

NORTH CAROLINA SENTINEL.

LIBERTY...THE CONSTITUTION...UNION.

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BY THOMAS WATSON.

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BY AUTHORITY.

LAWS OF THE UNITED STATES PASSED AT THE FIRST SESSION OF THE TWENTY-SECOND CONGRESS.

AN ACT to exempt the vessels of Portugal from the payment of duties on tonnage.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no duties upon tonnage shall be hereafter levied or collected of the vessels of the kingdom of Portugal. Provided always, That whenever the President of the United States, shall be satisfied that the vessels of the United States are subjected, in the ports of the kingdom of Portugal, to payment of any duties of tonnage, he shall, by proclamation declare the fact, and the duties now payable by the vessels of that kingdom, shall be levied and paid, as if this act had not been passed.

A. STEVENSON,

Speaker of the House of Representatives.

J. C. CALHOUN,

Vice President of the United States,

and President of the Senate.

APPROVED, May 25, 1832.

ANDREW JACKSON.

AN ACT to extend the limits of Georgetown, in the District of Columbia.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the limits of Georgetown, in the District of Columbia, be, and they are hereby, extended, so as to include the part of a tract of land called "Pretty Prospect," recently purchased by the Corporation of the said town, as a site for their Poor-house; beginning, for the said piece of ground, at a stone marked number four extending at the end of four hundred and seventy-six poles on the first line of a tract of land, called the "Rock of Dunbarton," said stone also standing on the western boundary line of lot numbered two hundred and sixty, of Beatty and Hawkins' addition to said town, and running thence, north, seventy-eight degrees, east thirty-eight poles; south eighteen poles, south twelve degrees, east nine poles; south eleven degrees west, twelve poles; south seventy-two degrees, west twenty-three poles, to the said first line of the "Rock of Dunbarton," thence, with said line, to the beginning.

Sec. 4. And be it further enacted, That all the rights, powers, and privileges, heretofore granted by law to the said Corporation, and which are at this time claimed and exercised by them, may and shall be exercised and enjoyed by them, within the bounds and limits set forth and described in the first section of this act.

APPROVED, May 25, 1832.

AN ACT for improving Pennsylvania Avenue, supplying the Public Buildings with water, and for paying the walk from the western gate to the Capitol with flagging.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the Public Buildings be, and he is hereby, authorized and directed to contract, after giving due notice by public advertisement, for improving the avenue, in the city of Washington, leading from the Capitol to the Executive offices, by paving the centre way thereof forty-five feet in width, with cobble or pebble stones, or with pounded stone upon the McAdam plan, or in any other permanent manner, as the President of the United States may direct; and also, for the graduation, and covering with the best gravel to be obtained, the sidewalks of said avenue, and for proper gutters and drains to carry off the water, for which purpose, the sum of sixty-two thousand dollars is hereby appropriated, to be paid out of any money in the Treasury, not otherwise appropriated.

Sec. 2. And be it further enacted, That, under the same direction as prescribed in the first section, the following sums be, and the same are hereby, respectively, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the following purposes, that is to say:

For conducting water in pipes from the fountain, on square number two hundred and forty-nine, to the President's house and public offices, and the construction of reservoirs and hydrants, five thousand seven hundred dollars.

For bringing water in pipes to the Capitol, and the construction of reservoirs and hydrants, and the purchase of the rights of individuals to the water, forty thousand dollars.

Sec. 3. And be it further enacted, That the Commissioner of the Public Buildings is hereby authorized and directed to contract for the purchase, delivery, and laying of Seneca flagging on the walk from the western gate to the Capitol; and for this purpose, the sum of seven thousand one hundred and two dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

APPROVED, May 25, 1832.

