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MAN Y S PER

Premiers to the Mouse of Representations of South

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## STATE RIGHTS

THE FIRST SPEECH OF MR. SMITH, Refere the committee of the whole on Mr. Priotent's exolutions in the Legislature of South-Carolina December 10, 1925.

Afr. South observed, that at the last session of the legislature when the resolutions now before the committee were first reported, he had relied them up for comblession, and find pledged himself if the house would then consider them, to take no part in the discussion, but would be con-

them up for consideration, and fad pledged himself fills hange would then consider them, to take no part in the discussion, but would be consent to give a slight vote. His object in considering them at that infe was, to prevent them from going abroad as the expression of the house. But the very cammittae which made the report, and particularly the chalcman, had opposed the consideration; and principally by their opposition the report was postponed; and the whole report, pressible and all, had passed off as the act of the whole house instead of the act of a sub-committee of five, and but of a bare majority of them. In addition to this, some person, more wicked than wise, had written his letters to Washington foonly man the belief, and asserting that the report had met with but little opposition; and some of the public, prints there, had published it not only as the act of the house, but as containing the only frue constitutional view of the subject.

Since he had called it up at the present session some writer in the newspapers, with what views he knew not had attributed to high a wish to revise the angry feelings of party, to onen the presidential campaigh, or to draw forth a splindfid display of eloquence. We had been often told the to was no party. If there were parties he had offered nothing to excite their ire. The last elected president had just entered upon the duties of his office, and should be administer the government with ability and according to the correct principles of the constitution, he would merit, and no of tima and foresee his error; nor could be forested the merit of the next administration as some other gentlemen had done. Nor had he sny wish to display his cloquence; it was too humble. His wish was, to give the subject a fair investigation, And for that purpose he had moved to expunge this very long and tery extraordinary presmible, and those very extraordinary resolutions, derived more from the exuberance of the fine fancy of the gentlement, and to substitute the preamble and resolutions ration and the constitution itself. This would bring the question directly before the committee

Whether,
Congress does possess the power under the constitution, to adopt a general systems of internal furprovement as a national measure?

Or the right to impose and collect taxes, for other purposes than such as were necessarily improved in the specific grants, and those necessarily implied thereis?

Or to exercise a power granted for particular objects, to effect other objects, the right to effect which has never been conceded?

Or to exercise the power to tax the different of

Or to exercise the power to tax the cificens of no state, to make 10 ads and causes for the citi-cas of another state?

or to lay duties to protect domestic manufac

These were the questions for the consideration of the consmittee. Congress was now marching with gigentic strides in the assumpti of pewers besetofore tinused, and amongst them they had assumed these very powers of making roads and careals throughout the United States; and had imported for the avowed

canals throughout the United States; and had imposed duties on foreign imports for the avowed purpose of Alding domestic manufacturers. It had been contended that Congress had this power under the constitution, and to enquire under what construction of the constitution they had exercised that power, was the object of Governor Vilson's Massage; and for that purpose you referred it to a special committee at the inspecsion. That committee, instead of reporting directly on the facts submitted, after involving the subject in a labyriath of obscurity, have told you we have no authority to enquire into these facts:

"That the people have geomferred no power a upon the Legislature to enquire into the acts of the general government."

"Last an exercise of such a power would be

"That an exercise of such a power would be an act of usurpation."
"And an exercise of such a power would be an act of usurpation."
"And that the Representatives of the people is Congress are only responsible under God to the people themselves."

Mr. S. said, he did not assent to that position. He held it to be an laherent right which every member possessed before his election, and which he had in nowise forfeiled by accepting the appointment of a representative, she remonstrate against any assumption of power by Congress not delegated by the constitution. The constitutions of the bid world were little eige than the sovereign will of the Despois whe happlised to pressite over their destinates. Our agents and Rujers have no such uncontrollable power. Their powers are limited by were that the limit is define. If their yowers are limited we written constitution, in which that limit is define. If their yowers are limited, that limit is define. If their yowers are limited, that limit is define. If their yowers are limited, that limit is define. If their yowers are limited, that limit is define. If their yowers are limited, that limit is define. If their yowers are limited, that limit is define. If their yowers are limited, that limit ought to be segarded. If it is not various of it is a direct invusion of the rights reserved, the outless have not this power, the exercise of it is a direct invusion of the rights reserved in the outless and ought to be accertained, as well by an official as an individual investigation. To show the committee that the was neither a novel nor a dangerous investigations, nor confined to this home alone, by permission he would read a part of a message communicated but a few days ago, by Gov. Pleasants of Virginia to the Legislature of that state, inpose the very subject. The message says.

