said doubts; do, therefore, Resolved, &c." New York then declares the same right over her internal police, "to the exclusion of all foreign jurisdiction, dominion and control whatever." Sir, will you find Maryland contemporaneously breathing the same sentiments? She first and second articles of her Declaration of Rights. She declares Article the 1st, "that government of right originates from the people; is based on compact only, and instituted solely for the good of the whole." Article the 2d, "that the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof." Sir, is it possible to conceive language negating in stronger terms interference of internal regulations, whether by foreign nations, sister States, or by Congress of the United States? But, before I conclude, I will endeavor to show you that these articles were only the prelude to the noble stand which North Carolina, our own magnanimous little State, in the great contest which resulted in the adoption of the Constitution of the United States, in which she displayed a devotion to State rights, not surpassed by any State in the Union. At that time even she, so much troubled by "tardy sluggishness," was alive to this subject. In the 1st article of the Bill of Rights, on the 18th December, 1776, she declares that "all political power is vested in and derived from the people." Article the 2d, "that the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof." Yes, sir, even North Carolina, stigmatised as she has been with "tardy sluggishness," had the forecast and independence to declare her sole and exclusive right of regulating her internal government." So true were the States upon this subject, that New Hampshire, in 7th article of her Bill of Rights, in 1792, five years after the ratification of the Constitution of the United States, declared that the people of that State "do and forever hereafter shall exercise and enjoy every power, jurisdiction and right pertaining thereto, which is not, or may not hereafter be by them expressly de-

legated to the United States of America in Congress assembled." Again I will press the words expressly delegated on the attention of the committee, to show how careful the States were to insist on these words in most of their respective Constitutions. Sir, there were other States that held the same language, and contended for the same doctrine; but enough has already been recited, in my opinion, to satisfy the mind of every impartial man that the States never entertained the idea of surrendering their sovereignty to Congress, or imparting jurisdiction or control over any part of their territory to any power on earth, except such as was "expressly delegated" and enumerated in the Constitution. What article is there in the Constitution, enumerating or expressly delegating any power to Congress to carry on a system of internal improvement within the jurisdictional limits of any State, and particularly within the State of North Carolina? Mind you, sir, the Declaration, in the 2d article of her Bill of Rights, "that the people of this State ought to have the sole and exclusive right to regulate the internal government and police thereof." The words sole and exclusive are used, one to corroborate the other, to express in the strongest conceivable terms its disavowal of any copartnership with Congress, or with any of the sister States in regulating or effecting her internal government in any respect whatever. I will not dwell longer, however, upon the merits of the Constitutions of the several States; as I promised but a faithful history of the Constitution of the United States. The States finding that the articles of confederation, which were intended only as a temporary expedient, founded amidst the clangour of arms, were too inefficient for perpetual union, common defence, or the preservation of our liberties, saw the necessity of framing a Constitution, as a substitute, to effect which a Federal Convention was called, which assembled at Philadelphia on the 25th of May, 1787. Here the great battle was fought between the friends of State rights and the friends of consolidation, whose object was to annihilate the States, and to reduce them to petty corporations. While I confess that this convention was composed of a constellation of talent, many of the heroes, statesmen and patriots of the revolution, any one of whom would have done honor to imperial Rome in her proudest days; yet never was there, Mr. Chairman, a convention assembled under yonder's sun, composed of materials more discordant in their political complexion. Yes, sir, there were Monarchists, Aristocrats, Consolidationists, Federalists, and State Right Republicans; and, no doubt, each one believing that the government of his choice was the only one that could secure and render immortal the liberties of his country. A history, however, is given of the leading parties of that convention by Luther Martin, who was one of its members, in his communication of its proceedings to the Legislature of Maryland. Mr. Martin says in this communication, "That on our meeting in convention, it was soon found there were among us three parties of very different sentiments and views. One party, whose object and wish it was to abolish and annihilate all State governments, and to bring forward one