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AND WESTERN ADVERTISER.

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State of North Carolina,
Haywood County,
Superior Court of Equity—Spring Term, 1830.

Romulus M. Saunders,
Attorney General,
v.
Margaret Lattimer,
James Lattimer,
Elizabeth Lattimer, and
Margaret Lattimer Jr.,
Dorothy Dale,
John M. Dale,
Edward C. Dale,
Sarah Dale, and
Elizabeth Dale,
John R. Lattimer,
Sarah Lattimer,
Margaret Lattimer,
Henry Lattimer, and
James Lattimer.

The Information charges that these grants were fraudulently, irregularly and illegally obtained upon untrue suggestions, and in direct contravention of the Acts of Assembly, touching the entering, surveying and granting of lands, which allegation is founded upon the following statement of facts:

1. That at the time the said lands were entered they were in the occupancy of the Cherokee Indians, and constituted a part of their territory. 2. That the said William Cathcart and Stedman, were not then and never have been citizens of this State. 3. That no actual survey ever was made of the said lands, previous to obtaining the grants, and that Joshua Williams, who signed the plats as Deputy Surveyor, was the Agent of the said William Cathcart, and directly interested in the grants. 4. That the entries contain no definite description of the lands entered, are deceptive in this particular and intended to deceive. 5. That the grants were made to William Cathcart alone, irregularly and without any authority. 6. That the surveys include more than 640 acres each, and that separate surveys were not made of the land mentioned in each entry. 7. That no taxes have been paid to the General or State Governments from the year 1796 to the year 1827, on the said lands, but that on the contrary, the said William Cathcart, by himself or his agent, in the year 1799, claimed that the said lands were exempt from taxation upon the ground that they were within the boundaries set apart for the Cherokee Indians.

The Information further charges and the fact is verified by affidavit, that the said William Cathcart was a citizen of Pennsylvania, and is believed to be dead, and that one John Brown, as agent of the defendants, who are citizens of Pennsylvania, has in their names commenced suits in Ejectment, against divers citizens of this State in the Circuit Court of the United States for this District, for the lands included in the said grants.

It is ordered by the Court that a copy of this Information be served upon the said John Brown, and that publication be made once a week, for six weeks, in the North Carolina Spectator and Western Advertiser, printed at Rutherfordton, and the National Gazette, of Philadelphia; that the said defendants appear at the next term of this Court, to be held at Waynesville, on the second Wednesday after the fourth Monday in September next, and plead, answer or demurr to the said Information or the same will be taken pro confesso and heard ex parte.

Witness, Joshua Roberts, Clerk and Master of said Court, at Office, the second Wednesday after the fourth Monday of March 1830. 17 Gw
Pr. adv. 87 50. J. ROBERTS, C. M. E.

CABINET FURNITURE.

CABINET FURNITURE of every description, made in the best workmanlike style, and of various kinds of wood, can be had at the Work Shop of the subscriber, in Asheville, Buncombe County. The following are a few of the many articles in his line of business which he is in the habit of making:

Sideboards,	Bedsteads of every kind,
China Presses,	Sofas,
Secretaries, and	Ladies' Work Stands,
Book Cases,	Candle Stands,
Bureaux of various kinds	Wash Stands,
Breakfast, dining, and	Easy Chairs,
tea Tables,	Cradles and Cribbs,
Card and Dressing Ta-	Cupboards,
bles,	Clock Cases & Coffins.

Having served a regular apprenticeship to the above business in one of the principal cities in Virginia, he has no hesitation in saying that his furniture, for style and durability, cannot be surpassed by any in the State. Those wishing to purchase can be supplied on reasonable terms. Orders from a distance will be thankfully received and punctually attended to.

ALSO—on hand and for sale 11 barrels of SUPERFINE FLOUR.
17 4w
ASHEVILLE, June 7, 1830.
SAMUEL ROGERS.

PUBLIC SALE OF REAL ESTATE.

UNDER authority from the President and Directors of the State Bank of North Carolina, I will on Monday, the 12th day of July next, expose to public sale, to the highest bidder, in the Public Square, in the Town of Rutherfordton, the following tracts of land, owned by the Bank, and lying in the county of Rutherford, viz:

453 acres, on Broad River, formerly the property of Robert H. Taylor.
80 acres, formerly owned by Robert Harden.
700 acres, in Green River Cove, formerly owned by Richard Allen Esq.
100 acres, formerly owned by James Levans.
170 acres, on the Road leading from Rutherfordton to Morganton, formerly owned by Frederick F. Alley.