"I shall neates some of the proceedings of the

ture of that state, pipos this very subject. The the grammetary, "I Judi makes some of the proceedings of the value of the control of the con

Governor Pleasants is one of the most ampable men living. A man of distinguished talents and long experience in Congress and elsewhere. He was taken from the Seaste of the United States when elected Governor. And victorie is up ingredient which has never entered into his character. He not only recommends this measure to his legislature but to the members of Congress also. We have another instance of a similar character in a late measure of the training of the state. Not on the submanifest precisely, but out he levision of New York to the legislature of that state. Not on the submanifest precisely, but out he levision of State Rights by the general government.

The State of New York had by its own means constructed a canal that would do honor to any ago or aution. And some attempts, it seems, had been made by officers of the United States government towned some duces from the bonis navagating that cannel. Gov. Clinton immediately brought it before the legislature in the most decisiva and spirited meaner. He says in his message to the legislature to the most decisiva and spirited meaner. He says in his message to the legislature in the most decisiva and spirited meaner. He says in his message to the legislature of the says in his message to the legislature of the says in his message to the legislature of the sate of the sate, and the presented of the sate, and within the jurisdiction of the state, have been constructed by the state and can be destroyed.

"The canals are the property of the state, and within the jurisdiction of the state, have been constructed by the state and can be destroyed by the state."

"The consequence of such assumptions would be, if curried into effect, to applicate our revenue arising from tolls, to produce the most oppressive measures, to destroy the whole system of internal improvement, and to prestrict the authority of the state government." He concludes thus,

cludes thus,

" f shall say no more on this subject at this " time, I will not entertain a doubt but that the time, I will not entertain a doubt but that the national government will command the about dominant of a claim so unfounded and pernicious; and am persuaded it has been preierred without due reflection, and without instructions from superior authority. But if this course should not be pursued, it will then be your duty to take that stand which the rights and safety of the people imperiously demand."

This is the decided stand which the State of New York has taken in decident.

New-York has taken in defence of State Rights. Not by removing her representatives; but in a re Not by removing her representatives; but in a re-monstrance of no ordinary character by her chief magistrate, through the legislature. Governor Clinton is a man of coninent talents, a distinguish-ed civilian and of great experience in public life. He had offered the opinious and official acts of these illustrious statesmen, not as conclusive, but in deciding the same questions he thought they were entitled to high consideration. They would at least prove one thing, that other States were tensious of their State Rights; and had given as strong examples.

were tenscious of their State Rights; and had given as strong exampler.

He know that some of our modern politicians disliked the term Siete Rights; and even denied their existence; and held that all political power was vested in Congress. This dostrige was maintained in a political pamphlet, which he held in his hand, first published in the newspapers, but on account of its excellence had been embodied, by another gentleman, in a pamphlet, for its preservation, and gives to the world with great encomiums. Who the author or compiler were he

by another gentleman, in a pamphlet, for its preservation, and gives to the world with great encomiums. Who the author or compiler were he knew not The pamphlet itself was known by the familiar name of "One of the People." In the second page, dopon the surject of order \$2'\text{\text{c}}\te can be spared from raising the necessaries of life, to fill the national armies and fight the bat-ties of ambitious Ruters."

This is said to be a Southern production, and he This is said to be a Southern production, and he brought it before the committee because it was considered the Text Book from which many of our modern politicians have formed their creeds. It was not until after this Book had had its full circulation, that Congress had been able to obtain a majority, either for constructing Roads or laying additional duties. If we have grown too tame, and have become too familiar with such political continuate, because they are entertained and publicly expressed by those whom we know, our predecessors of twenty years ago would have shaddered at such a thought. If we have so State Rights, and Congress has this transcendent

predecessors of twenty years ago would investinable east a such a thought. If we have no state lights, and Congress has this transcondent power, to draw from the people the vimosi farthing, and call out the last men upon the meat uneits, improvident, and wicked ends, to fight the battles of ambitious Rulers, as this writer avows; then there is not a hore despotic power in existence. Napolean in the zinth of his power, with all his exactions and concriptions, never went, nor did he dare to venture half so far.

No one had yet been hold enough to centend that the power of Congress over the subject of internal improvement, had been specifically granted by the Constitution; but it has been sought for simongst the incidental power. It is a matter of some amusement, as well as of evidence against its existence, that escreely any (wo of the advocates of this power have been able to agree upon the distinct section or para graph of the Constitution is which this incidental power is contained. The following are the various powers from which the one or the other has contended it was derived.