AN ACT to amend an act, entitled "An act to enlarge the powers of the several corporations of the District of Columbia."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Corporation of Washington be, and it is hereby, empowered to collect, annually, the tax at the rate of one per centum and thirteen hundredths of one per centum, on the assessed value of the real and personal estates within the city of Washington, assessed and laid by the fifth section of

said act, or any part thereof, for the purposes and objects designated in said act, by the same officers, process, and means by which said Corporation is now, or may hereafter be, empowered to collect any other taxes; and to pay over said money, when so collected as aforesaid, to the Treasury of the United States, in the manner, and within the times, prescribed by the acts to which this act is supplemental; and that, in default made by the Corporation, either in collecting or paying over as aforesaid, that then, and in such case, the President of the United States may proceed to exercise the powers reposed in, and conferred on him, in and by the said fifth section.

Sec. 2. And be it further enacted, That the Common Council of Alexandria shall have the power to appoint one or more Inspectors of Tobacco for the town of Alexandria, and the Inspectors shall take an oath before a Justice of the Peace of the County of Alexandria, or the Mayor of the Corporation, for the faithful discharge of the duties of office of Inspector, a certificate of which he shall return to the Clerk of the Common Council: And the said Common Council shall have power to pass all needful laws for the due and proper inspection of Tobacco, and regulating the conduct of the said Inspectors; and the said Common Council shall have power to remove, for just cause, any Inspector, and appoint another in his place.

Sec. 3. And be it further enacted, That this act shall commence and be in force from the passage thereof.

APPROVED, May 25, 1832.

AN ACT changing the times of holding the Courts in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Circuit Court of the District of Columbia, for the county of Washington, shall hereafter be held on the fourth Monday in March, and on the fourth Monday in November, in every year, instead of the times now designated by law; and the court for the county of Alexandria shall be held on the first Monday in May, and on the first Monday in October, in every year, instead of the times now designated by law; and that all process shall be made returnable to the said terms as herein directed. This act shall take effect from and after the first day of June next.

APPROVED, May 31, 1832.

AN ACT defining the qualifications of voters in the Territory of Arkansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every free white male citizen of the United States of the age of twenty-one years, who shall have resided in the Territory of Arkansas for the term of six months next preceding any general or special election, shall have the privilege of voting in the election district where he shall reside, and, not elsewhere, for all elective officers of said Territory.

APPROVED, May 31, 1832.

NORTHERN, SOUTHERN, AND WESTERN STAGES.



General Stage Office at the Washington Hotel.

Those who may apply for seats in either of the above Stages, will please pay their stage fare at the time they give in their names; as no names will be entered on the Waybills until the fare be paid; and no Extra Baggage will be received at or delivered from the Office until payment of the fare due thereon.

F. ALEXANDER, Agent.

POST OFFICE.

Arrival and Departure of the Mails.

Northern Mail, arrives on Sunday, Wednesday and Friday, at 4 P. M. Closes on Monday at half past 2 P. M. and on Wednesday and Friday at half past 8 P. M.

Wilmington Mail, arrives on Monday at 12 M. and on Wednesday and Friday at 2 P. M. Closes on Monday, Wednesday and Friday at half past 5 P. M.

Raleigh Mail, arrives on Sunday, Wednesday and Friday at 3 P. M. Closes on Monday, Wednesday and Friday at half past 5 P. M.

Beaufort Mail, arrives on Monday and Friday at 4 P. M. Closes same evenings at half past 8.

Trent Bridge and Onslow Mail, arrives on Monday and Friday at 2 P. M. Closes on Wednesday and Friday at 5 P. M.

Letters for any of the above Mails must be brought to the Office fifteen minutes before the hour of closing, or they will not be sent until the next mail in course.

\$20 Reward.

RAN away from the subscriber, on the 14th of May last, a Negro Man named EZEKIEL, about 24 years of age, 5 feet 5 or 6 inches high, of dark complexion, and by trade a House-Carpenter. He is probably lurking about the plantation of Michael N. Fisher, on Hancock's Creek, about 25 miles from Newbern, where he has a wife. He can read and write tolerably well, and may attempt to pass for a free man. He is well known at the plantations of Lemuel D. Hatch and James Hatch, in Duplin and Jones Counties, where he has worked.

The above reward will be given for the delivery of said Negro to me in Newbern, or for his confinement in any jail, so that I get him; and all reasonable expenses will be paid.

