

INTERNAL IMPROVEMENTS.

The following were the sensible and appropriate remarks of Mr. BRYAN, one of our Representatives in Congress, on the bill now on its passage for making appropriations on this important subject:

Mr. Bryan, thought the honorable gentleman from Pennsylvania had construed the constitution too broadly, in contending that Congress could promote the general welfare by any act of legislation which might be deemed conducive to that end. I read it (said Mr. B.) very differently, as I think Mr. Speaker, I suppose that these expressions were intended to be a limitation upon the power of appropriation by Congress—were intended to designate the objects for which taxes should be imposed, and to which their proceeds should be applied. (Here Mr. Miner explained.)

The Constitution declares that "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare." In the editions of the constitution laid on our tables, there is a scribble after the word "excises" but in the original roll which I have examined in the Department of State, is a comma, which restores the original reading of that important instrument.

The true as well as the grammatical construction of the sentence, then is, that the power of imposing taxes, is to be exercised for the purpose of paying the debts, and providing for the defence and general welfare.

The power of appropriation, thus limited and modified, may in my opinion, sir, be exercised so beneficially for the great purposes of the Union of these States, and in strengthening that union itself, by increasing its value to each of its members, that it would be a matter of regret if it should be disclaimed, unless for most imperious reasons. No American can regard without feelings of pride & gratulation the monuments of utility and greatness to which its exercise has already given birth.

It is well known that the Cumberland Road, uniting the Atlantic and western States, by an easy communication, and which may vie in magnificence and utility with many of the proudest works of antiquity, owes its origin to the exercise of this power during the administration of Mr. Jefferson.

This same power has been manifested in those truly national works; the Chesapeake and Delaware, and the Dismal Swamp Canals, which open a line of interior communication between the northern and southern sections of the Union, of great value to the operation of commerce in time of peace, and indispensable to those operations in time of war. I think it will be found, sir, if gentlemen will search our statute books, that under almost every administration of this government, works of internal improvement have received aid from the National Treasury, & of course the successive sanctions of the eminent statesmen who have filled the Presidential Chair. Gen. Washington was a devoted friend to the system, and viewed it as one of the strongest bonds of union. His capacious mind, as early as 1781, contemplated the union of the waters of the Chesapeake and Albemarle sound; and the Dismal Swamp Canal may boast of him as its projector.

Besides the Act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio, there were several other acts passed during the administration of Mr. Jefferson, for the construction of roads—Under the Presidency of Mr. Madison, several acts of Congress passed, and of course received his sanction, directing their construction in the new States. Among others I cite the acts of the 12th of Dec. 1811, authorizing a road to be opened and made, under the direction of the President of the United States, from the foot of the rapids of the Miami, &c. in the State of Ohio, of the 8th of January, 1812, enacting that the President shall cause to be opened a road in the same State. I have found other acts during his administration, for constructing roads in the States of Illinois & Tennessee. Under the subsequent administrations, acts of this kind have been numerous, and hundreds of thousands have been appropriated to internal improvements. If then this question could be settled by precedents, and the authority of statesmen eminent for integrity and talent, and having peculiar opportunities of knowing what powers were intended to be conferred by the constitution; being themselves participators in the events which led to the formation of that constitution, and partaking also in the deliberations of the convention, which formed it; it would seem to have been fully and conclusively settled. But, sir, I do not fortify this construction with precedents alone; I will cheerfully enter into the open field of argument, and throw off the mantle of authority and usage, if it cannot be supported by the just interpretation of the constitution itself. I will abandon it.

It will be admitted that if this power be necessary and proper for the full execution of any of the granted powers, or necessary incident to either of them, it may be fairly & legitimately exercised. When the constitution gives a power, the grant is absolute and plenary, and should be liberally construed to fulfil the intention. When a power is prohibited, the same rule should be adopted.

We find, sir, a grant to Congress of the plenary power of taxation. The national debt is derived from the people of the Union, by taxes on raising upon them individually, & not by requisitions as under the confederation. The application of the fund to be thus

derived, demanded to a high degree the consideration of the authors of the constitution, and we cannot suppose them to have been improvident in a matter in which they were also deeply concerned.