1st. From the power to provide for the common defence and general welfars. 2d. To regulate commerce. 3d. To establish post offices and post rouds. 4th. To decises wer. 5th. To raise and support armies. (th. To provide for calling forth the militia. 7th. To make all laws necessary and proper for carrying into execution all the power vested by the constitution in the government of the United States. Bit. That Ronds and Canale are among the more execution all the power vested by the constitution therefore, the Union differential of a fifting, therefore, the Union differential for military that the most sof deproving their work in a susners to tenfoly step ied as to deny themselves the mass of bettering their own in a same to be deplay step ied as to deny themselve the mass of bettering their own in a subsection which formed the Constitution was still to flowing their works to support the most of bettering their for the condition of the

and what requirements the Constitution, and by pursuing the history of the Constitution, and the reasons why it was formed, can thence draw a sounder edipolation if an can possibly be formed from the vague and unsertain ground of couvanience or afpedience. By the Ed article of that compact, it is said,

"Each State retains its sovereignly, free long and independence, and every power, jurisdies and independence, and every power, jurisdies."

that compact, it is said,

"Each State retains its sovereignity, freedom
and independence, and every power, jurisdiction, and right, which is not by this confidera"tion expressly delegated to the United States in
"Congress assembled."

By casting off the sovereignty of "neat Britain
the States and not become a consulidated nation,
but become sovereign, apparate States; and so
stated in the States severally enter into a firm
"league of frientiship with seek other, binding
"themselves to exist each eiter against all force
"effered to, or attacks made speak, them."

Here their powers are kept distinct, the States
servally enter hit of this league to avist each eiter,
pot to defend the untion. Them by those two articles it is evident to a demonstration that they
were separate and distinct soveleignts, and that
each State retained all its sovereignty, freedom,
independence, power, jurisdiction, and right,
except so much as was expressly surrendered.
They did surrender by that compact, certain
rights. By the 8th article, they surrendered to
Congress,

"All charges of war, and all other expenses
which shall be incurren for the common defence
"and general sectors."

which shall be incurred for the common defence and general welfare."

By another article they gave Congress a com plete power,
"To establish post offices throughout the Uni

ted States." " Art. Oth. Congress shall have the sole au'l ex

clusive right and power of determining on peace and war" fudeed there is scarcely a provision in the condilution which is not to be found in the articles of confederation, except, that the States retained to themselves the indire control over commerce, both foreign and domestic. The confederated government found no difficulty in their diplomatic government found no difficulty in their diplomatic relations with toroign nations, nor in their domes-tic relations, except in this article of commerce it was found whilst each State had uncontrolled power of regulating commerce with foreign me tions, that it lessened the credit and diminuhes their interest abroad. To obviate this difficulty and this alone, an intercounge of communication took place, and commissioners were appointed by the States of Virginia, New York, vania, t. daware, and New-Jerrey, who assembled at Annapolis in September, 1780, to meet dele-gates from the other States for the sole purpose of establishing some general commercial regulations, as will fully appear from the following communi-cation made by those delegates to Congress: They

"That pursuant to their several appointments "they met at Aumapolis the 11th Sept. nitant, and "having proceeded to a communication of their powers, they found that the States of Now-York, "Penusylvania and Virginia, had, in substance, "and nearly in the same terms, authorized their respective commissioners, to meet such commis singors, as were or might be appointed by me singors, as were or might be appointed by me other States in the Union, at such time and place as should be agreed on by the said commissionary to fake here consideration the Trade and Commerce of the United States, to see him factors awatem in their commercial interan uniform system in their commercial infor-tecture and fogulations might be necessary to their common interest and permanent happiness.

Early in the summer of 1787 commissioners of eleven Status met in Philadelphia and formed the Constitution. These dommissioners composed what was called the convention. In this convention many projects were submitted for a change in this form of government, although the object of their meeting was nothing but to regulate commerce. This shows an early attempt among our politicians to exceed their powers. Gen Hamilton proposed a senate and president for life; Governium Morris, Mr. Randolph, Mr. Madison, Mr. P. Butter, and Mr. Charles Pinckney proposed a National Government. Mr. Randolph submitted a Hesolution that a National Government ought to be established. This remained for some time under consideration, when Judge Elaworth moved to expunse the word National, and to place in the room of it, government of the United States. Which we agreed to nime con. (a) So the government vas, after solemn dobate, called the Government of the United States, recently called by some the tailonal government. None of the new projects called succeed, and Mr. Charles Pinckney draw up sproject, formed on the articles of confederation very like, it throughout, and the same in many pritculars. From that project the onstitution was principally formed. After it was Early in the summer of 1787 commissioners of stitution we principally formed. After it was formed an submitted to the States for their consideration same of them adopted it with amendments of shieh the following were adopted by Congress ad become a part of the constitution:

"Art. 96. The cumeration in the constitution of constitutions about the constitution."