A credit will be given, on all sums over one hundred dollars, by the purchasers giving bonds with approved security. Terms will be more fully made known, and information, as to the Title given, on the day of sale.

ISAAC T. AVERY, Agent of
the S. Bank of N. Carolina, at Morganton.
Rutherfordton, May 22d, 1830. 15 tds

POLITICAL.

MAYSVILLE ROAD BILL. PRESIDENT'S MESSAGE.

House of Representatives, May 27, 1830.

The following Message was received from the President of the United States, returning to the House of Representatives the enrolled bill, entitled "An act authorizing a subscription of stock in the Maysville, Washington, Paris, and Lexington Turnpike Road Company," with his objections thereto:

To the House of Representatives:

GENTLEMEN: I have maturely considered the bill proposing to authorize "a subscription of stock in the Maysville, Washington, Paris, and Lexington Turnpike Road Company," and now return the same to the House of Representatives, in which it originated, with my objections to its passage.

Sincerely friendly to the improvement of our country, by means of roads and canals, I regret that any difference of opinion, in the mode of contributing to it, should exist between us; and, in stating this difference, I go beyond what the occasion may be deemed to call for, I hope to find an apology in the great importance of the subject, an unfeigned respect for the high source from which this branch of it has emanated, and an anxious wish to be correctly understood by my constituents, in the discharge of all my duties. Diversity of sentiment among public functionaries, actuated by the same general motives, on the character and tendency of particular measures, is an incident common to all Governments, and the more to be expected in one, which, like ours, owes its existence to the freedom of opinion, and must be upheld by the same influence. Controlled as we thus are, by a higher tribunal, before which our respective acts will be canvassed, with the indulgence due to the imperfections of our nature, and with that intelligence and unbiased judgment, which are the true correctives of error, all that our responsibility demands, is, that the public good should be the measure of our views, dictating alike their frank expression and honest maintenance.

In the message which was presented to Congress, at the opening of its present session, I endeavored to exhibit briefly my views upon the important and highly interesting subject, to which our attention is now to be directed. I was desirous of presenting to the Representatives of the several States in Congress assembled, the inquiry, whether some mode could not be devised, which would reconcile the diversity of opinion, concerning the powers of this Government, over the subject of internal improvement, and the manner in which these powers, if conferred by the Constitution, ought to be exercised. The act which I am called upon to consider, has, therefore, been passed with a knowledge of my views on this question, as these are expressed in the message referred to. In that document, the following suggestion will be found:

"After the extinction of the public debt, it is not probable that any adjustment of the tariff, upon principles satisfactory to the people of the Union, will, until a remote period, if ever, leave the Government without a considerable surplus in the Treasury, beyond what may be required for its current service. As then the period approaches when the application of the revenue to the payment of debt will cease, the disposition of the surplus will present a subject for the serious deliberation of Congress; and it may be fortunate for the country that it is yet to be decided. Considered in connexion with the difficulties which have heretofore attended appropriations for purposes of internal improvement, and with those which this experience tells us will certainly arise, whenever power over such subjects may be exercised by the General Government; it is hoped that it may lead to the adoption of some plan which will reconcile the diversified interests of the States, and strengthen the bonds which unite them. Every member of the Union, in peace and in war, will be benefited by the improvement of inland navigation and the construction of highways in the several States. Let us then endeavor to attain this benefit in a mode which will be satisfactory to all.—That hitherto "adopted has been deprecated as an infraction of the Constitution by many of our fellow-citizens; while by others it has been viewed as inexpedient. All feel that it has been employed at the expense of harmony in the legislative councils;" and advertising to the Constitutional power of Congress to make what I consider a proper disposition of the surplus revenue, I subjoin the following remarks: "To avoid these evils, it appears to me that the most safe, just and federal disposition which could be made of the surplus revenue, would be its apportionment among the several States according to their ratio of representation;

and should this measure not be found warranted by the Constitution, that it would be expedient to propose to the States an amendment authorising it."