General Government over this extensive continent of a monarchical nature, under certain restrictions and limitations. Those who openly avowed this sentiment were, it is true, but few; yet it is equally true that there was a considerable number, who did not openly avow it, who were, by myself and many others of the convention, considered as being in reality favorers of that sentiment, and acting upon these principles, covertly endeavoring to carry into effect what they well knew openly and avowedly could not be accomplished. The second party was not for the abolition of the State governments, nor for the introduction of a monarchical government under any form; but they wished to establish such a system as could give their own States undue power and influence in the government over the other States. A third party was what I considered truly Federal and Republican. This party was nearly equal in number with both the other two. But the favorers of monarchy, and those who wished a total abolition of the State governments, well knowing that a government founded on truly federal principles, the basis of which was the thirteen State governments, preserved in full force and energy, would be destructive of their views; and knowing that they were too weak in numbers openly to bring forward their systems; conscious also that the people of America would reject it if proposed to them; joined their interest with that party who wished a system giving to particular States power and influence over the others; procuring in return mutual sacrifices from them, in giving the government great and undefined powers, as to its legislative and executive; well knowing that by departing from a federal system, they paved the way for their favorite object—the destruction of the State governments, and the introduction of monarchy." I will now read you, sir, the opinions of some of the most distinguished individuals, as held in that convention, that have ever figured on the political stage of North America. Sir, I am aware that it will be productive of some unpleasant reflections upon the characters of some of our most honored statesmen, who have occupied distinguished posts in our country; but the truths disclosed by history, however unpleasant, should not be concealed. You will find amongst the most distinguished names who advocated consolidation, and consequently, the annihilation and abolition of all State governments, Governor Randolph, Alexander Hamilton, and James Madison, our venerable ex-president. Arrayed against these, in the defence of the rights of the States, will stand the names of George Mason, of Virginia, Judge Elsworth, of Connecticut, Luther Martin, of Maryland, and Mr. Lansing, of New York. Sir, I will take the liberty of reading extracts from the speeches of each of these gentlemen, as expressed in the debates of the secret proceedings of the Federal Convention, as the best evidence of the true character of the Constitution. "Gov. Randolph" who has been honored with a high station in the cabinet of General Washington, and a co-partner of Mr. Jefferson in that administration—a gentleman of most splendid talents—after introducing a series of resolutions, upon which our present Constitution was finally predicated, and making an elaborate speech in their favor, says the author of these proceedings, "closed his remarks with a set of resolutions, fifteen in number, which he proposed to the convention for their adoption, and as a leading principle whereon to form a new government. He candidly confessed that they were not intended for a Federal Government—he meant a strong consolidated union, in which the idea of States should be annihilated." Again, in page 129, he says "I am certain that a National Government ought to be established, and this is the only moment when it can be done." Gen. Hamilton, sir, in the same page, is represented as having said, "I have well considered the subject, and am convinced that no amendment of the confederation can answer the purpose of a good government, so long as State sovereignties do, in any shape, exist." Again, he says, in page 132, "such are the lessons which the experience of others afford us, and from whence result the evident conclusion that all Federal Governments are weak and distracted. To avoid the evil deducible from these observations, we must establish a General and National Government, completely sovereign, and annihilate the State distinctions and State operations; and unless we do this, no good purpose can be answered." Such were the sentiments of this distinguished statesman, who, in talents of the first order, in virtue and disinterested patriotism, was not surpassed, if equalled, by any individual of his age; nor do I intend by this exhibition of the sentiments and opinions of these illustrious names, to derogate in the least from their immortal memories; for such opinions, however erroneously formed, were honestly entertained and candidly expressed. In admiration of the character of Alexander Hamilton, I yield to no man; but illustrious and splendid as he was, I cannot assent to the correctness of his political dogmas. The name of the venerable James Madison is yet fresh in the memory of every American, and would to God I could draw the curtain of oblivion over some of his doctrines