

RALEIGH REGISTER,

AND NORTH-CAROLINA GAZETTE.

"OURS ARE THE PLANS OF FAIR DELIGHTFUL PEACE, UNWARP'D BY PARTY RAGE, TO LIVE LIKE BROTHERS."

TUESDAY, APRIL 16, 1833.

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THE REGISTER

By Joseph Gales & Son,
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TERMS.

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CONGRESS.

THE GREAT DEBATE.

Having given to our readers Mr. Calhoun's Speech and Mr. Webster's Reply, on the S. Carolina doctrine, we had intended here to have left the subject; but Mr. Calhoun having come out with a rejoinder, though we cannot give it at full length, we think it proper to publish some extracts from it.

After some prefatory remarks, Mr. Calhoun said, the Senator from Massachusetts, in his argument against the resolutions, directed his attack almost exclusively against the first, on the ground, I suppose, that it was the basis of the other two, and that unless the first could be demolished, the others would follow of course. In this he was right. As plain and as simple as the facts contained in the first are, they cannot be admitted to be true, without admitting the doctrines for which I, and the State I represent, contend. He (Mr. W.) commenced his attack with a verbal criticism on the resolution, in the course of which he objected strongly to two words "constitutional" and "accede." To the former, on the ground that the word, as used, (constitutional compact,) was obscure—that it conveyed no definite meaning; and that the constitution was a noun substantive, and not an adjective. I regret that I have exposed myself to the criticism of the Senator. I certainly did not intend to use any expression of a doubtful sense; and if I have done so, the Senator must attribute it to the poverty of my language, and not to design. I trust, however, that the Senator will excuse me, when he comes to hear my apology. In matters of criticism, authority is of the highest importance, and I have an authority of so high a character in this case, for using the expression which he considers so obscure and so unconstitutional, as will justify me even in his eyes. It is no less than the authority of the Senator himself—given on a solemn occasion (the discussion on Mr. Foot's resolution) and doubtless with great deliberation, after having duly weighed the force of the expression.—[Here Mr. C. read from Mr. Webster's speech in reply to Mr. Hayne, in the Senate of the United States, delivered Jan. 26, 1830, as follows:—]

"The domestic slavery of the South I leave where I find it—in the hands of their own Governments. It is their affair, not mine. Nor do I complain of the peculiar effect which the magnitude of that population has had in the distribution of power under the Federal Government. We know, sir, that the representation of the States in the other house is not equal. We know that great advantage, in that respect, is enjoyed by the slave-holding States; and we know, too, that the intended equivalent for that advantage, that is to say, the imposition of direct taxes in the same ratio, has become merely nominal; the habit of the Government being almost invariably to collect its revenues from other sources and in other modes. Nevertheless, I do not complain of that arrangement of representation. It is the original bargain—the compact—let it stand—let the advantage of it be fully enjoyed. The Union itself is too full of benefits to be hazarded in propositions for changing its original basis. I go for the Constitution as it is, and for the Union as it is. But I am resolved not to submit, in silence, to accusations, either against myself individually, or against the North, wholly unfounded and unjust—which impede to us a disposition to evade the constitutional compact, and to extend the power of the Government over the internal laws and domestic condition of the States."

Mr. C. then cited Burlemaqui to show that the fundamental laws of a State are considered to be compacts, and are thus distinguished from the ordinary laws of the country. He then referred to the ratification of the Constitution by New-Hampshire and Massachusetts, to show that both of these States declare the Constitution to be a compact.

Mr. C. also refers to that part of the Constitution which provides that "the ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same—so that compacts, not laws, said he, bind between the States."

Another not much less powerful argument may be drawn from the 16th amended article, which provides that "the powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively or to the people."

So that it already appeared, that ours is a federal system—a system of States, arranged in a federal Union, and each retaining its distinct existence and sovereignty.

Mr. C. here read a long extract from Tucker's Blackstone in support of the theory.

