SPEECH OF HON. WILLIAM B. SHEPARD,

OF PASQUOTANK,

Delivered in the Senate of North Carolina, January 31st, 1850, in reply to Messrs. Haughton and Gilmer, upon the rights of Secession, Revolution, &c.

Resolved, That the Constitution of the United States is a compact between sovereign and independent States, and all powers not therein delegated, are reserved to the States respectively; that among the attributes of sovereignty retained by the several States is that of watching over the operations of the General Government, and protecting their citizens from unconstitutional abuse on the one hand, and securing to them on the other, a strict fulfilment of the obligations imposed by the Constitution upon the General Government.

Resolved, That the people of North Carolina, as an organized political community, have the right to secede or withdraw from the Union, whenever a majority of the people, in Convention assembled, shall decide a withdrawal necessary, to protect their property or persons from unconstitutional and oppressive legislation by the General Government; or whenever, by the failure of the General Government to fulfil her constitutional obligations, the people of the State may deem such a step necessary, in order to secure the enjoyment of the rights, privileges and protection guarantied to them by the Constitution of the United States; and in such an emergency, a majority of the people of North Carolina, acting through the organized authorities of the State, would be entitled to the sole and undivided allegiance of all her citizens.

The above Resolutions of the minority being before the Senate as a Committee of the Whole, Mr. Shepard spoke as follows:

It was my intention, Mr. Chairman, at the commencement of this debate to have remained silent, and to have permitted, so far as I was concerned, the Report and Resolutions of the minority speak for themselves. They speak a plain language—one which which cannot be misunderstood, and I am glad they do so. It is time our public men and our legislative documents should cease "to palter in a double sense." I would have adhered to this intention, had I not found my humble efforts frequently alluded to by gentlemen who have spoken, and my previous remarks misunderstood and misapprehended.

At the commencement of the session, Mr. Chairman, I felt it my duty to lay before the Legislature a series of resolutions, involving what I thought the rights and duties of the people of North Carolina. These resolutions were referred to a joint select committee of both Houses; and although I believe there is no essential difference of opinion between the majority of the committee and myself, the majority preferred reporting back to the Senate a series of resolutions which aim at reaching the object which I desired in mine—not along the high-way of nations, which is open and free to all, who have the boldness and courage to enter upon it, but through bye-ways, over hedges and ditches, in which many of the parties will finally be swamped, and never perhaps reach the object desired.

Let us, Sir, regard for a moment the present condition of the Southern country. To my mind it presents a most melancholy picture, one which fills me with the most gloomy forebodings. It is no pleasure to me to speak on this subject; I do so with the greatest reluctance. Viewed in any manner in which it presents itself to my mind, I regard the question of negro slavery as it affects the future condition not only of the State but of the whole Union, as the most deeply interesting and difficult problem which can be presented to the mind of man. I should despise myself could I for a moment be willing to connect this great question, involving the condition, the happiness, and existence itself of millions of human beings, with the rise and fall of parties, either in the State or Union. No Sir, I wish to God I had political influence to induce the people of North Carolina to look at this matter solely and exclusively as a State question—not as Democrats or Whigs, but as an intelligent community of freemen, intrusted with the future welfare of untold thousands of human beings, who must look to them and them alone, for counsel and protection, amidst the difficulties and dangers which an injudicious management of this great question must unavoidably bring upon them.

There is a weak and silly practice indulged in by many persons, who, whenever this great and perplexing subject is referred to, instead of seeking a remedy for its solution, content themselves with trite and insane eulogiums of the Union. Were a physician called to visit a patient whose symptoms indicated the approach of a dangerous and fatal disease, to content himself simply with extravagant praises of the blessings and benefits of health, the patient would probably die, and the public would think the doctor a quack. What, then, should they think of those political physicians, who cannot avoid knowing that a vast majority of the non-slaveholding States are hostile to the institution of slavery—that this majority has now or will shortly have undisputed sway over the general government, and yet these political doctors prescribe nothing but Union, Union!

We all admit the Union to be a great blessing, as peace and harmony are infinitely preferable to confusion and disorder; but the true question for a sensible man to decide, is this Union most likely to be preserved and perpetuated by a tame submission to injustice and wrong, or by a bold and unqualified assertion of your rights and duties? Were the Southern people united among themselves, there would be infinitely less difficulty in settling this question. Could all the States interested in slavery lay aside for a time their petty party squabbles, and eternal quibbles upon the meaning of the Constitution, and in Convention assembled demand from the other States such an amendment of the Constitution as would prevent forever all political agitation of this subject, we would have no more trouble with it, and the whole country would go on in an harmonious career of honor and prosperity. But unfortuately, Sir, disunion at home and union abroad seem to be our melancholy fate. You may buy off for a time Northern aggression by sacrifices to union, but you never will obtain permanent tranquillity by such a course. The hardy and plundering Gaul periodically returned to the gates of Rome as long as gold was offered him for his forbearance, but when the sword of the patriot was thrown into the scale which weighed the tribute, he learned to cease his depredations. So it will be with these Northern fanatics on the subject of slavery. They never will cease their aggressions upon the institutions of the South until we convince them, in the most unmistakeable manner, that we mean to defend our rights with those arms and resources which the God of nature has placed in our possession. And Sir, unless the people can be rallied to this defence under the authority of State institutions and State interposition, it is perfectly idle to talk of any defence.

