

North-Carolina Free Press.

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The "North-Carolina Free Press,"
BY GEORGE HOWARD,

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Advertisements, not exceeding 16 lines, will be inserted at 50 cents the first insertion, and 25 cents each continuance. Longer ones at that rate for every 16 lines. Advertisements must be marked the number of insertions required, or they will be continued until otherwise ordered. Letters addressed to the Editor must be post paid, or they may not be attended to.

Henry Johnston,

MERCHANT TAILOR,

TAKES this method to inform his friends and the public, that he has just received from New-York, his

Spring supply of Goods,

In his line of business—consisting of: Superfine blue, brown, and black Cloths, Black Bombazine, superior quality, White and fancy drills, for pantaloons, Plain black Velvet and Silks, for vestings, White and fancy Marseilles, for do. superior quality.

Fine beaver Hats, latest fashion, &c. He has on hand, and intends keeping, a good Assortment of ready made Vests and Pantaloons. Those goods will be sold at very reduced prices for cash, or on credit to punctual customers. 35-4

Tarborough, April 25, 1831.

No Tariff of Prices. FREE TRADE.

Earthenware, Looking-Glasses, &c.
THOMAS J. BARROW & CO.

Importers, 88 Water-st. New-York,
OFFER for sale, the largest and most complete assortment of Earthenware, Glass, China, plain and gilt Looking-Glasses, &c. which the New-York market will afford, comprising every style and variety of the newest patterns.

They return their most cordial thanks to their friends in the Southern States, for their support in the persecution now carrying on against them, for their refusal to join a combination in fixing one tariff of prices for Crockery, throughout the trade. It is mainly attributable to the influence of our Southern friends that we have been enabled to survive this, fat, in this most trying situation; exposed to the combined influence and capital of the whole trade, endeavoring to effect our ruin and expulsion from business. We pledge ourselves to our friends to give them every satisfaction in our power as regards the quality of our goods, the excellence of our packers and the lowness of our prices for Cash or City Acceptance; and in return, solicit from them a continuance of their patronage, and particularly request those who have influence with their friends to exert it in our behalf, as we trust the cause is one they are all interested in, and much benefit will accrue to us from their friendly acts in this way. It has been said, the Combination was broken up. As it regards prices, this is true, and all we think, friends or foes will allow that we have effected this change; but we do assure our friends, that at no period since we commenced our system of unshackled prices were we in greater want of assistance than at the present moment. This Combination of men are leaving no means untried for effecting our ruin, that they may revive the old system; our credit and character are assailed in every shape, our importations waylaid and stopped in every instance where threats are sufficient to intimidate the manufacturers from supplying us;—in fine, no vexation or trouble which the malice of men could devise has been neglected in this struggle to subdue us. We once more call upon every friend of a free trade to come up to our support, and pledge ourselves to give them no cause to repent of their liberality.

T. J. BARROW & CO.
88 Water-street, above Old slip.
Jan. 1831. 21

Milton Gazette.

THE office of the Milton Gazette and Romance Advertiser is for sale; and will be sold at a great sacrifice. The type cases and all of the Materials are new. The office is furnished with every material requisite for the furtherance of all demands. The job-printing & advertising has, and continues to be, respectable. More than half the purchase money may be assumed in bank. The subscription List has at all times, (under the management of the late Editor,) about 300, the most of whom are subscribers. Any person who purchases, may apply and offer a great bargain.

CIRCULAR.

To the Freemen of the 3d Congressional district of N. C.

FELLOW-CITIZENS:

In a short communication made to you recently, I promised as soon as convenient, to go more at large into the general subject of Internal Improvements—and also the repeal, not of the Constitution or any part of it, or of the Union but, a repeal of a single section of an old act of Congress, which is known to be defective in several of its provisions, and as I believe, ought to be revised and corrected, as there are other parts beside the 25th section containing unconstitutional provisions. A part of the 13th section, giving to the Supreme Court power not warranted by the Constitution, has long since by that Court been declared, and properly so, to be unconstitutional. And I have very little doubt, that if properly presented for decision, other parts of this same act would meet the same fate, for I feel confident they deserve it. If the doctrine, that to repeal a single section of this act would repeal the Constitution be true, would it not be equally true, that the Supreme Court in declaring a part of it unconstitutional, would declare the Constitution itself unconstitutional? Suppose, for instance, the Supreme Court should declare the 25th section unconstitutional, would it not follow that they had declared the Constitution unconstitutional, if the doctrine that to repeal the one would repeal the other, be true? For if it would repeal the Union, what let me ask is the Union? Is not the Constitution the Union? Is not the Federal Constitution that Federal Union, of which it has been so emphatically said in a celebrated toast, "It must be preserved?" I repeat, the Constitution is the Union. Repeal or destroy it, you dissolve the Union. Congress has no right to repeal any part of it; none but the people have the right, and they have in the instrument itself pointed out how any changes or additions are to be made to it. It may become a nullity by being disregarded, as it has been in many instances by Congress. I will for the present say no more upon this subject, but proceed to such an exposition of the general subject of Internal Improvement, as my duty to you and myself demands.