WILLIAM L. SEARS.

Newbern, Feb. 22, 1832.

TOWN PUMPS.

THE Commissioners of the Town, with the view of keeping the Public Pumps in constant good order have entrusted their preservation to Mr. SAMUEL REED, who will, upon the representation of any of the inhabitants, attend to such necessary repairs as may be suggested.

Z. SLADE, Town Surg't.

LETTER FROM MR. MADISON.

"To provide for the common defence and general welfare is the duty, the irremissible duty, of the Congress; the power to levy taxes, duties, imposts and excises, is the means with which they are invested for the execution of the trust. The non-user of the power is a violation of the trust—a violation as culpable as would have been the neglect or refusal to levy taxes for the payment of the public debt. That the intention of the People was to confer the power in great amplitude is apparent, not only from the greatness of purpose to be accomplished, and from the generality of the terms in which the power is conferred—not only from the emphatic repetition of the terms in which the objects of the Constitution are announced in the preamble—but from the anxious use of all the words by which the contributions of taxation can be levied—taxes, duties, imposts and excises."—J. Q. Adams' Report on the Tariff.

From the Richmond Enquirer.

We have this morning a very important letter of Mr. Madison to lay before our readers. The history of it is soon told. Some time in the course of the year 1830, Mr. Stevenson, the Speaker of the H. of R. being on a visit to Mr. Madison, some conversation took place on the general phrases in the Constitution, "the common defence and general welfare." Mr. M. shed so much light, and produced so many new facts, upon the subject, that Mr. S. subsequently determined to write to him, and to obtain his views, for the purpose of laying them before the public. Mr. Madison complied, but the letter has never yet been published.

MONTPELIER, Nov'r. 27th, 1830.

DEAR SIR: I have received your friendly favor of the 20th inst. in which you refer to a conversation when I had lately the pleasure of a visit from you, in which you mentioned your belief that the terms "common defence and general welfare," in the 8th section of the first article of the Constitution of the United States, were still regarded by some as conveying to Congress a substantive and indefinite power; and in which I communicated my views of the introduction and occasion of the terms, as concluding that comment on them; and you expressed a wish that I would repeat those views in the answer to your letter.

However disinclined to the discussion of such topics, at a time when it is so difficult to separate in the minds of many, questions purely constitutional from the party polemics of the day, I yield to the precedents which you think I have imposed on myself, and to the consideration that without relying on my personal recollections, which your partiality overvalues, I shall derive my construction of the passage in question, from sources of information and evidence known or accessible to all, who feel the importance of the subject, and are disposed to give it a patient examination.

In tracing the history and determining the import of the terms "common defence and general welfare," as found in the text of the Constitution, the following lights are furnished by the printed Journal of the Convention which formed it.

The terms appear in the general propositions offered May 29th as a basis for the incipient deliberations; the first of which "Resolved that the articles of Confederation ought to be so corrected and enlarged as to accomplish the objects proposed by their institution, namely: common defence, security of liberty and general welfare." On the day following, the proposition was exchanged for "Resolved that an union of the States merely federal will not accomplish the objects proposed by the articles of confederation, namely: common defence, security of liberty and general welfare."

The inference from the use here made of the terms, and from the proceedings on the subsequent propositions is, although common defence and general welfare were objects of the confederation, they were limited objects, which ought to be enlarged by an enlargement of the particular powers to which they were limited, and accomplished by a change in the structure of the Union, from a form merely federal to one party national; and as these terms are prefixed in the like relation to the several legislative powers in the new charter, as they were in the old, they must be understood to be under the like limitations in the new as in the old.

In the course of the proceedings between the 30th of May and the 6th of August, the terms "common defence and general welfare" as well as other equivalent terms, must have been dropped: for they do not appear in the draft of a Constitution reported on the day, by a Committee appointed to prepare one in detail; the clause in which those terms were afterwards inserted, being in the draft simply "The legislature of the United States shall have power to lay and collect taxes, duties, imposts and excises."

The manner in which the terms became transplanted from the old into the new system of Government, is explained by a course somewhat advantageously given to the proceedings of the Convention.