If, said Mr. C. we compare our present system with the old confederation, which all acknowledge to have been federal in its character, we shall find that it possesses all the attributes which belong to that form of government, as fully and completely as that did. In fact, in this particular, there is but a single difference, and that not essential, as regards the point immediately under consideration, though very important in other respects. The confederation was the act of the State governments, and formed an union of governments. The present Constitution is the act of the States themselves, or which is the same thing, of the people of the several States, and forms an union of them as sovereign communities. The States, previous to the adoption of the Constitution, were as separate and distinct political bodies as the governments which represent them, and there is nothing in the nature of things to prevent them from uniting under a compact, in a federal Union, without being blended in one mass, any more than uniting the governments themselves, in like manner, without merging them in a single Government. To illustrate what I have stated, by reference to ordinary transactions, the confederation was a contract between agents—the present Constitution between the principals themselves;—or, to take a more analogous case, one is a league made by ambassadors; the other a league made by sovereigns—the latter no more tending to unite the parties into a single sovereignty than the former. The only difference is in the solemnity of the act and the force of the obligation.

Mr. C. contended, that the States have a far clearer right to the sole construction of their powers, than any of the departments of the Federal Government can have; this power is expressly reserved, as he had stated on another occasion, not only against the several departments of the General Government, but against the United States themselves.

Mr. C. here referred to the ratification of the Convention by Virginia.

In conclusion, Mr. C. said, the Senator from Massachusetts has struggled hard to sustain his cause; but the load was too heavy for him to bear. I am not surprised at the ardor and zeal with which he has entered into the controversy. It is a great struggle between power and liberty—power on the side of the North, and liberty on the side of the South. But, while I am not surprised at the part which the Senator from Massachusetts has taken, I must express my amazement at the principles advanced by the Senator from Georgia, nearest me, (Mr. Forsyth.) I had supposed it was impossible, that one of his experience and sagacity, should not perceive the new and dangerous direction which this controversy is about to take. For the first time, we have heard an ominous reference to a provision in the Constitution, which I have never known to be before alluded to in discussion, or in connection with any of our measures. I refer to that provision in the Constitution, in which the General Government guarantees a Republican form of Government to the States—a power which, hereafter, if not rigidly restricted to the objects intended by the Constitution, is destined to be a pretext to interfere with our political affairs and domestic institutions, in a manner infinitely more dangerous than any other power which has ever been exercised on the part of the General Government. I had supposed, that every Southern Senator at least, would have been awake to the danger which menaces us from this new quarter; and, that no sentiment would be uttered, on their part calculated to countenance the exercise of this dangerous power. With these impressions, I heard the Senator with amazement, alluding to Carolina, as furnishing a case which called for the enforcement of this guarantee. Does he not see the hazard of the indefinite extension of this dangerous power? There exists in every Southern State a domestic institution which would require a far less bold construction to consider the government of every State in that quarter not to be republican; and of course, to demand on the part of this government, a suppression of the institution to which I allude, in fulfillment of the guarantee. I believe there is now no hostile feeling combined with political considerations, in any section, connected with this delicate subject. But it requires no stretch of the imagination to see the danger, which must one day come, if not vigilantly watched. With the rapid strides with which this Government is advancing to power, a time will come, and that not far distant, when petitions will be received, from the quarter to which I allude for protection; when the faith of the guarantee will be at least as applicable to that case as the Senator from Georgia now thinks it is to Carolina. Unless this doctrine be opposed by united and firm resistance, its ultimate effect will be to drive the white population from the Southern Atlantic States.

MR. WEBSTER'S REJOINER.

February 2.

Mr. WEBSTER said that, having already occupied so much of the time of the Senate on the general subject, he should not do more than make a very few observations, in reply to what the honorable member from Carolina had now advanced. The gentleman, said Mr. W. does me injustice, in suggesting the possibility that any remarks of mine could have been made for the purpose of obtaining favor, in any quarter, by an appearance of hostility to him.—[Mr. Calhoun rose, and said he had only suggested it, as a matter of possibility.]—I hope it is not even possible, continued Mr. W. that my support or opposition of important measures, should be influenced by considerations of that kind. Between the honorable member and myself, personal relations had always been friendly.—We came into Congress, now near twenty years ago, both ardent young men; and however widely we may have differed at any time, on political subjects, our private intercourse has been one of amity and kindness.—[Mr. Calhoun rose, and said these remarks were just such as he himself had intended to make.]