I have not the least particle of hope for the South from any action of Congress. The result of the last session would, I should suppose, convince every impartial man that we have nothing to hope from that quarter. We have lost in every struggle upon that arena, and must always continue to do so. Such are the all-powerful influences of wealth and power in Washington, that some of the sturdiest champions of Southern rights and interests have become suddenly and unaccountably convinced that we ought to be satisfied and contented with the late compromise, although we lost all we contended for, or for which the struggle commenced.

Even Texas, which got into the Union a ragged bully, through a gross violation of the Constitution, is made at Washington by a bribe of ten millions a decent gentleman, and lectures with the most becoming propriety upon the beauties of Union and the Constitution; proving beyond a doubt and by the most conclusive and patriotic arguments, that the Constitution may be violated to get into the Union, but when once in, not even political death and destruction releases us from its bonds; the grave of all our rights affords no shelter from its persecutions.

Can you doubt this, Sir? If you do, look at the last compromise. Can there possibly ever again occur so good an opportunity for Congress to settle this controversy with justice to all the parties? North Carolina, by nearly the unanimous Resolutions of her Legislature, and afterwards the other Southern States in Convention at Nashville, called upon Congress to adhere to the compromise she herself had established upon the admission of Missouri, and which was greatly to the advantage of the North. This was not only utterly disregarded, but Mr. Clay, the reputed author of the Missouri Compromise, was the foremost man in producing this breach of faith. Sir, the South may go on compromising upon the floor of Congress until she has nothing left worth contending for. The next assault upon us will be the emancipation of the slaves in the District of Columbia, and the suppression of the slave trade between the States. Here will be a grand subject for a compromise; and I have no doubt the North will be willing to make the Southern man who may coax the South to submit to it, even President of the United States.

We cannot doubt, Mr. Speaker, that this will be the next move of the abolitionists, unless we disbelieve their own publications. It was but the other day, I saw an article in the Tribune newspaper of New York, the organ of the abolitionists, advising the party to be quiet for the present, and probably they will adopt this suggestion; they may permit the present session of Congress to pass quietly off, that the South may calm down, and as usual go to sleep, supposing the subject finally settled. A new Congress will come in. It is already ascertained that Mr. Seward, the higher law advocate, has a majority of the New York members his avowed champions, and the balance admitting the purity and justice of his motives, merely doubting their expediency. Mr. Webster, the champion of the Constitution, has been defeated through his friends in law-loving Massachusetts; Ohio is in the hands of the freesoilers. Here are three leading Northern States, powerful from their position, their numbers, and their wealth, under the direction of a man who acknowledges no control over his blind fanaticism. A new move will be made upon the political chess-board at Washington; members of Congress will become excessively excited; they will make the most violent speeches; they may even limit the duration of the Union, as one gentleman did last winter, to one little fortnight. In the midst of all this storm and fury, some gentleman, animated by the most intense and patriotic devotion to the Union, will rise in his seat and propose a compromise, the amount of which will be the abolitionists will gain a large part of what they contended for, and we, by submission, will signalize our love of Union.

And Sir, should we reject the Resolutions of the minority will we not invite the very course I have here predicted?—will we not proclaim to these people that we acknowlege no right in the people of North Carolina to withdraw from the Union for any purpose whatever? But, say the gentlemen on the other side, although we do not admit the right of secession, we will rebel or revolutionize.

I will now proceed, Mr. Chairman, in reply to the gentlemen from Chatham and Guilford, and explain this doctrine of rebellion and revolution, and show that it will not answer their purposes; and that, if it means any thing practical or useful, it must be preceded by secession. In fact, the gentleman from Chatham admitted that he differed from me only in words. Now, Sir, I would ask that gentlemen if this is a time, when the thief or robber is in the house, to quarrel about the mode of ejecting him?

I am not advocating secession at this time. I merely claim the right for the people of North Carolina, and I say, it is necessary they should now assert it, that should a crisis ever unfortunately arise when it shall be necessary for them to use it, they may understand how, and in what way, they must defend themselves.

I will not follow the gentleman from Chatham into his investigation into the old Confederation; we don't differ on that subject. I understand the gentleman to admit the true character of our present government, as stated by Mr. Madison and Mr. Livingston, to be in the words of the latter, "partly popular, acting directly on the citizens of the several States—partly federative, depending for its existence and action on the existence and action of the several States." That gentleman further admitted, that North Carolina had a "right to oppose her strength and her sovereignty" to the aggressions of the General Government, but this, he contended, was a revolutionary right, and not a right of secession.