All the productive sources of revenue were given to the General Government; and that revenue was to be applied to pay the debts; but it could not have been supposed that the nation would always be in debt. If the last war had not occurred, we should have had a very large surplus of revenue; and we find Mr. Jefferson, in 1808, anticipating this state of things, and calling the attention of Congress to it in these remarkable words: "The probable accumulation of the surpluses of revenue, beyond what can be applied to the payment of the public debt, whenever the freedom and safety of our commerce shall be restored, merits the consideration of Congress. Shall it lie unproductive in the public vaults? Shall the revenue be reduced? Or shall it not rather be appropriated to the improvement of roads, canals, rivers, education, and other great foundations of prosperity and union, under the powers which Congress may already possess, or such amendments of the constitution as may be approved by the States? While uncertain of the course of things, the time may be advantageously employed in obtaining the powers necessary for a system of improvement, should that be thought best." What powers over the subjects of Congress already possessed in his opinion, may be inferred from the acts passed and approved by him during his administration; some of which I have cited. Under operation of our present financial system, the public debt must be extinguished in the course of a few years, and the surpluses of revenue will be very great. If the duties on imports were reduced to the lower grade, say 5 per cent, the revenue would still be far more than adequate to the ordinary expenses of Government; as this diminution would be compensated by the immensely increased importations. This reduction would also effect the annihilation of our manufacturing institutions, which, though too much pampered, I should not wish to destroy. The surpluses, after payment of "the debts," the constitution directs to be applied to "provide for the common defence and general welfare."

It would not be disputed that many of the Internal Improvements which have received pecuniary aid from Congress, most essentially contribute to the common defence and general welfare, and are "great foundations of prosperity and union." Some of them, as the Louisville canal round the falls of the Ohio, in the State of Kentucky, are more beneficial to other States, than to the State in which they happen to be located. This canal is extensively beneficial to the States above and below the falls. The general welfare is more promoted by it, than the particular advantage of Kentucky. It might be contended with as much propriety, that each State should support the light-houses on its coasts designed for general benefit, as that any one State should bear the whole burden and expense of works of this character.

It may be contended that the common defence and general welfare are to be promoted only by the exercise of the powers afterwards specifically granted, or specially defined.

But these powers cannot be exercised merely by an appropriation of money; some do not even require such an appropriation for their exercise; and others are not exercised at all in time of peace.

I am very far from contending that Congress have a discretionary power to legislate for the general welfare; the simple appropriation of money may, as I contend, be made for objects conducive to the general welfare; provided they are in accordance with, and subservient to, the powers expressly granted, although these objects are not specified in the constitution. I think, sir, this construction derives such weight from the fact, that not one of the special enumerated powers can be exercised merely by an appropriation of money; and also, that by this construction, every clause of the sentence under consideration is made to have a sensible meaning.

Congress cannot borrow money—regulate commerce—establish a uniform rule of naturalization—coin money and regulate its value—punish counterfeiting—declare war, &c. by the exercise of the right of appropriation. These powers are all of a higher grade, to which the power of appropriation may, or may not be necessary and useful; it is merely subsidiary when employed. This power of appropriating money, considered as distinct from other powers, is by no means a novelty in the history of Governments. By the British Constitution, although the King alone can declare war, yet the Parliament have the sole power of granting supplies for the support of the war. By our constitution, Congress can declare war, yet all bills for raising revenue (without which it cannot be supported) must originate in the House of Representatives. The President and Senate may make a treaty, but the concurrence of the House of Representatives may be necessary to carry it into execution if an appropriation be necessary.

It seems to me therefore that the power of appropriation is not to be considered as altogether merged or absorbed by the specially defined powers; and perhaps it may be a solitary enquiry for the House of Representatives sometimes to make, when an appropriation is asked for a treaty, whether such an appropriation would promote the common defence and general welfare.

I should be glad, sir, if any gentleman would specify under which of the specially defined powers the donation of \$200,000 to Gen. Lafayette was made; under which of them was the bounty of \$50,000 given to the suffering citizens of Caracas, when that City was destroyed by an earthquake; or from which of them has been derived the authority of Congress to remit many millions to the purchasers of public lands,

on account of the distressful changes of the times. It is easy to perceive, Sir, that if the government had not this power, it would not only be incompetent to obey some of the most imperious calls of gratitude and humanity, but many of those of justice. Sir, the idea of a common fund, for common objects, is by no means new in our political history. When Virginia ceded her immense western and northwestern territory to the United States, in 1784, after certain reservations for military bounties, &c. it was specially provided that all the lands so ceded should become "a common fund for the use and benefit of the United States." When North-Carolina in 1789, ceded her western lands, it was provided (with the exception of that portion reserved for her officers and soldiers,) that they should be considered as "a common fund for the use and benefit of the United States of America, according to their respective and usual proportion in the general charge and expenditure," &c.