in early life. Mr. Madison, too, was found contending, arm in arm with Hamilton and Randolph, in opposition to the sovereignty and rights of the States. In a speech delivered by him, on the 29th of June, 1787; he said "Some contend that the States are sovereign, when in fact they are only political societies. There is a gradation of power in all societies, from the lowest corporation to the highest sovereign. The States never possessed essential rights of sovereignty. Their voting as States in Congress, is no evidence of sovereignty. The State of Maryland voted by counties. Did that make the counties sovereign? The States at present are only great corporations, having the power of making bye laws, and these are effectual only, if they are not contradictory to the General Government. The States ought to be placed under the control of the General Government—at least as much so, as they formerly were under the King and British Parliament." Sir, these were the sentiments of him, who has emphatically allied the measure of

his country's honor; but they were the sentiments nevertheless of a patriot as ever breathed the air of Heaven. This I shall endeavor to show before I dismiss his opinions on this subject. Having shown who were the advocates of consolidation and a National Government, and opposed to the rights of the States, I will now exhibit the opinions of some of those who advocated the rights of the States, under a Federal Government. Amongst these was Luther Martin, of Maryland, who, although his politics underwent many changes subsequently, and finally departed this life soured, unshowered and unwept; yet for his noble efforts in the cause of the States, his name should ever be cherished with evergreening gratitude in the memory of every friend to Federal Government and State rights. In his spirited reply to Rufus King, who had advocated the opposite side, page 141, Mr. Martin said, "When the States threw off their allegiance to Great Britain, they became independent of her and of each other. They united and confederated for mutual defence, and this was done on principles of perfect reciprocity. They will now again meet on the same ground. But when a dissolution takes place, our original rights and sovereignties are resumed. Our accession to the Union has been by States. If any other principle is adopted by this convention, he would give it every opposition." Again, sir, in page 145, the same individual continues, "I know that government must be supported; and if the one was incompatible with the other, I would support the State Government at the expense of the Union; for I consider the present system as a system of slavery. Impressed with this idea, I made use, on a former occasion, of expressions perhaps rather harsh. If gentlemen conceive that the Legislative branch is dangerous, divide it into two. They are as much the representatives of the States, as the State Assemblies are the representatives of the people. Are not the powers which we here exercise given by the Legislatures? I confess, when the confederation was made, Congress ought to have been invested with more extensive powers; but when the States saw the Congress indirectly aimed at sovereignty, they were jealous, and therefore refused any further concessions. The time is now come, when we can constitutionally grant them not only new powers, but so modify their government, that the State governments are not endangered." Mr. Lansing, of New York, was the next who took the floor on the side of the States—page 143: "This National Government," said he, "will, from its powers, have great influence in the State governments, and the existence of the latter is only saved in appearance; and has it not been asserted that they expect their extinction? If this be the object, let us (said he) extinguish them at once. But remember, if we devise a system of government which will not meet the approbation of our constituents, we are dissolving the Union; but if we act within the limits of our powers, it will be approved of; and should it prove defective, the people will entrust a future convention to amend it." George Mason, one of Virginia's most honored sons, followed on the same side—page 144: "I never will," said he, "consent to destroy State governments, and will ever be as careful to preserve the one as the other. If we should, in the formation of the latter, have omitted some necessary regulation, I will trust my posterity to amend it. That the one government will be productive of disputes and jealousies against the other, I believe; but it will produce mutual safety." Yes, sir, this profound statesman foresaw at that time the jealousies that might arise between the two governments, and his prediction has been but too sadly verified. And, sir, notwithstanding the course that has been pursued by New-England for years past, at that time, and in that body she had sons that would have honored any nation. The name of Elsworth is written in glorious remembrance on the heart of every State Right Republican throughout America. His sentiments on the subject of the States deserve to be written in gold, and transmitted to posterity. With a sagacity and forecast almost approximating to intuition, he portrays the great necessity and virtue of State governments. Sir, I beg gentlemen