It is safest, Mr. Chairman, in all controversies, before you commence the discussion, to settle the meaning of the terms you mean to use. I have never contended that secession was a right derived from the Constitution. I say in my resolutions, it is a right the people of North Carolina have never surrendered, and if they never surrendered it, it must still remain with them; otherwise our Government is not one of compact, with only powers delegated by the people, but one of consolidation.

This is not only a necessary, but an unavoidable, inference; and it is no answer to say, that secession would destroy the government. Undoubtedly it would destroy the government, and so would revolution, which the gentleman contends for, if successful.

As I said, Sir, it was best to settle the meaning of words, let us examine what is the meaning of the words revolution and rebellion. Dr. Johnston, the best definer of the meaning of words, says revolution means "a change of government in a State or country;" rebellion he defines, "an insurrection against lawful authority." Thus in England, in 1688, it was called a revolution, because the government was changed from the divine right of Kings, to a government by King, Lords and Commons; our revolution in 1776, was justly so called, because it changed the government of this country from the British Parliament, and vested all authority in the people, and proclaimed them the source of all power, as will be seen by a reference to the first section of our bill of rights, which says "all political power is vested in and derived from the people only."

Now, Sir, I have heard of but four original forms of government, viz: The monarchical, the aristocratic, the democratic or republican, or a mixture of these three. The American people have universally preferred the democratic or republican, nor have any of those gentlemen, who contend for what they call the right of revolution, yet told us to which of the other forms they propose going when they get ready for a change. I presume, therefore, Sir, from their silence on this very important point, that they did not use the word revolution in its true and legitimate sense, but that they meant rebellion.

I am confirmed in this presumption from the fact, that they all contend that they do not mean to leave the Union, but to resist within it, which is nothing more than rebellion, or insurrection against lawful authority; for if they do not mean to leave the Union, it is a misnomer to speak of the right of revolution. They certainly do not expect to remain in the Union, and change its form of government.

It is apparent then, Sir, that the gentlemen from Chatham and Guilford, by the right of revolution mean the right of rebellion, if any such right can be said to exist.

The right of revolution, or the right of the people to alter or change their form of government, is a right asserted in the Declaration of Independence, admitted by all our public men, and not denied by any of the gentlemen who have spoken, although I think they have misapprehended its application. How this right can be exercised by the people of North Carolina, if they are obliged to remain in the Union, passes my comprehension. [Here Messrs. Haughton and Gilmer arose and denied having contended it was obligatory on the people to remain in the Union when asserting the right of revolution.] Mr. Shepard continued. I do not mean, Mr. Chairman, to mistake the argument of either of the gentlemen, if I have been so fortunate as to understand it. I contend that secession is not only a necessary result in a government of compact, but that it is an indispensable prerequisite to the right of revolution that the people of the State as an organized political community, should have the right to withdraw from the Union. I contend moreover, Sir, that this right of revolution, which our ancestors won in 1776, and affirmed in the Declaration of Independence, must be surrendered, and we must rest contented with rebellion, unless we still have the right to withdraw from the Union. What is this right of revolution admitted by these gentlemen, yet to belong to the people of North Carolina, as defined in our Declaration of Independence? I will read the declaration from the sacred instrument which says, "That whenever any form of government becomes destructive of these ends, viz—the welfare of the people—it is the right of the people to alter or abolish it, and to institute new government, laying its foundations in such principles and organizing its powers in such form as to them may seem most likely to effect their safety and happiness."

This Sir, was what the men who achieved our independence understood by the right of revolution; it was a right to change the government, and to make it answer the purposes for which all Governments were intended—the welfare of the people. Now Sir, I maintain that those persons who deny to the States the right of secession, but contend for the natural right of revolution, yield to the people in their individual characters only this important right of revolution, but deny it to them in their associated character as States.

I will not consume the time of the Senate in proving that this limit is an annihilation of the right, and that if the people of the State possess the right of revolution, they must have also the right to exercise it as an organized political community; otherwise it would be of little practical utility.

It is very apparent, however, that these gentlemen, in their excessive zeal to denounce the right of secession, have confounded the right of revolution, which they admit, with rebellion or insurrection against lawful authority. Now Sir, there is no such thing as a right of rebellion. To contend for it is asserting two contradictory rights, viz: the duty of the Government to punish, and the right of the citizen to resist.