To take an additional view of this part of the subject, it may be contended that the United States have the right of vesting their money in the stock of companies chartered by State authority. The Treasury of the United States certainly may avail itself of the conveniences and aids afforded by State Banks; it may receive property of any kind in satisfaction of debts to the United States. The government may lawfully become proprietor of any kind of property to aid the exercise of its constitutional powers; as of slaves for construction of fortifications; and surely, upon the same principle, it may vest its money in stocks of State institutions, as a financial operation. This House has lately sanctioned, by an almost unanimous vote, the holding of stock by the government in the United States Bank. Any foreign government, corporation, or individual, enjoys the privilege of vesting their money in State institutions; and it seems to me, Sir, that much more danger is to be apprehended from that source, than from the government of the United States.

But, Mr. Speaker, to pursue the subject, we find among the specially granted powers, a right "to establish post offices and post roads." In the construction of such an instrument as the Constitution of the United States, the organic act of a mighty Government, it seems to me, sir, that we should not call in the aid of the acute philologist, & indulge in verbal criticism, but should rather scan it with the liberal eye of the statesman, anxious to enforce its full and faithful execution according to its spirit and the intention of its authors. I would, however, remark, in passing, that if the word establish is restricted to mean "to fix and make permanent," it would prevent a State from ever altering a road which had been established by Congress as a post road, which would be as great an invasion upon State rights as the construction of a road. To ensure the regular and certain diffusion of intelligence, political, commercial and private, and that this might be effected by a system which should pervade the Union, with uniformity—this power was vested in the Legislature of the Union. Was it intended that the General Government should be dependent upon any one State for the fulfilment of the duties with which it was charged, for the benefit of the whole? Can any State refuse to permit the General Government to transport the mail through her territory? Can it obstruct a mail route, and prevent the General Government from removing the obstruction? If it can, then any one State can annul a constitutional power which the whole people of the United States have granted. If a State cannot do this, then the General Government have a right to open and construct a post road, if necessary for the transportation of the mail.

The Constitution has not only conferred those specially defined powers, but, out of abundant caution, has conferred upon Congress the right "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers." In carrying into execution the power to establish post offices and post roads, Congress have provided for the punishment of offences against the post office regulations, and have protected the mail against robbery, by the punishment of death in certain cases. Now, if it be necessary and proper for the due exercise of this power, to take away human life, as has been done under these laws, it may surely be contended that the Government have a right to construct a road when necessary for the transportation of the mail, more especially, as the owners of the land over which such road might pass, would be entitled to compensation under the clause of the constitution which provides, "that private property shall not be taken for public use without just compensation," which seems to contemplate such a case as this. In 1796, during the Administration of President Washington, and shortly after the adoption of the Constitution, this power seems to have received a practical construction from very high authority—from those who largely contributed to its formation and adoption. Mr. Madison and Mr. Baldwin were both members of the Convention which formed the Constitution, and both appear to have admitted the exercise of this power, as contended for, in the clearest manner.

I cite the report of the proceedings of the House of Representatives on the 16th Feb. 1796, from Greenleaf's New-York Journal and Patriotic Register:

"Mr. Madison moved that the resolution laid on the table some days ago be taken up, relative to the survey of the post road from Maine to Georgia, (which, being read) he observed, that two good effects would arise from carrying this resolution into effect—the shortest route would be determined on, and persons having a stability of roads, would make improvements upon them. Mr. Baldwin was glad to see this business brought forward; the sooner it could be carried into effect the better. In many parts of the country there were no improved roads—nothing better than the original Indian track, &c. It was properly the business of the General Government to undertake the improvement of

roads, for the different States are incompetent to the business, their different designs clashing with each other.

[Mr. Bourne and Mr. Williams made a few observations.]

Mr. Madison explained the nature and object of the resolution. He said it was the commencement of an extensive work. He wished not to extend it at present. The expense of the survey would be great. The Post Office would not object to it."