The constitutional power of the Federal Government to construct or promote works of internal improvement, presents itself in two points of view: the first, as bearing upon the sovereignty of the States within whose limits their execution is contemplated, if jurisdiction of the territory which they may occupy, be claimed as necessary to their preservation and use: the second, as asserting the simple right to appropriate money from the national treasury in aid of such works when undertaken by State authority, surrendering the claim of jurisdiction. In the first view, the question of power is an open one, and can be decided without the embarrassment attending the other, arising from the practice of the Government.

Although frequently and strenuously attempted, the power, to this extent, has never been exercised by the Government in a single instance. It does not, in my opinion, possess it, and no bill, therefore, which admits it, can receive my official sanction.

But, in the other view of the power, the question is differently situated. The ground taken at an early period of the Government, was, "that whenever money has been raised by the general authority, and is to be applied to a particular measure, a question arises, whether the particular measure be within the enumerated authorities vested in Congress. If it be, the money requisite for it may be applied to it; if not, no such application can be made." The document in which this principle was first advanced, is of deservedly high authority, and should be held in grateful remembrance for its immediate agency in rescuing the country from such existing abuse, and for its conservative effect upon some of the most valuable principles of the Constitution. The symmetry and purity of the Government would, doubtless, have been better preserved, if this restriction of the power of appropriation could have been maintained without weakening its ability to fulfil the general objects of its institution: an effect so likely to attend its admission, notwithstanding its apparent fitness, that every subsequent administration of the Government, embracing a period of thirty out of the forty-two years of its existence, has adopted a more enlarged construction of the power. It is not my purpose to detain you by a minute recital of the acts which sustain this assertion, but it is proper that I should notice some of the most prominent, in order that the reflections which they suggest to my mind, may be better understood.

In the administration of Mr. Jefferson, we have two examples of the exercise of the right of appropriation, which, in the consideration that led to their adoption and in their effects upon the public mind, have had a greater agency in marking the character of the power, than any subsequent events. I allude to the payment of fifteen millions for the purchase of Louisiana, and to the original appropriation for the construction of the Cumberland Road; the latter act deriving much weight from the acquiescence and approbation of three of the most powerful of the original members of the confederacy, expressed through their respective Legislatures. Although the circumstances of the latter case may be such as to deprive so much of it as relates to the actual construction of the road, of the force of an obligatory exposition of the Constitution, it must nevertheless, be admitted that, so far as the mere appropriation of money is concerned they present the principle in its most imposing aspect. No less than twenty-three different laws have been passed through all the forms of the Constitution, appropriating upwards of two millions and a half of dollars out of the National Treasury in support of that improvement, with the approbation of every President of the United States, including my predecessor since its commencement.

Independently of the sanction given to appropriations for the Cumberland and other roads and objects, under this power, the administration of Mr. Madison was characterized by an act which furnishes the strongest evidence of his opinion of its extent. A bill was passed through both Houses of Congress, and presented for his approval, "setting apart and pledging certain funds for constructing roads and canals, and improving the navigation of water courses, in order to facilitate, promote, and give security to internal commerce among the several States; and to render more easy, and less expensive, the means and provisions for the common defence." Regarding the bill as asserting a power in the Federal Government to construct roads and canals within the limits of the States in which they were made, he objected to its passage, on the ground of its

unconstitutionality, declaring that the assent of the respective States, in the mode provided by the bill, could not confer the power in question; that the only cases in which the consent and cession of particular States can extend the power of Congress, are those specified and provided for in the Constitution, and superadding to the avowals, of his opinion, that "a restriction of the power to provide for the common defence and general welfare," to cases which are to be provided for by the expenditure of money, would still leave within the legislative power of Congress, all the great and most important measures of Government, money being the ordinary and necessary means of carrying them into execution." I have not been able to consider these declarations in any other point of view, than as a concession that the right of appropriation is not limited by the power to carry into effect the measure for which the money is asked, as was formerly contended.