I hold it to be a plain principle of Constitutional law, that as long as the people composing the State of North Carolina consent to remain in the Union, it is their duty to obey the laws enacted by Congress. Should they object to any law, their only appeal should Congress refuse to repeal it, is to the Supreme Court; and that all open forcible resistance by them, whether under State authority or not, is treason. This Sir, is what is meant by this passage of the Report of this minority, to which the gentleman from Chatham so much objected, and the truth of which he emphatically denied. The Report uses this language: "Should the State of North Carolina admit that she has no right under any circumstances to withdraw from the Union, but must rely for her protection upon what has been called her natural rights, and resort to rebellion or insurrection, she releases thereby her own citizens from all allegiance to obey her commands; for if she has parted with all her sovereignty, she has no claim to obedience in such an emergency. She may raise the standard of revolt and collect around her banner all the disaffected and discontented, but in doing so, she admits she is guilty of treason, and all who follow her fortunes may share the fate of traitors." This Sir, I maintain is strictly Constitutional language, too plain to require the force of argument; and unless the people of the State assert the right to withdraw from the Union, as the first step toward asserting the right of revolution, they must remain in the Union and submit to all its pains and penalties, and no State authority can avail them anything. For, said Mr. Webster in his reply to Mr. Hayne, "I maintain that between submission to the decision of the constituted tribunals and revolution or disunion, there is no middle ground—there is no ambiguous condition, half allegiance and half rebellion." I would, therefore, say to the gentleman from Chatham, if he is in earnest in his willingness to resist any oppression of the General Government "with the whole strength and sovereignty of the State," he must quit the Union to do it. He must either remain in the Union, and acknowledge obedience to its laws, or go out of it and resist under the banner of his State; he cannot, in such an emergency serve two masters; he must make up his mind to answer the question of ancient Pistol, "under which King Bezonian, speak or die."

It seems to me, Mr. Chairman, that those gentlemen who deny the right of secession, but contend for the natural right of revolution, have got into this confusion of ideas, from not adverting to the source and origin of our Government. Their notions are rather English than American. In England the doctrine is that Parliament is omnipotent. It is the source and origin of all power. On the contrary, in North Carolina, we have proclaimed the people the source of power, and our Governments, both State and Federal, are established upon this principle. Neither Congress or the Legislature can lawfully use any power which has not been delegated to them in their respective Constitution; and when they do, they become usurpers, and trench upon the liberties of the people.

In our State affairs, the remedy for any usurpations of the Legislature is easy and expeditious. The interests of the people of the State are nearly, if not entirely homogeneous, and a change of the members of the Legislature may bring back the State Government to its just limits. Not so with Congress. The delegation to that body from the people of North Carolina and of the whole South, is in the minority. A change of members in North Carolina produces no results, and the feeling and interest of the two sections upon the subject of slavery are widely different and daily becoming more so. Now Sir, I would ask what remedy have the people of North Carolina, should Congress usurp powers not delegated, if they cannot withdraw, and say in *hac federa non veni*? Gentlemen may say an unconstitutional law is not binding—the Supreme Court would reverse it. That is very true, but the law may be unjust, and the Constitution violated, and the question cannot be brought before the Supreme Court: for instance, suppose Congress repeals the fugitive slave law. Can the Supreme Court take cognizance of such a breach of the duty of Congress and an express requisition of the Constitution? If it can, I would be glad if some gentleman would point out the process. The sins of omission are sometimes as great as the sins of commission; and when the Government fails to do its duty it is egregious folly to look to any other source of redress than the intelligence and patriotism of the people.

Alexander Hamilton, a high authority in matters of State, once said that without its patronage and means of corruption, the British Government could not exist, I suspect, Sir, that a good deal of this horror manifested by some of our statesmen towards secession, which appeals to the people, arises more from a fear of losing the loaves and fishes, than from any apprehension that the people will do aught to endanger their own liberty. The Federal Government at this time, by means of its enormous revenue, and the prodigality with which it is squandered, can command the services of aspiring genius. To the ambitious, she offers attractive official station; to the mercenary, fat jobs and contracts; to the voluptuous the attractions of the Capital; and in all she finds a host of admirers and defenders whose talents and zeal are irresistible. Whether they will not prove too strong for the liberty of the people, a few more years will develope.

The honorable gentleman from Guilford, in reply to the question "whether the people of North Carolina in their organized capacity as a political community, had a right to resist an oppressive act of the general Government" replied "that they had, but it was revolution, and not secession as a right guarantied by the Constitution." I never knew before that the people of North Carolina derived their rights from the Constitution of the United States. I thought they claimed their freedom as an inherent inalienable right derived from the munificent gift of an all-wise and bountiful Creator. In the monarchical nations of Europe the royal bounty grants to the humble petition of his subject, rights and privileges. The free people of America acknowledge no authority, not expressly derived from, and delegated by them. The gentleman from Guilford has reversed this condition. He looks into the Constitution of the United States, not to find what rights his constituents have surrendered, but what rights have been guarantied to them. Leaving the gentleman to settle this important point with his constituents, I will repeat what I have already stated, I have never contended for secession as a right derived from or guarantied by the Constitution. I said in my resolutions submitted at the commencement of the session, "that the right to secede from it (the Union) is a right of self-defence and protection which the people of North Carolina have never surrendered, and never can surrender, with due regard to their own safety and welfare." This proposition I now maintain, and have heretofore maintained on the floor of the Senate, as in strict conformity with the theory of our Government; and if it has not been surrendered by the people it is unquestionably reserved to them.

I have endeavored to show to the Senate that the right of revolution if it means any thing, must be be preceded by secession; that it is an absurdity to claim the right for the people of North Carolina to change their form of Government within the Union. Having disembarrassed the admission of the gentleman from Guilford from some difficulties which his confusion of ideas had thrown around it, I will now proceed to show the Senate that his reply to my question admits the very point in dispute.