The honorable member considers my remarks on the use of the phrase "constitutional compact," as not well founded, and says he has my own authority against myself. He quotes from my speech, in 1830. But I did not, on that or any occasion, call the Constitution a constitutional compact. In the passage to which he refers, I was speaking of one part of the agreement, on which the Constitution was founded, viz: the agreement that the slave-holding States should possess more than an equal proportion of representatives. That, I observed, was matter of compact, sanctioned by the Constitution; it was an agreement, which being adopted in the Constitution, may be well enough called a constitutional compact; but that is not equivalent to saying that the Constitution of the United States is nothing but a constitutional compact between sovereign States. The gentleman must certainly remember that my main object, on that occasion, was to establish the proposition stated in the same speech, that the Constitution was not a compact between States, but a Constitution, established by the People, with a Government founded on popular election, and directly responsible to the people themselves.

The honorable gentleman attempts also to find an authority for his use of the word accede. He says the same word was used by General Washington, in speaking of the adoption of the Constitution by North-Carolina. It was so; and it was used by the Biographer of Washington, also, in reference to the same occurrence; and, altho' both, probably, adopted the phrase from the popular language of the day, yet the language in these cases was not, perhaps, improper. By the adoption of the Constitution by nine States, the old confederacy was effectually dissolved. North-Carolina not having adopted it until after the Government went into operation, was out of the Union. She had, at that moment, no distinct connection with other States. The old Union was broken up, and she had not come into the new. There was propriety therefore, perhaps, in calling her adoption of the constitution an accession, when she afterwards adopted the constitution, she used the same terms of ratification as the other States. Accede is unknown to all those ratifications, and to the constitution itself. But the honorable gentleman insists that he can change the phraseology of his resolutions, so as to avoid my objections, and yet maintain their substantial sense and import.

He says his first Resolution may stand thus:—

"Resolved, That the people of the several States composing these United States are united as parties to a compact, under the title of the Constitution of the United States, in which the people of each State ratified as a separate and sovereign community; each binding itself by its own particular ratification, and that the Union, of which the said compact is the bond, is an union between the States ratifying the same."

This is a change, it is true, but it is a mere verbal change. It rejects certain words, but adopts their exact synonyms. In this resolution, he calls the Constitution a "constitutional compact" in the amended form which he now suggests, he calls it a "compact, under the title of a Constitution."

These are just the same thing. Both call it a compact, and a compact between sovereign communities, and in both, the attempt is to make the Constitution not the substantive thing, but merely the qualification of something else. Now, sir, the Constitution does not call itself a compact of any kind; the people did not call it such when they ratified it. No State said, "We, as a sovereign community, accede to a constitutional compact?" or "we, as a sovereign community, ratify a compact under the title of a Constitution." No State said one word about compact—no State said one word about acting as a sovereign community. On the contrary, in each and in every State, the language is, that the Conventions, in the name and by the authority of the people, ratify this Constitution or frame of Government. Neither the resolution, therefore, of the honorable member, nor this amended

form of it, follows the official and authentic language applied to the transaction to which it refers. I again say, if he will follow that language, if he will state accurately what is done, and then state his proposed inference, that inference will be out of all sight from his premises. Let him say nothing of compact—because the people said nothing of it; let him not assert that the people of the States acted as sovereign communities, because they have not said so. Let him prescribe what the people did, in their own language. It will then stand, that the People ratified this Constitution or frame of Government. Now, sir, the mere substitution of this just and true phraseology strikes away the whole foundation of the gentleman's argument. He cannot stand a moment, except on the ground of a compact between sovereign communities. Compact, therefore, and such a compact, must keep its place, in his first resolution, or else his chain of reasoning breaks in the first link. He is, therefore, driven to the necessity of assuming what cannot be proved, and of giving a history of the formation of this Constitution, a history essentially different from its true history. He is compelled to reject the language of the Constitution itself, and to reject also the language used by the people of every one of the States, when they adopted it; and to lay the corner stone of his whole argument on mere assumption.