On the 18th of August, among other propositions referred to the committee which had reported the draft, was one "to secure the payment of the public debt," and

On the same day, was appointed a Committee of eleven members, (one from each State) "to consider the necessity and expediency of the debts of the several States, being assumed by the United States."

On the 21st of August this last committee reported a clause in the words following: "The Legislature of the United States shall have power to fulfil the engagements, which have been entered into by Congress, and to discharge as well the debts of the United States, as the debts incurred by the several States, during the late war, for the common defence and general welfare;" conforming herein to the 8th of the articles of the Confederation, the language of which is, that "all charges of war and all other expenses that shall be incurred for the common defence and general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury," &c.

On the 22d of August the Committee of five reported among other additions to the clause giving power "to lay and collect taxes, imposts and excises," a clause in the words following: "for payments of the debts and necessary expenses," with a proviso qualifying the duration of the Revenue laws.

This Report being taken up it was moved, as an amendment, that the clause should read "the Legislature shall fulfil the engagements and discharge the debts of the United States."

It was then moved to strike out "discharge the debts," and insert "liquidate the claims," which being rejected, the amendment was agreed to as proposed, viz: "the Legislature shall fulfil the engagements and discharge the debts of the United States."

On the 23d of August the clause was made to read "the Legislature shall fulfil the engagements and

discharge the debts of the United States, and shall have the power to lay and collect taxes, duties, imposts and excises," the two powers relating to taxes and debts being merely transposed.

On the 25th of August, the clause was again altered so as to read "all debts contracted and engagements entered into by or under the authority of Congress [the Revolutionary Congress] shall be as valid under this Constitution as under the Confederation."

This amendment was followed by a proposition, referring to the powers to lay and collect taxes, &c., and to discharge the debts [old debts,] to add "for payment of said debts, and for defraying the expenses that shall be incurred for the common defence and general welfare." The proposition was disagreed to, one State only voting for it.

September 4.—The committee of eleven reported the following modification—"The Legislature 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;" thus retaining the terms of the articles of Confederation, and covering by the general term "debts" those of the old Congress.

A special provision in this mode could not have been necessary for the debts of the new Congress:—For a power to provide money, and a power to perform certain acts of which money is the ordinary and appropriate means, must, of course, carry with them, a power to pay the expense of performing the acts. Nor was any special provision for debts proposed till the case of the Revolutionary debts was brought into view; and it is a fair presumption, from the course of the varied propositions which have been noticed that but for the old debts, and their association with the terms "common defence and general welfare," the clause would have remained as reported in the first draft of a constitution, expressing generally "a power in Congress to lay and collect taxes, duties, imposts and excises" without any addition of the phrase "to provide for the common defence and general welfare." With this addition, indeed, the language of the clause being in conformity with that of the clause in the articles of Confederation, it would be qualified, as in those articles, by the specification of powers subjoined to it. But there is sufficient reason to suppose that the terms in question would not have been introduced but for the introduction of the old debts, with which they happened to stand in a familiar tho' inoperative relation. Thus introduced, however, they passed undisturbed through the subsequent stages of the Constitution.

If it be asked why the terms "common defence and general welfare," if not meant to convey the comprehensive power which, taken literally, they express, were not qualified and explained by some reference to particular power subjoined, the answer is at hand, that although it might easily have been done, and experience shews it might be well if it had been done, yet the omission is accounted for by an inattention to the phraseology, occasioned, doubtless, by its identity with the harmless character attached to it in the instrument from which it was borrowed.

But may it not be asked with infinitely more propriety, and without the possibility of a satisfactory answer, why if the terms were meant to embrace not only all the powers particularly expressed, but the indefinite power which has been claimed under them, the intention was not so declared; why on that supposition so much critical labor was employed in enumerating the particular powers and in defining and limiting their extent?