If the people of North Carolina, in their capacity as an organized political community, have a right, as the gentleman from Guilford admits, to resist with force any oppressive act of the general government, they must consequently have the right to command the assistance of all the citizens of the State to aid them in making that resistance effectual; which cannot be done without withdrawing from the Union. Otherwise, the State would be commanding her citizens to do an act which she herself admitted in the 3rd section of the 3rd article of the Constitution of the United States, was treason. There is no escape from the dilemma in which the gentleman's admission places him, but in the right of secession. There is, in the language of Mr. Webster, no half-way ground between submission and revolution or disunion. In order to avoid this inevitable result of the premises of the gentleman from Guilford, certain politicians in the Union have contended that the Federal Government was formed not by the people of the several States, through separate State action, but by the aggregate mass of the whole people of the Union; and consequently, it is a consolidated Government, and not a compact. It is upon this theory of a consolidated Government that Mr. Badger must have reasoned when he said in his August Speech that he acknowledged no more authority in the State of North Carolina to dispose of his obligations, than in the State of Virginia or New Hampshire.

Now Sir, I would ask any impartial man, who has clearness of intellect sufficient to comprehend an argument, what unfairness I have done the opinions of Mr. Badger? I stated his opinions in his own words, taken from his printed Speech. Mr. Badger is an accurate thinker—a man who uses proper words in proper places; and I have no doubt, had he believed the State of North Carolina as a political power had a right to resist forcibly the general Government and command her citizens to aid her, he never would have said he acknowledged the same authority in Virginia as he did in his own State. I have, therefore, Sir, too much respect for Mr. Badger's intelligence to believe that he will be satisfied with the defence of his opinions, made by the gentleman from Guilford, however much he may be gratified by the fervor of his zeal.

I will not exhaust the patience of the Senate and my own strength in illustrating what must be apparent, that if the State has a right to exercise an act of sovereignty in resisting the Federal Government, as admitted, she must have all the accessories of that sovereignty; not among the least of which, is the right to declare what shall constitute treason against her authority. If the gentleman from Guilford had, therefore, reflected a little upon the necessary consequences of his own principles, he might have spared himself all the horror and terror he has manifested at the State's undertaking to pronounce who should be considered traitors and rebels against her authority.

The gentleman from Guilford read to the Senate two long extracts, one from Mr. Madison's letter to the North American Review—the other from General Jackson's proclamation. I was very much surprised that a gentleman who has, I understand, a large legal practice, and who therefore must be in the habit of critically examining the meaning of statutes and weighing the credibility of testimony, did not perceive that these two productions contradict each other. I will first, Sir, dispose of this proclamation; and I think I can show to the Senate that from the circumstances under which it was issued, it is entitled to no weight as a Constitutional argument. I have, Sir, some right to speak of Gen. Jackson. I voted twice for him for the Presidency of the United States, and under similar circumstances I would again do the same thing. He was a man of violent prejudices and passions, but honest and patriotic, and sincerely attached to republican institutions. I served in Congress during his Presidential term, and gave to his Administration such support as I could, consistently with what I thought the interest and wishes of my own constituents. Those were days when a public man was permitted to have some independence of thought and action, and was not expected to follow the lead of a few party intriguers or be denounced and villified. I mention these facts, Sir, merely to show that from my associations I could have no object in undervaluing any opinion of Gen. Jackson. Much of the reasoning and assertion of that proclamation was deeply regretted by most of Gen. Jacksons's supporters and friends; and whilst they rejoiced that he had thrown the weight of his name against the doctrine of nullification, they saw with unfeigned alarm that in his anxiety to prostrate a political foe and revenge a personal insult, he permitted the ardour of his feelings to carry him so far that he was giving countenance to some of the most pestilent heresies which have ever been advanced by the friends of an arbitrary or consolidated government. Gen. Jackson, in his cooler moments, atoned for all this by explaining the objectionable and doubtful passages of his proclamation, and declared to the world that he still remained unchanged in his belief that the resolutions of '98 and Mr. Madison's Report, contained the true theory of our form of government.

This proclamation was undoubtedly the child of many fathers. It bears upon its face evidence of its various paternity. Every shade of doctrine can gather something from its perusal. Even the secessionist, though condemned, need not despair of receiving some consolation, for it says in one passage that "secession, like any other revolutionary act, may be justified by the extremity of oppression." It will probably forever remain unknown who had the greatest agency in concocting this celebrated paper; there is very little doubt, however, that the friends of Mr. Van Buren, gladly availed themselves of the quarrel between the President and Mr. Calhoun, to turn both the popularity and wrath of the former against the latter, and his peculiar Constitutional opinions. For these reasons, Mr. Chairman, I would as soon think of consulting Gen. Jackson's celebrated letter, in which he proposed the hanging of the Hartford Convention federalists, under the second article of war as this proclamation; and I would suggest to the gentleman from Guilford, that the next time he consults the proclamation as a commentary on the Constitution, he had as well read the letter. It may serve to moderate the ardor of his admiration. I will dismiss this subject by reading from Gen. Jackson's inaugural address in 1829, an extract, which will show what were his opinions upon the rights of the States in his cooler moments, and before he had felt the influence of power. His inaugural in 1829, contains these words: "In such measures as I shall be called on to pursue *in regard to the rights of the separate States*, I hope to be animated by a proper respect for those *sovereign members* of our Union, taking care not to confound the powers *they have reserved to themselves*, with those they have granted to the Confederacy."