The honorable gentleman does not understand how the Constitution can have a compact, or consent, for its basis, and yet not be a compact between sovereign States. It appears to me the distinction is broad and plain enough. The people may agree to form a government; this is assent, consent, or compact; this is the social compact of the European writers. When the Government is formed, it rests on this assent of the governed, that is, it rests on the assent of the people. The whole error of the gentleman's argument arises from the notion, that the people, of their own authority can make but one government; or that the people of all the States, have not united, and cannot unite, in establishing a constitution, connecting them together, directly, as individuals, united under one government. He seems unwilling to admit, that while the people of a single State may unite together and form a government for some purposes, the people of all the States may also unite together and form another government, for other purposes. But what he will not thus admit, appears to me to be the simple truth, the plain matter of fact, in regard to our political institutions.

The honorable gentleman thinks, sir, that I overlooked a very important part of the Constitution favorable to his side of the question. He says it is declared, in the 7th article, that the ratification of the Convention of nine States shall be sufficient for the establishment of the Constitution upon the States ratifying the same. If I have overlooked this provision, sir, it is because it appears to me not to have had bearing on the question, which the honorable member supposes.—The honorable member has said, in one of his publications, that the word "States," as used in the Constitution, sometimes means the States, in their corporate capacities, or Governments, sometimes it means their territory merely, and sometimes it means the People of the States. This is very true; and it is perfectly clear, that in the clause quoted, the word means the People of the States. The same clause speaks of the Conventions of the States; that evidently means Conventions of the People of the States; else the whole provision would be absurd. All that this part of the Constitution intended, was simply to declare, that so soon as the people of nine States should adopt and ratify it, it should, as to these States, go into operation.

The gentleman has concluded, sir, by declaring, again, that the contest is between power on one side, and liberty on the other—and that he is for liberty. All this is easily said. But what is that liberty, whose cause he espouses? It is liberty, given to a party to govern the whole. It is liberty, claimed by a small minority to govern and control the great majority. And what is the power which he resists? It is the general power of the popular will; it is the power of all the People, exercised by majorities, in the Houses of the Legislature, in the form in which all the free governments exercise their power.

Mr. President, turn this question over and present it as we will—argue upon it as we may—exhaust upon it all the fountains of metaphysics—stretch over it all the meshes of logical or political subtlety, it still comes to this, Shall we have a General Government? shall we continue the union of the States under a Government instead of a League? This is the upshot of the whole matter; because, if we are to have a Government, that Government must act like other Governments, by enforcing its own laws, and its own decisions; clothed with authority by the People, and always responsible to the People, it must be able to hold on its course, unchecked by external interposition. According to the gentleman's view of the matter, the Constitution is a League; according to mine, it is a regular popular

Government. This vital and all important question, the People will decide, and in deciding it, they will determine whether by ratifying the present Constitution and frame of Government they mean to do nothing more than to amend the articles of the old confederation.

POWER OF STATE LEGISLATURES.

From the frequent interference of some of the State Legislatures with the official acts and department of the United States Senators, it has become an inquiry of some importance, to ascertain how far the former may go in the exercise of Legislative authority over the seats and official existence of the latter, consistently with the free and unrestrained action of Congress. The question should be clearly and definitely settled. The right recently set up by two or three of the State Legislatures—to advise or instruct—but to force U. States' Senators out of office by legislative resolves and enactments of their own, strikes us as being palpably absurd, not to say officious, intermeddling and impertinent, and if followed out to its practical results and consequences, would be dangerous to the very objects and ends of our Government. Yet, the respectable States of Maine and New-Hampshire, have issued imposing orders, gravely demanding of United States' Senators their resignations, & that too, for reasons, which it were well for the honor of the two States had they been withheld. Mississippi wisely and prudently rejected a similar proposition, and contented herself with merely passing a vote of censure. The Hon. PETER SPRAGUE, one of the Senators alluded to, has written an able, dignified and argumentative response to the Legislature of Maine, discussing the relative rights and positions of the representative and the constituent, and giving his reasons at length for not obeying their command. He does not controvert the right of instruction, but rather proceeds, in his own language, "upon the assumption of its validity." But he very justly regards, we think, the right of the Legislature to deprive him of his seat, at their pleasure, as novel and extraordinary. His letter is worthy of an attentive perusal, and we are sorry it is not convenient to publish it entire. The attention of the reader is invited to the following extract:—