I would impress upon my fellow citizens, a fundamental principle, which our predecessors intended to lay down in the formation of our political institutions. It is, that the two governments, the general or Federal, and the local or State governments, should be considered as separate and distinct agencies, established by the people for different purposes. The one for the management of a few subjects of a general character, with powers only delegated, and carefully enumerated. All the other powers, beside those delegated to the general government, have either been retained by the people, the real sovereign power, or delegated to the local State governments, as their agents—as subordinate powers. All the powers of both governments are only delegated—they must therefore be subordinate to the authority making the delegation, the people, in trust for themselves; and not alone for those who may be called to the management or administration of government. The 9th and 10th amendments of the Constitution, together with a doctrine fairly and beautifully deduced by the Supreme Court, from the 6th article of the Constitution, completely in my estimation establish the principle of a distinct separation of the powers of the general and State governments. To present the subject in view, I quote the 9th and 10th amendments, as well as the language of the Supreme Court to which I have alluded.

9th. "The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people."

10th. "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."

These two taken in connexion shew clearly the intention, to define and mark out a line of separation, each having its own sphere of action over subjects appropriately belonging to it. In the case of Gibbons vs. Ogden, the Chief Justice, in delivering the opinion of the Court, alluding to the power to regulate commerce, says:

"We are now arrived at the inquiry, what is this power? It is the power to regulate, that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself. It has always been understood, that the sovereignty of Congress, though limited to specified objects, is plenary as to those objects."

This doctrine can only mean, that the powers granted to Congress by the people in the Constitution, are full or plenary powers over the subjects committed to its agency, and consequently exclusive powers. The word sovereignty, if applied to Congress, as it sometimes has been, would be objectionable. Congress is not the sovereign power of the country—but an agency, with powers plenary *quoad hoc* over particular subjects. Again:

"Full power to regulate a particular thing, implies the whole power. A grant of the whole is incompatible with the existence of a right in another to any part of it."

I think this language appropriate and clear, and taken in connexion with the evident sense and meaning of the foregoing amendments, establishes the principle, that neither government can interfere with the appropriate and constitutional powers of the other. I wish this part of the subject kept well in view, because it is necessary as a first principle.

All the powers vested in Congress are plenary powers—they are then of necessity exclusive powers. And if so, they cannot intermingle or be made concurrent, or conjoint, with the powers of the State Legislatures—and it follows as a matter of course, that within their proper sphere of action, when confined to their proper and constitutional purposes, the powers of the State governments are equally plenary and exclusive. Both are so in their proper place, neither so out of it. Accordingly then to the foregoing doctrine, the power "to regulate commerce with foreign nations, amongst the several States, and with the Indian tribes," being like all the other constitutional powers, a full power over the subject, must be exclusive and cannot be participated. This being true, it utterly precludes the idea of the right of Congress to effect in whole or in part, by any means, a system of Internal Improvement within the jurisdictional limits of a State—the State governments undoubtedly having the right. The only works or edifices in the character of improvements which Congress is authorized to erect or fabricate within any of the States, are provided for, in the latter part of the 8th section of the 1st article of the Constitution. To enable Congress to erect "needful buildings" for the operations of the legislative and executive departments of the government, it was provided in the Constitution that Congress should have power—

"To exercise exclusive legislation in all cases whatsoever, over such district, (not exceeding ten miles square,) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased, by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings."

The control of these subjects is entirely in Congress—they are the only subjects, in the character of improvements, or edifices, within a State which Congress has the power to make, and not even these without the pre-requisite of acquiring the whole and exclusive government, by purchase and cession over the places where erected; with which places after this, the State in which they may be cannot interfere in any way. There is a great mistake in supposing that the improvement of rivers, bays, inlets, and har-

bors, and making roads and canals in the States, stand upon the same footing. They are no where provided for, either directly or indirectly, in the Constitution. Would the friends of internal improvements pretend that the States could cede to Congress or the general government, the rivers, bays, and all the public highways upon which commerce is carried on? If so, what would be left—what power would the State governments have? They would be utterly useless. The Constitution of North-Carolina expressly says:

"The property of the soil in a free government, being one of the essential rights of the collective body of the people, it is necessary in order to avoid future disputes, that the limits of the State should be ascertained with precision."

Then, after describing the boundary line on the South, it says:

"Therefore all the territory, seas, waters, and harbors, with their appurtenances, lying between the above described line, &c. and the southern line of Virginia, are the right and property of the people of this State, to be held by them in full sovereignty."