The letter of Mr. Madison, which the gentleman read, is a very different affair; and if, Sir, I thought it undoubtedly bore the construction the gentleman from Guilford puts upon it, I would surrender my own opinion. There has been no man in this country whose opinions upon a Constitutional question is entitled to such respect as Mr. Madison's. He was coeval with the instrument itself and had a large share in framing it, and putting it into operation. He was a man, from his personal character, eminently entitled to confidence. His mind was philosophical, and his temper placid. He regarded the instrument, not as a political partizan acting for the moment, but as a statesman looking remotely into futurity for the benefit of posterity. Such a man could have no object but the public good. He descended gently to the tomb—his opinions undisturbed by personal controversies—surrounded by every earthly blessing, and recorded honors have gathered round and thickened over him.

Let us now examine this letter of Mr. Madison, and see if it can bear the construction the gentleman from Guilford has put upon it. The letter commences by stating the true character of our government. "In order, says Mr. Madison, to understand the true character of the Constitution of the United States, the error not uncommon, must be avoided, of viewing it through the medium either of a consolidated government, or of a confederated government, whilst it is neither the one or the other, but a mixture of both. And having no model, the similitudes and analogies applicable to other systems of government, it must, more than any other, be its own interpreter, according to its text and *the facts of the case*." Again, he says, "It was formed by the States; that is, by the people in each of the States, acting in their sovereign capacity, and formed, consequently, by the same authority which formed the State Constitutions."

Here, sir, we have the unqualified testimony of Mr. Madison as quoted by the gentleman himself, against the doctrine that the Constitution of the United States is the result of the general will of the people of the United States, acting in their aggregate capacity as one community, and consequently independent of any separate State control or State action. Mr. Madison then goes on to enumerate the several provisions of the Constitution intended to secure the rights of the States against usurpations and abuses on the part of the General Government When these are all exhausted, he uses these remarkable words to which I will particularly call the attention of Senators: "And in the event of a failure of every Constitutional resort, and an accumulation of usurpations and abuses, rendering passive obedience and non-resistance a greater evil than resistance and revolution, there can remain but one resort, the last of all—*an appeal from the cancelled obligations of the Constitutional compact to original rights and the law of self-preservation*. This is the ultima ratio under all governments, whether consolidated, confederated, or a compound of both; *and it cannot be doubted that a single member of the Union, in the extremity supposed, but in that only, would have a right, as an extra an ultra Constitutional right, to make the appeal*." Mark this language, Sir. It says a single member of this Union, a State, not a crowd of unorganized rebellious individuals, can make the appeal to original rights. And how is the State to make the appeal? By remaining fettered by the "cancelled obligations of the Constitutional compact?" No Sir, she steps forth a sovereign power remitted to all the rights of sovereignty, a part of which she had surrendered, but has now resumed, to defend her citizens against wrong or oppression. This, Sir, I contend is the true meaning of the letter; and it is precisely what I have urged to the Senate, as a right belonging to the people of Noth Carolina, and what the minority assert in their report and resolutions. If this construction of Mr. Madison's letter is the true one, and I cannot perceive wherein it it is defective, it bears directly against the position of the gentleman from Guilford. I would deem it unpardonable, Mr. Chairman, were I to address a North Carolina Senate upon the subject of secession, and fail to introduce the authority of a native son of the State, whose memory is still endeared to many among us. I mean Nathaniel Macon—*clarum et venerabile nomen*—a name that will be honored and respected in North Carolina as long as her people can esteem great purity of character, and singleness of purpose, unbending integrity, and a Roman firmness—a mind that could not be seduced from the path of duty by the blandishments of Washington or swerved from its republican simplicity by the trappings of office. I know Sir, that among the parasites of power and official station, it is fashionable to sneer at Mr Macon's opinions, and I confess in my younger days, when somewhat allured with the idea of a splendid government, I undervalued the solidity of his judgment. Riper experience has convinced me of my error, and I now believe, had Mr. Macon's warning voice been regarded, that although Washington City might not have vied with the Capitals of Europe in splendor and extravagance, it would have contained more honest and patriotic hearts, and the voice of discontent and disunion would not have been heard in the land. This letter was written by Mr. Macon, in reply to one from the Hon. S. P. Carson, and contains the following passages: "The opinions of Gen. Washington, Mr. Jefferson, and Gov. Clinton, are known, but not respected. I have never believed that a State could nullify and remain in the Union; but have always believed that a State might secede when she pleased, provided she would pay her proportion of the public debt; and *this right I have considered the best guard to public liberty and to public justice* that could be desired; and it ought to have prevented what is now felt in the South—oppression. The proclamation contains principles as contrary to what was the Constitution, as nullification. It is the great error of the administration." Here, Sir, we have the clear and explicit testimony to the existence of the right of secession by this honest man, that nobody can accuse either of ignorance of the theory of our Government, or of a want of patriotism. Mr. Macon, at the date of this letter, was probably better acquainted with the opinions of the great men who framed our government, than any man living. He had been intimate with many of them, and associated with most all of them, in the councils of the country.