This being a cotemporary exposition, and from such a venerated and enlightened source, must be considered, I presume, as entitled to very great weight, if not decisive of the question.

To proceed, Sir, in ascertaining the sources from whence this power may be derived. The war-making power, with its proper and necessary incidental powers, is confined to the General Government; and, in the exercise of these powers, it is insisted that it may be necessary and proper to make a road or canal, as the exigency of the case may require. In taking this view of the subject, it may be useful to inquire whether these are means ordinarily employed in conducting warlike operations, or whether they do not essentially conduce to the military defence of the country, and to the effectual exertion of its belligerent powers. The conducting of military operations depends upon the movements of large bodies of men, with their baggage, wagons, artillery, stores, and munitions of war; and can it be for a moment supposed that these movements, upon which the salvation of the country depends, are to be obstructed, for want of power to open a road or canal, or (for it really does involve the paradox for want of power to move, I believe, though, Sir, that it is generally admitted that the exigencies of war may justify the exercise of this power, but it is denied that it may be exercised in peace. Sir, these are not the works of the moment, nor of a day; they require years for their execution, and deliberate calculations and plans. It is our duty in peace to prepare for war, for then alone can those establishments be formed and matured, which a state of war necessarily demands. Upon what principles are we now erecting fortifications, at an immense expense, throughout the Union, if it is not preparatory to a state of war? Their batteries, I hope, will long remain silent, but the knowledge of their existence will have its due effect upon our enemies. We have been told by the Father of his country, in his first speech to Congress, as President, that "to be prepared for war, is one of the most effectual means of preserving peace." The mention of these fortifications, Sir, leads more directly to the consideration of the system of national defence which has been adopted, and has, for several years, successively received the sanction of Congress. This system was very ably explained and defended in the last Congress, by the Chairman of the committee of Ways and Means, [Mr. McLane, of Del.] Shortly after the last war, when sad experience had impressed lessons of wisdom, the General Government employed the ablest engineers, with General Bernard at their head, to "reconnoitre the whole maritime frontier," and project a system of national defence. The Engineers state, in their report, that the basis of this "defensive system for the frontiers of the United States, are, first, a navy; second, fortifications; third interior communications by land and water; and fourth, a regular army and well organized militia. These means must all be combined so as to form a complete system." Sir, I need only refer to the very able and lucid reports upon this subject, to convince gentlemen that the lines of interior communication therein recommended, are indispensable to the complete defence of the country, but without now entering more into detail, I should presume that the opinion of scientific men, (one of whom, at least, ranks among the first of his profession in the world,) upon a professional subject, would be entitled to very great respect.

So much has modern warfare become a science, and so immediate and necessary is the dependence of a nation upon its treasury for its support and maintenance, that a proper and economical application of its funds involves the very exercise and continuance of its warlike operations. Money has long since been deemed one of the main sinews of war. In the late war, the expenditure of treasure for transportation of stores, munitions, artillery, &c. was immense. The resources of the country were greatly diminished and crippled, by the enormous demands of this department of the service, and, of course, its ability to carry on the war was proportionably impaired.

The expense for transportation during the last war has been estimated at sixty millions of dollars, "over roads so abominable as to make the cannon balls cost a dollar a pound." The price of a barrel of flour, by the time it reached the army upon the Canadian frontier, would stagger credulity.—One half of the extraordinary expense incurred for want of good roads and canals, would more than have paid for their construction, and millions would have been saved to the country which were drawn from the pockets of our industrious citizens, by direct taxes in time of war, & showered upon contractors—and yet, it is strenuously contended, that not a cent of this money could be applied in constructing these roads and canals, even with the consent of the States through whose Territory they might pass, and the individuals through whose land they might run. The baggage wagons must be dragged axle deep through the mud, and the extra expense must be paid to the contractor. It is urged as an argument against the exercise of these powers, that they do not appear to have been contemplated by the framers of the Constitution; to this it may be answered, that they contemplated the use of all means that were necessary and proper, without pretending to specify those means. But if it were admitted to be a fact that canals and roads were unknown at the a-

