

Robert Barnwell, Speech in the South Carolina House of Representatives, 17 January 1788

Hon. ROBERT BARNWELL said, although he had been opposed to the investigation of the Federal Constitution at that period, and in that house, and foretold the unnecessary expenditure of both time and treasure that would be occasioned by it, yet he acknowledged that, if individual information upon its principles could by any means be a compensation for these wastes he should be extremely indebted to the honorable gentleman for the opposition which he had given. Mr. Barnwell was most decidedly in favor of the Constitution as recommended by the Convention, and viewed with pleasure the small sacrifices of interest, which, in his opinion, have been made to effect it. The arguments which had been adduced by the honorable gentleman in opposition had riveted his affections still more firmly to it, and had established in his mind, as conviction, what was only approbation before. If he did not view some part of the Constitution through a medium different from any of the gentlemen who had spoken before him, he should not have troubled this house. With this idea he rose, and left it to the house to determine whether he had done his duty as a member, or whether he had unnecessarily contributed to the interruption of the business before them. When he found that a gentleman of such acknowledged abilities, and of so great experience, was opposed to the Constitution, he expected a train of reasoning, and a power of argument, that would have made the federal fabric totter to its foundation. But to him they rather appeared like those storms which shake the edifice to fix it more strongly on its basis. To give his reasons for this opinion, he begged the indulgence of the house while he made the following observations upon the principles of the gentleman's opposition. In the first instance, it appeared to him that the gentleman had established, as the basis of his objections, that the Eastern States entertained the greatest aversion to those which lay to the south, and would endeavor in every instance to oppress them; This idea he considered as founded in prejudice, and unsupported by facts. To prove this assertion, Mr. B. requested gentlemen for a moment to turn their attention to the transactions which the late war has engraved upon the memory of every man. When the armor oppression lay heavy on us, were they not the first to arouse themselves? When the sword of civil discord was drawn, were they not the first in the field? When war deluged their plains with blood, what was their language? Did they demand the southern troops to the defence of the north? No! Or, when war floated to the south, did they withhold their assistance? The answer was the same. When we stood with the spirit, but weakness, of youth, they supported us with the vigor and prudence of age. When our country was subdued, when our citizens submitted to superior power, it was then these states evinced their attachment. He saw not a man who did not know that the shackles of the south were broken asunder by the arms of the north. With the above-mentioned supposition of oppression, the gentleman had objected to the formation of the Senate; that the Confederation required nine states to ratify matters of importance, but by the Constitution a majority of fourteen can do almost any thing. That this was the case he did not deny; but the conclusions that he had drawn were by no means consequential. The seven Eastern States, the gentleman had said, whose interests were similar, will unite together, and, by having a majority in the Senate, will do what they please. If this was the ease, it went against uniting at all; for, if he was not mistaken, the interests of nine of the United States are

almost the same. New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Delaware, are very similar in their interests. They are most of them entirely carriers for others; and those states which are exporting ones are very nearly equal to the carrying of their products themselves. Supposing, then, the desire of oppression to exist, he asked if they could not do it equally as well under the Confederation as the Constitution. He thought so; and, as the gentleman's arguments equally lay against every kind of coercive government, he was of opinion that the Senate, as established by this Constitution, was the most proper. Upon this head he begged permission to ask these questions: If the majority was in the Southern States, (which, as ten is a majority, might be the case,) would not objections, equally forcible as the gentleman's, lie on the side of the Eastern States? and yet that, in all governments, a majority must be somewhere, is most evident: nothing would be more completely farcical than a government completely checked. Having commented thus far on the gentleman's opposition to the Federal Constitution, he proceeded, according to the order of his objections, to consider the presiding power. On this he would be extremely concise; for, as the only objection which had fallen upon this head from the honorable gentleman was, that we had only a thirteenth part of him; and as this might equally, and, in his opinion, with more justice, be the objection of many and almost every state, he considered it only as a weight thrown into the scale of other objections, and not a subject for discussion.