Mr. Chairman, should the Senate reject the Resolutions of the minority of the Committee, they will proclaim to the world their belief that our Constitution is founded in no degree upon compact between the States; that the people who framed it reserved to themselves no rights in their organized political capacities as separate States; that our Government is one of pure and unmixed powers in all respects—one of consolidation. Against the tyranny or oppression of such a government, the people can look to no resource for protection, but unorganized, undisciplined rebellion or insurrection against lawful authority. Sir, in what respect does such a government differ from that of Russia, except that we are permitted to send a few delegates to a Congress, the majority of which is notoriously hostile to our interests? The serfs of Russia can rebel against the oppression of their lord and master, and frequently exercise that natural right which only serves to strengthen the yoke and increase the burden that is laid upon them. Our ancestors designed and framed no such government as this. They knew full well, from all the lights and experience of the world which were spread before them, that unchecked power, entrusted to one man or a set of men, was always abused; they saw that history upon every page was blackened by the encroachments and atrocities of power, proving, says a late eminent British historian—if any proof were wanting—"that power should always be watched, and checked, and divided by every possible contrivance" Our ancestors doubtless thought they had wisely provided against anticipated abuses, when they entrusted to the General Government powers few and defined, and to the State governments powers more numerous; reserving to themselves in their organization as separate communities, the right to resume or withdraw them whenever they were abused, or their safety demanded it.

There is no fact more clearly proved by the history of the formation of the Constitution of the United States, than that its framers never designed or imagined they were organizing a consolidated government. Such a charge, although frequently brought against the instrument, as being its ultimate tendency, was constantly denied, and warmly repudiated. That monarchy was the natural and inevitable result of a consolidated government was admitted by all, and universally deprecated. I will not detain the Senate by quoting the proceedings of the several Conventions, to illustrate so plain a truth; I will satisfy myself with one passage from Mr. Madison's Report to the Virginia Legislature in '98: "That the obvious tendency and inevitable result of the consolidation of the States into one sovereignty, would be to transform the republican system of the United States into a monarchy, is a point which seems to have been sufficiently decided by the general sentiment of America. In almost every instance of discussion, relating to the consolidation in question, its certain tendency to pave the way to monarchy seems not to have been contested. The prospect of such a consolidation has formed the only topic of controversy."

I would now ask the Senate, in the language of truth and soberness, if we are not inviting this admitted tendency of our system, by denying to the people of a State the right to withdraw from the Union when their safety requires it? What other check can there be to misgovernment, when all entreaty and remonstrance have failed?

Mr. Livingston says in the speech quoted by the gentleman from Guilford, "that the theory of the Federal Government being the result of the general will of the people of the United States in their aggregate capacity, and founded in no degree on compact between the States, would tend to the most disastrous results; that it would place three-fourths of the States at the mercy of one-fourth, and lead inevitably to a consolidated government, and finally to monarchy, if the doctrine were generally admitted, and if partially so and opposed, to civil dissensions."

Mr. Chairman, it was in reasoning upon these general principles which are unalterably true, that Mr. Macon doubtless arrived at the conclusion expressed in his letter, viz: "That the right of secession was the best guard to public liberty." In our complicated system of government, which was intended by its framers to be one of checks and balances, the only certain and efficient restraint upon the Federal Government, must always be the reserved powers of the people of the States; not as unorganized masses, but through their State Governments. We have given to the Federal Government unlimited power over the purse and the sword of the Nation; let one step more be taken—let the people of the States deny to themselves any other control over this Government than unorganized insurrection or rebellion, which are never resorted to by the people until their personal sufferings become intolerable, and we will then have established a government which in a few years will never have been equalled by any other since the days of Imperial Rome, for its indifference to the wants and sufferings of the remote provinces.

The gentleman from Guilford alluded to my argument drawn from the rapidly increasing population of the blacks; and although he admits the truth of the argument, he consoles himself with the reflection that the danger therefrom is very remote, and asks in what manner would the Southern States be able to prevent this result by a dissolution. I have no fears whatever, Mr. Chairman, of a dissolution of this Confederacy ever arising from an emphatic assertion by the Southern people of their right and their determination to withdraw, upon any improper interference with slavery by Congress I believe that should the North find we were united and in earnest, she would most willingly consent to treat us as equal members of the Confederacy, and accede to our rights as such. On the contrary, should she unfortunately for her own interest, continue to be governed by blind fanaticism, and drive us to the last extremity, we could retire from the Union, and united with the other Southern States, open for our superabundant slave population, an asylum and an occupation in the uncultivated regions of the South.