"Art. vg. The enumeration is the construction
"of certainights, shall not be construed to deny
"or disparge others retained by the people."

"Art. 10th The powers not delegated by the
"constitution or prohibited by it to the States,
"ere reserved othe States respectively, or to the

people."
This syticide in exact accordince with the 2d

"people."

This articles in exact accordince with the 2d article of the confederation, and both are as expressive as the article and the confederation, and both are as expressive as the article and the confederation, and both are as expressive as the article and the confederation and the confederation of the States, to the ffeet, when they adopted the constitution. As my them was the following, by the covention of the State of South-Carolina, which adopted the extitution is May, 1788.

This confetion doth declare that no segion "or paragraphy the said constitution warrants a "construction that the States do not retain every power not arrevely relinquished by them, and wested in the general government of the Union." (b)

Some of heames that alorned that convention are the filowing. Charles C. Pinckney, Thomas Pinkley, Edward Rutledge, High Italiedge, John Riledge, David Ramsy, Daniel Desausure, John Smith, John Edwards, Johns Tosses, Anthry, Toomer, William Moultrie, Jedge Grimks, huge Hudson, Reigh Izard, Wm. Washington, Sucel Worron, Thomas Sumter, Wede Hamptor John Chemut, Thomas Taylor, John Hunter, William Butler, Samuel Stromwell Hunter, Wallenger, Schull, Ada Meek, Andrew Love, Hebry Leuren, sen Griscopher Gadelas. Minny more of the two the state of the country, and send its liberty with their blood Taky and borgis too dear to dammit it improving the street desaustic ware the dommitted in help lands. The street desaustic was the dommitting at large, at the shoots apower assumed by the fielegate of the general envention, who were conflicted budy.

rged that it is insee, and the Atorney General. Mr. Randolph, were deridelly of opiniest that Congress had no such power under the constitution. The four-teents Congress, at the latter end of their accordances on the constructing of Ropals and Casala by the General Government, and gave the beass and proceeds of the Bank of the United States, to be alwided among the States, to defray the expenses thereof. Mr. Madison disapproved the isaw, and returned it to the House of Representatives with the following reasons:

"I am constrained by the insuperable difficulty "I feel in reconciling the bill with the constitution of the United States, to return it with that "objection to the House of Representatives."

"The power to regulate commerce among the several States caunot include a power to construct. Roads and Canals, and to supprove the movingation of water courses, in order to facilitate, promote, and secure such commerce, without a latitude of construction departing from the

out a latitude of construction departing from the ordinary import of the terms, strengthened by the known inconvenience which doubtless ted to the grant of this remedial power to Congress.

To rofer the power in question to the clause "To rofer the power in question to the clause, "to pravide for the common defence and general welfare, would be contrary to the established and consistent rulesof interpretations and roder—"ing the special and carpful enumeration of powers, which follow the clause, ingatory. Such a view of the Constitution wants have the effect of giving to Congress a general power of "legislation, instead of the defined and limited to the constitution wants have the one hitherto understood to belong to it; the term common defence and general itelfare, imbracing every object and art within the perview of a legislative trust." (d)

At the next session, being the first of the fit teenth Congress, President Monroe supposing it would again be taken up, in his first presidential message to Congress, introduces the subject in words:

"As this splicet was acted on by Congress at the lest session, and there may by a disposition to revive it at the present, I have brought it into view for the purpose of communicating my
sentiments. Taking into view the trast with
which I am now honored, it would be improper,
after what has passed, that this discussion she uld be revived with an uncertainty of my opinion repecting the right. Disrogarding early impressions, I have bestowed on the subject all the datiberation which its great importance, and a just "sense of my duty required; and the rerd is, a sense of my duty required; and the rerd is, a settled conviction in my mind, that Congress do not possess the right. It is not contained in any of the specified powers granted to Congress Nor can I find at incidental to, or a necessary mean, viewed on the most liberal scale, for ear rying into effect any of the powers specifically granical." (c)
Notwithstanding this express and positive opin

no of Fresident Monroe, given in conformity to the Constitution, Congress did take up the sub-ject; and after my weeks debate, the friends of the ject; and after its weeks debate, the friendr of the measure could not agree upon what section of the Constitution gave the power, and they abendoned it. The subject then lay at rest for the next five years, until 1822, when it was found the Camberland. Road, which had cost a bout two millions of dollars, was impassable at one end before it was finished at the other. (I) Congress passed a law to catablish turn-pike gates, by which to collect tolls to repair it. President Monroe disapproved the law, and returned it to the House of Representative, with this answer.

tives, with this enswer.