With respect to the President's responsibility, it could not be established more firmly than it is by the Constitution. When treaties are made, if in the time of prosperity, men seldom think they gain enough; if in the day of adversity, they would be apt to make the President the pillow upon whom they would rest all their resentment. The Constitution had then wisely made him, as a man, responsible by the influence of fame, his character, and his feelings; as a citizen, they have postponed the period at which he could be tried with propriety until the fervor of party and cool reflection can determine his fate. The gentleman had also objected to the power given to those two branches of making treaties, and that these treaties should become the law of the land. A number of gentlemen have proved this power to be in the possession of the head of every free nation, and that it is within the power of the present Congress. He should only, therefore, observe, that the most free and enlightened nations of the world had a federal head, in which this power was established--he meant the Amphictyonic council of the Greeks, which was the palladium of their united liberties, and, until destroyed by the ambition of a few of the states of Greece, was revered by that jealous people as the cornerstone of their federal union. Against the representation he generally objects, that they are too few, and not elected immediately by the people. The whole body consists of sixty-five persons, in the proportion of one to thirty thousand. The British Parliament have one to fifteen thousand in the island of Great Britain, without considering her possessions elsewhere. The numbers of her Parliament are fixed; our congressional powers may be increased almost ad infinitum. Supposing, then, that a smaller apportionment had been made, in time we should have been oppressed with the number of legislators, and our government would be as languid and inoperative as it is at present; and he differed so much from the honorable gentleman, that he was apprehensive lest he should find that, by the Constitution, their numbers will be too great. As for their not being immediately elected by the people at large, the gentleman would please to observe, that, contradictory to their present method of electing delegates to Congress,--a method laid down

by that Confederation which he admires,--all the representatives are elected by the people; so that, in this instance, the gentleman was very unfortunate in his objection. The gentleman also asked why we were deprived of the liberty of paying our own delegates? This is another of the gentleman's unfounded suspicions; for the reason is so evident, and the regulation so favorable, that he was astonished how it escaped the honorable gentleman's notice. Congress are to have the sole power of laying on imposts; and therefore, when that power is given up by which we were enabled to pay our delegates, we are also eased of the burden of doing it. This is so evident, that the establishment of the objection takes not a little from the weight of the gentleman's other observations. Mr. Barnwell proceeded to say that the gentleman, upon the deprivation of the right to issue paper money, has altogether made use of an argument *ad hominem*, calculated to seduce; and his eulogium upon it was, in his opinion, misapplied. However, supposing that to be the clew that led us to our liberty, yet the gentleman must acknowledge it was not the state, but the Continental money, that brought about the favorable termination of the war. If to strike off a paper medium becomes necessary, Congress, by the Constitution, still have that right, and may exercise it when they think proper.

The honorable gentleman asks why the trial by jury was not established in every instance. Mr. Barnwell considered this right of trial as the birthright of every American, and the basis of our civil liberty; but still most certainly particular circumstances may arise, which would induce even the greatest advocates for this right to yield it for a time. In his opinion, the circumstances that would lead to this point were those which are specified by the Constitution. Mr. Barnwell said, Suffer me to state a case, and let every gentleman determine whether, in particular instances, he would not rather resign than retain this right of trial. A suit is depending between a citizen of Carolina and Georgia, and it becomes necessary to try it in Georgia. What is the consequence? Why, the citizen of this state must rest his cause upon the jury of his opponent's vicinage, where, unknown and unrelated, he stands a very poor chance for justice against one whose neighbors, whose friends and relations, compose the greater part of his judges. It is in this case, and only in cases of a similar nature with this, that the right of trial by jury is not established; and judging from myself, it is in this instance only that every man would wish to resign it, not to a jury with whom he is unacquainted, but to an impartial and responsible individual.

Mr. Barnwell then adverted to the parts of the Constitution which more immediately affected our state; namely, the right of establishing imposts and granting preferences, and the clause which respects the importation of negroes. Upon the first he premised, that, in the compacts which unite men into society, it always is necessary to give up a part of our natural rights to secure the remainder; and that, in every instance; if the latter could be maintained without giving up the former, every individual would be willing to keep back his share of those aggregate ties which then would bind the rest of the community; each individual would wish to retain his right to act as he pleases, whilst all but himself were restricted in their conduct. Let us, then, apply this to the United States; and yet the honorable gentleman supposes that South Carolina should be free herself. Surely this is not just, and cannot be admissible.