who would wish to hear every thing in favor of the independence of the States in the fewest words that it is possible for the imagination to conceive, to attend to the following remarks: "I am," said Judge Elsworth, "asked by my honorable friend from Massachusetts, whether by entering into a National Government, I will not equally participate in national security? I confess I should; but I want domestic happiness as well as general security. A General Government will never grant me this, as it cannot know my wants, or relieve my distress. My State is only as one out of thirteen. Can they, the General Government, gratify my wishes? My happiness depends as much on the existence of my State government as a new-born infant depends upon its mother for nourishment. If this is not an answer, I have no other to give." In this short speech, Mr. Chairman, is explained, in the most clear and forcible manner, the great advantages of the States retaining their independence and sovereignty, to supply our domestic wants, and to give us domestic happiness, as well as the advantages of federal union, to give general security. This, sir, constitutes the true meaning and objects of the Federal and State governments. Each should retain perfect sovereignty and independence in their respective spheres. To sustain both under such restrictions, is equally essential to the preservation of the blessings of our liberties, our happiness and prosperity as a nation. Sir, the very idea of investing all power and jurisdiction in Congress, is impracticable. The extent of our territory forbids it; the diversity of the interests of the different States forbids it; the variety of the pursuits of the people in the different States forbids it. Laws that might operate truly beneficially on Maine, Massachusetts or New-Hampshire, might prove truly oppressive to Maryland, Virginia or North Carolina. Those which might be well calculated to promote the interests of Kentucky, Ohio, Illinois and Michigan, might be destructive and ruinous to the people of South Carolina, Georgia, Alabama, Mississippi and Louisiana. To usurp the sovereignty and rights of the States, and to permit Congress to legislate for them, under the authority of the general welfare, and to internally improve any one, which might become its favorite, whenever it might be deemed proper so to do by that body, at the expense of the less favored States, would be recognizing the existence of a power in Congress that never was intended by the framers of the Constitution, not a hint to justify such a conclusion having fallen from them in any part of their debates; and would, in the language of the immortal Jefferson, necessarily be erecting Congress into one great government of unlimited powers, constituting a definition of tyranny more to be dreaded than that which results from a limited monarchy. A government of unlimited powers! My God, sir, what monarch in all Europe is there that administers at this time such an one? The idea is preposterous; it cannot, it will not be retained a moment by any American statesman. But, sir, such is the true nature of the powers now contended for by the friends of Internal Improvement, as carried on by Congress, under the authority given for the general welfare. It was against the advocates of doctrines having such a tendency, notwithstanding they were supported by men of the first talents of the age, that the clear, lucid, practical, irresistible arguments of George Mason and Judge Elsworth prevailed. It was by the triumph of practice against theory—plain spoken truth over gilded eloquence and rhetorical declamation, that the Constitution at last was adopted, only as a compromise; and strange to tell, there was not a man who left the Convention that was satisfied with it. Yes, sir, that Constitution, which is now the admiration of the world and the boast of every friend to freedom, whether in Europe, Asia, Africa or America, was only the result of a compromise. But before it went into operation, it was to pass through another ordeal of thirteen farouces. It was to be sanctioned by the thirteen States; to effect which, it was necessary that its principles should be explained and defended. Hence the appearance of those philosophical essays, written in every constitutional science, written at that time under the most popular name that could have been assumed with the American people. The essays of Madison, Hamilton and Jay, compiled in a book called "The Federalist," are those to which I allude; and here I will make a remark upon the name of the word "Federalist." At the time of the adoption of the Constitution, the doctrine of the Federalists was the true Republican doctrine of the country. They were then the true friends to the Constitution as it is written, to State Rights and Federal Union on terms of perfect reciprocity. Such was the doctrine at that time of the Federalist, in opposition to the doctrine of consolidation and annihilation of all State Rights, as contended for by Gov. Randolph, Mr. Madison and Alexander Hamilton. But notwithstanding the opposition of these individuals to some of the leading features of the Constitution, I will now make good my pledge, in a formal part of my remarks, to show that Mr. Madison was a statesman of the most distinguished