"To THE HOUSE OF REPRESENTATIVES:

"Having duly considered the bill, entitled, an act for the preservation and repair of the Cumberland Mond, it is with deep regret, approving, as I do, "the policy, that I am compelled to object to its "passage, and to return the bill to the House of Representatives, in which it originated, under a "conviction that Congress do not possess like pow"er, under the Constitution, to pass such a faw." If the power exists, it must be either because it has been specifically granted to the United States, or that it is meident to come power, which has been specifically granted."

Two days after, he transmitted to Congress a message of sixty pages, in which he had taken a comprehensive view of this question; and proves demonstrably that Congress have no such power. Mr. S. said, he had dataned the committee with these long recitals of the official opinions of President Madison and President Monroe, because they were the recorded monuments of wiedom, sident Madison and President Monroe, because they were the recorded monuments of wisdom, experience, and profound reflection; freed from sophistical arguments, and pregnant with unanswerable deductions. He said he would now examine some of this mass of specified powers from which this incidental power is said to be derived; of which those most relied upon were.

"The power to establish post offices and post

of which those most relied upon were,

"The power to establish post offices and pest
"roads."

"The power to provide for the common de"tence and general welfare."

When the majority of a political body feel so
much interested in a question, that they determines a carry it at all events, every thing is made
to bend to it. Before this question arose, there is
no man, had he been asked, who would have said,
that a power to establish post affect and post roads,
could mean a power to sometruct roads and exavate canals. The plain and obvious meaning of
the term "to establish," is, to settle firmly, to fix
immovably, to make permanent, i.e. and so defined in the dictionaries. Whenever Congress,
designates the tewn or village where a pest office
shall be kept, and designates the road along which
the mail shall pass, it fulfile the power to establish
post offices and post roads. This government has
been in successful operation, and post offices and
post roads have been established in this way, and
no other, for 33 years. To what jextent is this
operation to be carried? there are adar five thousand post offices in the United States, and increasing every day. There were upwards of fifty established in the State of New York in the first six
months of the last year. The outent of roads
inding to these officer is infimence. Are Congrow to construct all these roads. How are they
to discriminater will they construct elegant
Turapika floads through some states and neglect
to construct high they construct the united.
Every tasm is liable to be called on to defend the
Union. If the public revents state state, int direct tages operate and represent of the burden.
Every tasm is liable to be called on to defend the
Union. If the public revents state state, int direct tages operate every other allies. The poorare not exampt four its burden. The public revenue of an other of the property of the Union.
Every tasm is liable to be called on to defend the
Union. If the public revenue of the poorare not exampt four

them? To atthere to the principle contended for they make do so, with soperation, will he make a fall to congress dust makes poet road, the park into one instances the interpost annear general satisfiability they not office the post codes.

By the constitution Congress are authorized to expecte sociolary eighted ones the district of the miles square, for the seat of the reason the strict of the miles square, for the seat of the seat of the part of the strict of the strict of the seat of the seat of the strict of the seat of the

The proposition was distinctly and directly submitted to the convention, to give to Congress the power to catabilish past annihility youds. It was acted on so far as respected post read, but was negatived so far as respected military roads. (g) When the question was directly negatived by the convention, it would be an outrage upon every rule of construction, as well as of good senge, to ray, they had gives the power incidentally. There could be no affery in such a construction. It would be giving a sanchan to arbitrary power. Nor could it he ascribed to that convention without attributing to it the worst of perposes.

The power to provide for the common defence and general welfare.

This sentence is an exact copy taken from the 8th, section of the Constitution, and was there considered merely introductory to a train of engineerally the same as the summerated powers that follow it in the constitution, the the confederation gave no such power, nor was it ever thought of; in the Constitution, the same wonds, under the same circumstances introduced, evidently, with the same riew indeed literally the same in every espect, is made to transfer to Congress, incidentally, a far more supendous power than the specified powers with which it is associated. In the Congress, incidentally, a far more supendous power than the specified powers that immediately follow it in the convention of the congress all other ted powers that immediately follow it in the same section. It these thirty distinctly enumerated powers had gone before it, in the same section, in the convention intended to charge the power indight positify be supraised to be brought in an assembly be supraised to be brought in an assembly power, if any very torgotion or bet entimerated powers had gone before it, in the same section. If there is no test into the convention intended to charge the power test days to congress all other powers, if any very torgotion or better the power of Congress by this clause, why did they not any sort of a full test of the same sectio