I believe no part of these things has been parted with or ceded, nor could they be, without a violation of the Federal Constitution, unless for such purposes as have been provided for in the instrument. Congress has the power to build forts, dockyards, &c. within a State, only upon the same principle that it could build the Capitol, the executive departments, navy yard, and other needful buildings in the District of Columbia. Not because Congress had the right to legislate, but because having first obtained by the method pointed out in the Constitution, the right of soil and of exclusive jurisdiction, by cession from Maryland and Virginia, of the two portions of these States composing the district, it could then of right, and not till then, place or erect any such building or improvement as it might deem proper. And so, of the other subjects mentioned. All that class of improvements requires as an indispensable pre-requisite, the obtaining by purchase and cession, agreeably to the mode pointed out, the right to the soil and to exclusive management, with which the State laws cannot of right interfere. The words *needful buildings*, are supposed to include the necessary subordinate buildings, about the objects mentioned. The same view has included light-houses, and the same pre-requisite of cession, &c. has been made; and if neglected for any subject of this character, pertaining to navigation, the proper duty of the government has been neglected, and so far the thing has been done without right or authority. Gordon, in his digest of the laws of the United States, says:

"No light-house shall be built on any site previous to the cession of jurisdiction over the same to the United States."

Under the head of offences against the U. S. &c.

"If any person or persons within any fort, dockyard, navy yard, arsenal, armory, or magazine, the site whereof is ceded to and under the jurisdiction of the United States, or on the site of any light house, or other needful building belonging to the United States, the site whereof is ceded to them," &c. &c.

It is quite immaterial to what particular one of the granted powers the objects are referred, as adjuncts—they cannot on that account be authorized or accomplished, until the title to the place and exclusive power over it are obtained; and then the right to erect any needful building takes effect.

The power to regulate commerce, like that to regulate the mail, so far as relates to our public highways—the ways on which commerce and the mail are transported—is merely a right of way. This right and power is over the subject and vehicle, and does not affect the highways. Congress legislates over both these subjects, so as to make and prescribe the legal rules by which they are to be governed; and when the judicial power is required to act upon cases originating under these laws, in connexion with either of the subjects, the Federal Courts take cognizance of these cases. But does not the least informed know, that any other cases occurring on those public highways than such as are connected with the mail, or with navigation and commerce, refer themselves to the jurisdiction of the State tribunals? If Congress has the right to make, alter, amend, or abolish our public highways within the State, none of which have been ceded to it, does not every one see that the consequence must soon be an entire obliteration of all the power of the State authorities, and in that case our system of government is destroyed by consolidation? On the other hand, dismemberment would equally destroy our beautiful scheme of government—beautiful and useful too, if each part fulfils its proper duties. The only way to effect this, is a strict observance of the conditions of the Constitution itself—the only bond of union.

It must, I think, be perfectly plain, according to the foregoing reasoning, that the exercise of the power by Congress to make internal improvements, either roads and canals, or those upon water courses, harbors, bays, &c. is entirely unauthorized by the Constitution. The consent of a State would not give the power. The consent of a State could no more give Congress a right to do that which it had not a right to do under the Constitution, than I could give another individual a right to do an unlawful act. If Congress under a power to pass laws for the regulation of commerce, has the right to make the ways, still more would it seem reasonable that it should make the vehicle, and all the more immediate adjuncts. If it has the power to make the vehicles, as it surely must, according to the doctrine that a power to regulate is a power to make, and if this be true then Congress has a right to make or cause to be made, every thing which may be made or fabricated, having any relation to commerce—even the articles exchanged, the exchange of equivalents being commerce in its most confined meaning—and then see to what a strange state of things we come. Merchants need no longer build their own vessels out of their own means, because they are useful in carrying on commerce; and so likewise as useful aids in their business, they may have built at the public expense their wharves, warehouses, drays, carts and wheelbarrows.

These, then, however absurd in appearance, are the necessary consequences of the doctrine about the regulation of commerce. The true way to try the soundness of any doctrine is to run it out to its consequences. But where, let me ask the people of this country, is the money, necessary to carry on such a system of iniquity to come from? Even if confined to water courses and bays, harbors, &c. more would be demanded than the people could furnish, with the whole amount of their sweat and blood. And they ought to recollect one thing, the government never spends one dollar that does not come from their pockets. But the same rule will apply to the regulation of commerce among the States—and then we should have to pay for wagons, pedlar's carts, canal boats, and God knows what. Even supposing, for the sake of saving appearances, it should be confined to making and repairing the public highways and other grand schemes, too tedious to mention—will the people be so blind as to ruin themselves? The public debt must be very soon paid off—let me ask, do they mean to be taxed merely for the pleasure of having the money squandered in every idle project, as has been the case ever since the commencement of this system—out of which in the long run, nothing but iniquity, mischief, and ruin can come? How are you to get clear of paying taxes, if you submit to every sort of lavish expenditure? Let the money be applied to the proper purpose, and when the debt is paid off, reduce the amount to what is merely necessary to carry on the government. In this way thirteen or fourteen millions of dollars a year might be saved to the people, so much of restriction would be taken from commerce, which, reviving under this relief, would give a spring to agriculture, and place all in a much better condition. Then indeed, if the people every where have more money than they know what to do with, in God's name let them