Mexico and Central America contain millions of acres of fertile land, admirably adapted to the black race, which will probably forever remain a wilderness without such labor. Can the gentleman doubt the capacity of the South to take possession of this comparatively unoccupied territory? I would ask him who it was that conquered Texas, and what troops were those that overrun Mexico? Mr. Chairman, Providence points to the fertile regions of the south as the permanent abode of the black man, and as the only spot which offers any hope to the friend of humanity, that he will ever be elevated in the scale of human beings. I forbear, Mr. Chairman, to discuss this matter further; but if by remaining in the Union, with the Wilmot proviso practically applied to us, our fate is inevitable—if not in the short space of time I have heretofore supposed—still to our posterity not very remote, the awful alternative must be prescribed, either to amalgamate with the blacks, or fly their country, I ask the gentleman—I ask every man who has an American heart in his bosom, if he would not strike a blow to avoid such a catastrophe?

The gentleman from Guilford went out of his way to lecture me for my allusions to what he is pleased to call the venerable Editors of the Intelligencer and Union. So far as my observations went, there was great dissatisfaction felt regarding the course of both these papers on the slavery question during the late discussion of that subject. I am not so familiar with the Union, but I have been a constant reader of the Intelligencer for many years, and I have particularly noticed its course on that subject with great regret. Southern men contending for what they believed to be the rights and interests of the South, were generally denounced as disunionists, ultraists, Hotspurs, &c; whilst the course of Northern men on the same subject, if condemned at all, was done in the most soothing and gentle terms. Mr. Benton said in a speech on the floor of the Senate last session, that Congress was in the habit of investing, not thousands, but tens of thousands of dollars in publishing books and documents that nobody wanted and most of which were worthless, merely to afford lucrative jobs to personal and political favorites. Mr. Webster likewise said that the abolitionists had invested more money in exciting Northern people against slavery, than would have purchased and emancipated all the negroes in Maryland. Most of this money was spent in subsidizing the Northern press, and paying travelling orators. Now Sir, I would ask the gentleman—who seems to be familiar with Scripture, and who doubtless repeats in his daily prayer, "lead us not into temptation"—if I could have done less than advise the people of North Carolina not to put implicit confidence in Editors, although venerable, who were exposed to such great and cruel temptation?

It is frequently asked, why assert the right now, even if it does exist? It should be asserted now, Mr. Chairman, that the public mind may take it up, examine, and discuss it; if we are in error, the people will correct us; if we are not, the misapprehensions which exist on this subject, and which have operated very injuriously for the interests of the State in the late adjustment, will be dispelled forever.

It may be supposed, Mr. Chairman, from the interest I have taken in this discussion, that I am one of the class of people who believe slavery a blessing. I entertain no such sentiments; in fact for years past I have avoided planting as extensively as would have been both convenient and profitable to me, from my aversion to this species of labor. It is, however, recognised as property, and as such it is my duty, both as a legislator and an individual, to protect it both faithfully and effectively. I regard the security of property the corner stone of our social and political fabric—the criterion between civilization and barbarism, and the chief object in the institution of government. When a government fails to perform this sacred trust, it is unworthy of the affection of its citizens, and is condemned in the first paragraph of our State Constitution, which says: "Allegiance and protection are in their nature reciprocal, and the one should of right be refused, when the other is withdrawn." My great objection to the late compromise is, that it is an attack upon the slave property of the country—disguised, it is true, because it was the first experiment upon the weakness of the Southern States If they are wise they will be better prepared for the second, which will be certainly attempted before many years have elapsed.

In conclusion, Mr. Chairman, believing the right to withdraw from the Union the last means to protect the liberties and property of the people, consistent with the preservation of order, I hope the people of North Carolina will maintain and cherish it, and hand it down to their posterity unimpaired and untrammelled, as a right "inestimable to freemen and formidable to tyrants only."

LEGISLATIVE PROCEEDINGS.

SENATE.

FRIDAY, January 10, 1851.

The Senate met according to adjournment.

Messrs. Barringer, Shepard, Cameron, and Thomas made various reports from their respective committees. The bills and resolutions reported will be noticed on their third reading.

Mr. Drake, from the committee appointed to superintend the election, withdrew his report submitted the day before, and made another report, stating that no one had received a majority of the votes cast for Trustee of the University, and that there was no election. [It was stated in our last that Gov. Reid was elected a Trustee on the first ballot. The committee were mistaken. Upon a further count, it was seen that he lacked one vote. He was elected, however, on the first ballot on Saturday.]

BILLS, RESOLUTIONS, &c.

Mr. Nixon, a bill to amend the act extending the limits of the town of Wilmington. Referred.

Mr. Bunting, a resolution authorizing the Literary Board to loan three thousand dollars to the Trustees of the Clinton Female Institute, upon their giving good and sufficient security for the same. Read first time.

On motion of Mr. Berry, a message was sent to the Commons, proposing to adjourn *sine die* on the 22d instant.

On motion of Mr. Davidson, the President and Directors of the Literary F