"Allow me then briefly to examine this newly asserted prerogative; and notwithstanding the unmeasured language of the Legislature, calculated, but surely not designed to irritate, I shall do so dispassionately, and I trust with becoming diffidence.

"Who are the Legislature of the State? Agents, servants, mere servants, having no original authority, but deriving their existence, and all that they possess, from the only legitimate fountain of power—the People. Who are Senators in Congress? Another and distinct class of agents and servants, deriving their rights and duties also from the same great original fountain of political power—the People. If either of these classes of servants claim, that dominion over the other which is conceded in the opinion to put an end to their existence, it must exhibit its warrant for such an assumption, and show that it is conceded in the charter of its powers, the Constitutions of the State and of the U. States. Do these instruments confer that prerogative? The Constitution of the United States prescribes the mode of appointment, and the duration of the office of member of the Senate. It declares that they shall be chosen by the Legislature of the State for six years. Does this mode of appointment carry with it supreme control over the duration of the office? The President of the United States is to be chosen by electors for four years. May they therefore demand his resignation? The Legislature of the State is to elect a majority of both branches elect. Councilors. Are they therefore removable at the pleasure of the Legislature? In certain contingencies the Governor is to be elected by the Legislature. Is the chief Executive, in such event, to hold his constitutional powers at their will, to be surrendered at their command? The Governor and Council of the State, the President and Senate of the United States, respectively, appoint Judges of the Supreme Courts. May they therefore be deposed of their office and re-appointated from the Bench? Are they removable at pleasure? Illustrations might be multiplied accumulated. But it is needless—it cannot be pretended, that the power of appointment carries with it the right to absolute control over the official existence of the appointed. The mode by which a public officer is designated, is not to be confounded with the duration of his office.

"In what article of the Constitution is this arrogant authority to be found? From what clause is it deduced? Is it that which constitutes them a Legislature? Congress also is a Legislature, certainly, with no inferior or subordinate jurisdiction. If it be assumed, therefore, that it is of the essence of Legislative power to be supreme, Congress also has that supremacy. Shall it then presume to demand from the members of the State Legislature the resignation of their stations? The idea of the unlimited supremacy of the Legislature is borrowed from the other side of the Atlantic. It is vain, however, to attempt to transplant hither the doctrine of the omnipotence of Parliament. The scorn of arbitrary power which our fathers so gloriously repelled, will never flourish in American soil. Our Legislatures, whether national or local, are not unlimited and supreme, but subordinate to the Constitution—limited to the exercise of such authority as that charter confers. Creatures of popular will, they have no attributes but such as their creator has seen fit to impart. In our complex political system, the People have established two Governments—one general, the other local, to be conducted by separate agents, under distinct constitutions, prescribing to each a distinct and limited sphere of action, and in which it may not deviate to encroach upon the sphere of the other. The Legislature in choosing members of the Senate, perform a specified service, not for themselves but for the People. The Senator elected, is not the servant of the Legislature, but of their masters; they are a mere instrument only to do prescribed acts, and when the work is done, its duration is terminated by the organic law. To allow one to diminish it at pleasure, when the prerogative authority has decreed that it shall continue for six years, is to permit them to nullify the constitution, and the deliberate will of the people, as therein solemnly expressed, and permanently embodied."

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TRADE WITH THE ROANOKE COUNTRY.

From the Petersburg Intelligencer.