Mr. Chairman, suffer me to make this one other remark—that, when the distinctions occasioned by wealth take place, the desire of equality and the appetite for property soon render it necessary that the wealthy weak man should make greater sacrifices than the man who has nothing to lose, and consequently nothing to fear. This is the case with us. To secure our wealth, and establish our security, perhaps some little sacrifice was necessary; and what is this sacrifice? Why, that, generally, American vessels should have a preference in the carrying trade. The gentleman asserts that, by granting this preference, we, as a large importing state, will suffer greatly. Let us examine the truth of this position. By so doing, says the honorable gentleman, we shall destroy all competition, and the carrying states will establish what freight they please. I deny the declaration; and upon this principle: bounties act as encouragements; and this preference may, in a trifling degree, injure us for one or two years, but will throw so many capitals into this trade, that, even if the Eastern States should desire to oppress us, this would prevent them; for when this bounty takes place, our harbors will most indisputably reduce the freight. the gentleman will perhaps say that this is conjectural only. I appeal to every author, who has written upon the subject, for the certainty of this commercial maxim, and will ask the gentleman himself, whether an overstock of the market, in every instance, does not reduce the price of the commodity. Thus he had proved, he thought, that, should the Eastern States be desirous to take unfriendly advantages, their own interest would defeat their intention.

Mr. Barnwell continued to say, I now come to the last point for consideration,—I mean the clause relative to the negroes; and here I am particularly pleased with the Constitution. It has not left this matter, of so much importance to us, open to immediate investigation. No; it has declared that the United States shall not, at any rate, consider this matter for twenty-one years; and yet gentlemen are displeased with it. Congress has guaranteed this right for that space of time, and at its expiration may continue it as long as they please. This question then arises—What will their interest lead them to do? The Eastern States, as the honorable gentleman says, will become the carriers of America. It will, therefore, certainly be their interest to encourage exportation to as great an extent as possible; and if the quantum of our products will be diminished by the prohibition of negroes, I appeal to the belief of every man, whether he thinks those very carriers will themselves dam up the sources from whence their profit is derived. To think so is so contradictory to the general conduct of mankind, that I am of opinion, that, without we ourselves put a stop to them, the traffic for negroes will continue forever.

Mr. Barnwell concluded by declaring that this Constitution was, in his opinion, like the laws of Solon, not the best possible to be formed, but the best that our situation will admit of. He considered it as the panacea of America, whose healing power will pervade the continent, and sincerely believed that its ratification is a consummation devoutly to be wished.

Commodore GILLON wished to know what reason the house had to suppose that, if another convention met, our interest would be better taken care of by men of equal abilities with those who went to the other; or if, when there, they could procure for us superior advantages to those already agreed on. Indeed, he could not but consider our negating the proffered government as an oblique mode of reflecting on the conduct of our delegates, instead of giving

them that praise they were so justly entitled to. He called the attention of the house to the late commotions that had happened in Holland, where one part Of the citizens had called in the assistance of foreigners, for the sanguinary purpose of cutting the throats of the other. Are we more virtuous? If not, may it not happen that, if dissension unhappily prevail among us, foreign aid will be joined to those enemies already amongst us, and introduce the horrors of a civil war? He was warmly in favor of our sister states becoming the carriers of America; not that he wished to exclude our employing foreigners; at present two thirds of our produce was carried in American bottoms. The commodore hoped the gentleman who had approved of our state Constitution of 1778, would be, in time, equally pleased with the Federal Constitution proposed in 1787. He had represented our present situation to be calm and peaceable, but it was such a calm as mariners often experience at sea, after a storm, when one ship rolls against another, and they sink.

Jonathan Elliot, ed., *The Debates in the Several State Conventions, on the Adoption of the Federal Constitution*, Vol. 4, Philadelphia: J.B. Lippincott and Company, pp. 291-97.