The variations and vicissitudes in the modification of the clause in which the terms "common defence and general welfare" appear, are remarkable; and to be no otherwise explained than by differences of opinion concerning the necessity or the form of a constitutional provision for the debts of the Revolution; some of the members apprehending improper claims for losses by depreciated bills of credit; others an evasion of proper claims, if not positively brought within the authorized functions of the new government; and others again considering the past debts of the United States as sufficiently secured by the principle that no change in the Government could change the obligations of the nation. Besides the indications in the history of the period sanctions this explanation.

But, it is to be emphatically remarked, that in the multitude of notions, propositions and amendments, there is not a single one having reference to the terms "common defence and general welfare," unless we were so to understand the proposition containing them, made on August 25th, which was disagreed to by all the States except one.

The obvious conclusion to which we are brought, is, that these terms copied from the articles of Confederation, were regarded in the new, as in the old instrument, merely as general terms, explained and limited by the subjoined specifications, and therefore requiring no critical attention or studied precaution.

If the practice of the Revolutionary Congress be pleaded in opposition to this view of the case, the plea is met by the notoriety that on several accounts the practice of that body is not the expositor of the "articles of Confederation." These articles were not in force till they were finally ratified by Maryland in 1781. Prior to that event, the power of Congress was measured by the exigencies of the war, and derived its sanction from the acquiescence of the States. After that event, habit, and a continued expediency, amounting often to a real or apparent necessity, prolonged the exercise of an undefined authority which was the more readily overlooked, as the members of the body held their seats during pleasure, as its acts, particularly after the failure of the Bills of credit, depended for efficacy on the will of the States; and as its general impotency became manifest. Examples of departure from the prescribed rule, are too well known to require proof. The case of the old Bank of North America might be cited as a memorable one. The incorporating ordinance grew out of inferred necessity of such an institution to carry on the war, by aiding the finances which were starving under the neglect or inability of the States to furnish their assessed quotas. Congress was at the time so much aware of the deficient authority, that they recommended it to the State Legislatures to pass laws giving due effect to the ordinance, which was done by Pennsylvania and several other States.

Mr. Wilson, justly distinguished for his intellectual powers, being deeply impressed with the importance of a Bank at such a crisis, published a small pamphlet, entitled "Considerations on the Bank of North America," in which he endeavored to derive the power from the nature of the Union, in which the colonies were declared and became Independent States; and also from the tenor of the "articles of Confederation" themselves. But what is particularly worthy of notice, is, that with all his anxious search in those articles for such a power, he never glanced at the terms "common defence and general welfare," as a source of it. He rather chose to rest the claim on a recital in the text, "that for the more convenient management of the general interest of the United States, Delegates shall be annually appointed to meet in Congress, which he said implied that the United States had general rights, general powers and general obligations, not derived from any particular State, nor from all the particular States, taken separately, but "resulting from the Union of the whole;" these general powers, not

being controlled by the article declaring that each State retained all powers not granted by the articles, because "the individual States never possessed and could not retain a general power over the others."

The authority and argument here resorted to, if proving the ingenuity and patriotic anxiety of the author, on one hand, shew sufficiently on the other, that the terms "common defence and general welfare," could not, according to the known acceptation of them, avail his object.

That the terms in question were not suspected in the Convention which formed the Constitution, of any such meaning as has been constructively applied to them, may be pronounced with entire confidence. For it exceeds the possibility of belief, that the known advocates in the Convention for a jealous grant and cautious definition of federal powers, should have silently permitted the introduction of words or phrases, in a sense rendering fruitless the restrictions and definitions elaborated by them.

Consider for a moment the immeasurable difference between the Constitution, limited in its powers to the enumerated objects; and expanded as it would be by the import claimed for the phraseology in question. The difference is equivalent to two Constitutions, of characters essentially contrasted with each other; the one possessing powers confined to certain specified cases; the other extended to all cases whatsoever: For what is the case that would not be embraced by a general power to raise money, a power to provide for the general welfare, and a power to pass all laws necessary and proper to carry these powers into execution; all such provisions and laws supplanting at the same time, all local laws and Constitutions at variance with them?—Can less be said with the evidence before us, furnished by the Journal of the Convention itself, than that it is impossible that such a Constitution as the latter, would have been recommended to the States by all the members of that body whose names were subscribed to the instrument.

