

States united—precisely the same thing. In this condition they remained, there was not a particle of change, until the change that was accomplished by the confederacy. Before that they were not united together as a government; for they had no President, no Congress, no Court, nor anything else, but this assemblage of delegates of the separate States which they called a Congress, to transact their business. I read from the Articles of Confederation:

“In Congress, July 8, 1778. Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia:

“Art. 1. The style of this confederacy shall be ‘The United States of America.’”

That is the first time there was ever a pretence of a government formed for these States. There never was a nation before. There never was a people before that who had such an appellation. Here, they have baptized these thirteen equal and independent States by that name. Gentlemen have said that the sovereignty was first in King George, and then in Congress. In Congress prior to the formation of the confederacy? Sovereignty in that? It was a Congress to carry on the war, and for nothing else upon the face of the earth. A sovereign with no power of redress? No, no. It had no powers of government, except the right to instruct General Washington, and to receive, as they did, the resignation of his sword.

“Art. 2. Each State retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this confederation expressly delegated to the United States in Congress assembled.”

“Each State retains”—to retain is to keep what you have already; it is not to receive something you never had before. Then the articles of confederation go on and create a sort of government to be conducted by this Congress;—I suppose the Congress the gentleman alluded to as having the sovereignty after the Declaration of Independence. Everybody admits that this is a compact made between the States, because here is the statement on the face of it. What sort of a sovereignty is that? A government with no power to enforce it; a “rope of sand,” as it has been properly termed.

Then came the treaty of peace, acknowledging the independence, not of an independent nation, or sovereign nation, but of a nation, if you choose so to call it, created by the powers named in the confederacy; and the treaty expressly declares the independence of the several States, the colonies before, thereafter separate States.

In 1778 they formed this Union. It was *avowedly* a Union of sovereign States, as sov-

ereign States. Finding that it did not accomplish the purpose, it was proposed that a new Constitution should be formed, granting further power. By whom? By the States. To whom? Nobody ever heard that there was a proposition made to the people of the United States as a mass. Certainly not. The proposition was made to the States. How was it acted upon? It was acted upon by the States. The people met in the States. My friend from Baltimore, to whom I have just made a reference, I think most mistakenly applied Judge Marshall's remark. Does he suppose Judge Marshall to have meant that the people of the United States could not have met at some capital? They have been meeting ever since the Constitution was formed. Does Judge Marshall mean to say that the people of the United States by their delegates could not meet in Washington, Philadelphia, or Annapolis? Not at all. Chief Justice Marshall's meaning is very obvious. “Where else could they meet?” The proposition was made to the States, every State acting as the equal of every other State. Rhode Island was just as emphatically an equal State as New York was. If Rhode Island choose not to say—aye, and if there were only eight others, the Constitution would not have gone into effect.

Suppose that one or two of the States had refused to enter into the new arrangement; and it will be recollected that two of them did not for some time; where was, then, the supreme sovereignty of these States? Suppose that instead of the whole thirteen adopting the new Constitution, there had been but nine or ten. They would have been the United States, and others would have been left out. What condition would these remaining States have been in? Where was the sovereignty over them? Is it not evident that the people had it? The Constitution was submitted to the people in the several States, and the people of the States acted upon it. The people of the States confirmed it. It then became binding; and by one of its provisions expressly says that it shall not only be binding, but wherever binding it shall be supreme over any law of any State which contain anything in contradiction to its authorized enactments. The people have adopted it—the *people* of the several States, as members of States perfectly sovereign, except in so far as it is stated in the instrument that they surrender a portion of their sovereignty.

No man ever heard at that time that those States were not sovereign. Look at the discussions pending the adoption of the Constitution of the United States. You will not find any such language as has been used here. You will not find the language that the county represents in reference to the State, what the State represents in reference to the United States. No, sir; exactly the reverse.