doption of the Constitution, yet the framers would be entitled to very little weight, unless we assume that the framers of that instrument intended to prohibit the Government from deriving any benefit from the improvements thereafter to be made in the arts and sciences. As well might it be argued that it is unconstitutional to use the agency of steam in transporting the mail, or in naval warfare, because it was unknown, or never had been so applied before, and therefore could not have been contemplated. Expedition is often the life of military operations; good roads and canals afford this most important requisite to a country to concentrate with a celerity otherwise unattainable, eminently subsistent to the purposes both of attack and defence. Considered merely in this point of view, they are auxiliaries in war too important to be neglected.—The old Congress, occasionally passed resolves directing their military commanders to open roads for military purposes, and thus used this very power as a war power. On the 16th Mar. 1776, a resolution passed directing Gen. Washington to open a road between Newbury, in Connecticut, and Canada, as it will facilitate military operations and promote the public service." Journals old Congress, vol. 1. 339. Gen. Schuyler was also directed "to open a road of communication, &c." Ib. 337. I do not cite these resolutions as an authoritative construction of our present constitution, but to show that this power of opening roads, &c. was familiarly exercised as a power incident to carrying on war by those very statesmen, many or most of whom afterwards assisted in forming our present constitution, and who thereby gave to the General Government the war-making power with its necessary and proper incidents, of which they had admitted this to be one.

But, Mr. Speaker, upon referring to our statute book, I find, during the Administration of Mr. Jefferson, that an act passed, which was approved by him on the 15th Feb. 1809, by which the power of constructing a canal is not only exercised, but the reasons assigned for its exercise. As I deem this act a very clear exposition and establishment of the doctrine for which I have the honor to contend, I shall cite that section of it which authorises the construction of the canal at large. There are but two sections, the first makes an appropriation for fortifications, the second is in these words, to which I beg the particular attention of gentlemen:

"And he it further enacted, that the President of the United States be, and he is hereby authorized to cause the Canal of Canadolet, leading from Lake Ponchartrai, by way of the Bayou St. John, to the city of New-Orleans, to be extended to the river Mississippi, and made sufficiently deep throughout to admit an easy and safe passage to gun boats, if upon survey thereof, he shall be convinced that the same is practicable, and will conduce to the more effectual defence of said city; and that for the purpose of defraying the expense thereof, there be, and is hereby appropriated, the sum of twenty-five thousand dollars, to be paid out of any moneys in the treasury, not otherwise appropriated." Approved, Feb. 10, 1809. See Vol. 4, Laws U. S. p. 201.

This act, sir, affirms to its utmost extent, the principle for which I contend. It directs a canal to be constructed during peace, as a preparation for war. Sir, it must needs be, that a government which can involve the nation in war, must not only have a right, but be under a most sacred obligation to put on the armor of defence, before it rushes into the conflict.

But it is urged with much zeal, and I have no doubt with much honesty, that the exercise of this power involves an infringement of State rights. Sir, if it did, I hope I should be one of the last to advocate it. If it be necessary and proper to the exercise of the power "to establish post offices and post roads," or to the defence of the country in time of war, or to the exercise of any constitutional power, surely it is not obnoxious to such a charge—whether it be a necessary and proper adjunct to these powers, I humbly submit to the better judgment of the House upon the reason and authorities I have had the honor to offer.

Sir, in what manner has this government acted in regard to works of internal improvement? And what kind of works have received the patronage of Congress? Has not Congress been urged by the Legislatures of the States to assist? Session after session, memorials of State Legislatures have been presented, and the national character of the works set forth, and relied upon as entitling them to national aid. Have not the Legislatures of almost every State in the Union admitted the power of this government by solemn acts or resolutions invoking its aid? Even Virginia, sir, as I understand, did not disdain to ask the aid of Congress, in 1816 or 1817, to effect a communication between the waters of the James and Kenhawa. I think I may say with propriety, that every State has at some time or other, admitted or acquiesced in the exercise of this power, by the government. Sir, there seems to me to be no danger to State rights, by appropriations of money under such circumstances. There are other cases where corporations chartered by the States, have requested the government to take stock on account of the great national benefit to accrue from their construction—as in the case of the Dismal Swamp canal. But here the right to construct the canal was given to the company by acts of Virginia and North Carolina, and the United States only exercised a privilege which the meanest corporation enjoys.

The government by the power of appropriation, can only give life and activity to beings created by State authority and power; and that, too, with this important restriction and limitation—that these institutions must be of general and national benefit; they must conduce to "the common defence and general welfare."