Such pieces as the following from the last *Milton (N. C.) Spectator*, we always insert with pleasure, as they furnish evidence not only of a rapidly growing trade, but of the daily increasing interest with which our Rail-road is viewed in that quarter. The prospect of a "trip from the Roanoke to Petersburg and back in a day," which will doubtless be realized "before next fall," seems to have given fresh vigor to commercial operations, and to have created new hopes and expectations in the minds of the inhabitants of the entire Roanoke region. That Petersburg is the best Cotton Market in Virginia, or North-Carolina, no one can deny; and that as a Tobacco and Wheat market, it is as good in every respect as Richmond, is equally true. Norfolk has never rivalled, and from various circumstances never can compete with our Town as a market for either of these staples: And, our Rail-road completed, what an augmentation of trade may we not anticipate?

Milton, April 3.

Transportation of Produce.—The transportation of produce from Milton, via the river to Wilkin's Ferry, and thence to the Rail-road, and on that to Petersburg, has already commenced.—Our enterprising fellow-citizen, Mr. John H. Crockett, has several boats engaged in carrying produce to Wilkin's Ferry, from thence it is taken in wagons to the Rail-road, and on that to Petersburg, and this too at one-fourth or one-fifth less than the cost of sending it in wagons, and in a much shorter time. We saw a young friend of ours the other day, who is the son of one of our substantial country farmers, who informed us that he had brought to town several hogheads of Tobacco, and intended to bring more to be transported by Mr. Crockett to Petersburg. We hope the farmers generally will follow the example of our friend, who we assure them does not often go wrong in these matters.

The prospect before us.—The following is an extract which we have taken the liberty to make from a letter addressed to the Editor, by a highly respectable gentleman residing near Blakely, N. C. the place where the Petersburg Rail-road is expected to terminate. It is dated

March 21, 1833.

"We hereabouts are all alive on the subject of the Rail-road—it will strike the river about two miles above me at the town of Blakely, where, and in its vicinity, the contractors are assiduously laboring on their various undertakings. It is cheering to us farmers to witness the progress which is daily making towards the completion of a work whose benefit will be incalculable. A trip from the Roanoke to Petersburg and back in a day!!! Whoever would have said so even ten years ago, would have been held to be romancing—a mere Don Quixotte! yet such I doubt not will be the case before the next fall."

RAIL-ROADS.

Fayetteville, April 2.

The people of Granville have lately had a meeting to devise means for continuing the Petersburg and Roanoke Rail-Road, to its termination at Blakely, on the Roanoke through Warrenton to Oxford. We heartily wish their success. A recent opportunity which we have enjoyed of witnessing the astonishing effects of Rail-Roads, has added greatly to our prepossessions in their favor. We passed over 41 miles of the Petersburg Rail-Road, which have been completed, and observed the embankment, the excavation and much of the timber, prepared on the remainder of the route. Two cars containing about 40 persons and their baggage, were drawn with ease by two horses. There is want of skill and efficiency in the management of the route, but a little experience will probably correct that. But no such deficiency exists on the roads from Frunchtown to Newcastles, (on the route from Baltimore to Philadelphia) and from Bordenstown to Anby, (on the route from Philadelphia to New-York.) On the former road, eleven cars containing 200 persons and a vast deal of baggage, were whirled along by a single locomotive engine, at the rate of fifteen miles an hour, and occasionally a mile in three minutes. On the latter road, eight cars, each with 24 passengers, were conveyed at the rate of 10 miles an hour, by two horses each, the horses being changed at distances varying from 10 to 14 miles. In neither case did there occur the slightest interruption, and in neither did there appear the least danger of an accident of any kind. Besides about 400 persons who are conveyed daily through each of the routes, there are numbers of cars for the conveyance of merchandise, of which vast quantities are thus transported.

It appears to us, that it needs only the sight of these things to convince any N. Carolinian that the true policy of his State is to fall in with the spirit of the age, and to construct Rail-Roads, wherever the extent of the business will justify it.

Our friend Hays passed along just after a slight accident to his only child at last night belonging to the Company, who things were of course in a most distressing state. Matters are ordered better now.—Ed. N.