Passing from this view of the sense in which the terms common defence and general welfare, were used by the Framers of the Constitution, let us look for that in which they must have been understood by the Conventions, or rather by the people who, thro' their Conventions, accepted and ratified it. And here the evidence is, if possible, still more irresistible, that the terms could not have been regarded as giving a scope to Federal legislation, infinitely more objectionable, than any of the specified powers which produced such strenuous opposition, and calls for amendments which might be safeguards against the dangers apprehended from them.

Without recurring to the published debates of the Conventions, which, as far as they can be relied on for accuracy, would, it is believed, not impair the evidence, furnished by their recorded proceedings, it will suffice to consult the lists of amendments proposed by such of the Conventions as considered the powers granted to the Government, too extensive, or not safely defined.

Besides the restrictive and explanatory amendments to the text of the Constitution, it may be observed, that a long list was premised under the name and in the nature of "Declarations of Rights;" all of them indicating a jealousy of the Federal powers, and an anxiety to multiply securities against a constructive enlargement of them. But the appeal is more particularly made to the number and nature of the amendments, proposed to be made specific and integral parts of the Constitutional text.

No less than seven States, it appears, concurred in adding to their ratifications, a series of amendments, which they deemed requisite. Of these amendments, nine were proposed by the Convention of Massachusetts; five by that of South Carolina; two by that of New Hampshire; twenty by that of Virginia; thirty-three by that of New York; twenty-six by that of North Carolina; twenty-one by that of Rhode Island.

Here are a majority of the States, proposing amendments, in one instance thirty-three by a single State; all of them intended to circumscribe the power granted to the General Government, by explanations, restrictions, or prohibitions, without including a single proposition from a single State referring to the terms, common defence and general welfare; which if understood to convey the asserted power, could not have failed to be the power most strenuously aimed at, because evidently more alarming in its range, than all the powers objected to put together. And that the terms should have passed, altogether unnoticed by the many eyes which saw danger in terms and phrases employed in some of the most minute and limited of the enumerated powers, must be regarded as a demonstration, that it was taken for granted, that the terms were harmless, because explained and limited, as in the "articles of Confederation," by the enumerated powers which followed them.

A like demonstration, that these terms were not understood in any sense that could invest Congress with powers not otherwise bestowed by the Constitutional Charter, may be found in what passed in the first session of the first Congress, when the subject of amendments was taken up, with the conciliatory view of freeing the Constitution from objections, which had been made to the extent of its powers, or the unguarded terms employed in describing them. Not only were the terms "common defence and general welfare," unnoticed in the long list of amendments brought forward in the outset; but the Journals of Congress shew that in the progress of the discussions, not a single proposition was made in either branch of the Legislature, which referred to the phrase as admitting a constructive enlargement of the granted powers, and requiring an amendment guarding against it. Such a forbearance and silence on such an occasion and among so many members who belonged to the part of the nation which called for explanatory and restrictive amendments, and who had been elected as known advocates for them, cannot be accounted for, without supposing that the terms "common defence and general welfare," were not at that time deemed susceptible of any such construction as has since been applied to them.

It may be thought perhaps, due to the subject, to advert to a letter of October 5th, 1787, to Samuel Adams, and another of October 16th of the same year, to the Governor of Virginia, from R. H. Lee, in both, which, it is seen that the terms had attracted his notice, and were apprehended by him "to submit to Congress every object of human legislation." But it is particularly worthy of remark, that altho' a member of the Senate of the United States, when amendments to the Constitution were before that House, and sundry additions and alterations were there made to the list sent from the other, no notice was taken of those terms, as pregnant with danger. It must be inferred that the opinion formed by the distinguished member, at the first view of the Constitution, and before it had been fully discussed and elucidated, had been changed into a conviction that the terms did not fairly admit the construction he had originally put on them; and therefore needed no explanatory precaution against it.

I close these remarks, which I fear may be found tedious, with assurances of great esteem and best regards.

JAMES MADISON.

Mr. STEVENSON.