The views of Mr. Monroe upon this subject were not left to inference. During his administration a bill was passed through both Houses of Congress, conferring the jurisdiction and prescribing the mode by which the Federal Government should exercise it in the case of the Cumberland Road. He returned it with objections to its passage, and in assigning them, took occasion to say, that in the early stages of the Government, he had inclined to the construction that it had no right to expend money, except in the performance of acts authorized by the other specific grants of power, according to a strict construction of them; but that, on further reflection and observation, his mind had undergone a change; that his opinion then was, "that Congress have an unlimited power to raise money, and that in its appropriation, they have a discretionary power, restricted only by the duty to appropriate it to purposes of common defence, and of general, not local, national, not State benefit;" and this was avowed to be the governing principle through the residue of his administration. The views of the last administration are of such recent date as to render a particular reference to them unnecessary. It is well known that the appropriating power, to the utmost extent which had been claimed for it, in relation to internal improvements, was fully recognized and exercised by it.

This brief reference to known facts, will be sufficient to show the difficulty, if not impracticability, of bringing back the operations of the Government to the construction of the Constitution set up in 1798, assuming that to be its true reading, in relation to the power under consideration: thus giving an admonitory proof of the force of implication, and the necessity of guarding the Constitution with sleepless vigilance against the authority of precedents which have not the sanction of its most plainly defined powers. For, altho' it is the duty of all to look to that sacred instrument, instead of the statute book, to repudiate at all times, encroachments upon its spirit, which are too apt to be effected by the conjuncture of peculiar and facilitating circumstances; is it not less true, that the public good and the nature of our political institutions require, that individual differences should yield to a well settled acquiescence of the people and confederated authorities, in particular constructions of the Constitution, on doubtful points. Not to concede this much to the spirit of our institutions, would impair their stability, and defeat the objects of the Constitution itself.

The bill before me does not call for a more definite opinion upon the particular circumstances which will warrant appropriations of money by Congress, to aid works of internal improvement, for altho' the extension of the power to apply money beyond that of carrying into effect the object for which it is appropriated, has, as we have seen, been long claimed and exercised by the Federal Government, yet such grants have always been professedly under the control of the general principle, that the works which might be thus aided, should be "of general, not local—national, not State" character. A disregard of this distinction would of necessity lead to the subversion of the federal system.—That even this is an unsafe one, arbitrary in its nature, and liable, consequently, to great abuses is too obvious to require the confirmation of experience. It is however, sufficiently definite and imperative to my mind, to forbid my approbation of any bill having the character of the one under consideration. I have given to its provisions all the reflection demanded by a just regard for the interests of those of our fellow-citizens who have desired its passage, and by the respect which is due to a co-ordinate branch of the Government; but I am not able to view it in any other light than as a measure of purely local

character; or if it can be considered national, that no further distinction between the appropriate duties of the general and State Government, need be attempted; for there can be local interest that may not with equal propriety be denominated national. It has no connexion with any established system of improvements; is exclusively within the limits of a State, starting at a point on the Ohio river, and running out sixty miles to an interior town; and even as far as the State is interested, conferring partial instead of general advantages.

Considering the magnitude and importance of the power, and the embarrassments to which, from the very nature of the thing, its exercise must, necessarily, be subjected; the real friends of internal improvement, ought not to be willing to confide it to accident and chance. What is properly national in its character, or otherwise is an inquiry which is often extremely difficult of solution. The appropriations of one year, for an object which is considered national, may be rendered nugatory, by the refusal of a succeeding Congress to continue the work, on the ground that it is local. No aid can be derived from the intervention of corporations. The question regards the character of the work, not that of those by whom it is to be accomplished. Notwithstanding the Union of the Government with the corporation, by whose immediate agency, any work of internal improvement is carried on, the inquiry will still remain, is it national and conducive to the benefit of the whole, or local, and operating only to the advantage of a portion of the Union?

But, although, I might not feel it to be my official duty to interpose the Executive veto, to the passage of a bill appropriating money for the construction of such works, as are authorized by the States, and are national in their character, I do not wish to be understood as expressing an opinion, that it is expedient at this time, for the General Government to embark in a system of this kind, and anxious that my constituents should be possessed of my views, on this, as well as on all other subjects, which they have committed to my discretion. I shall state them frankly and briefly. Besides many minor considerations, there are two prominent views of the subject, which have made a deep impression upon my mind, which I think, are entitled to your serious attention, and will, I hope, be maturely weighed by the people.

From the official communication submitted to you it appears, that if no adverse and unforeseen contingency happens in our foreign relations, and no unusual diversion be made of the funds set apart for the payment of the national debt, we may look with confidence to its entire extinguishment in the short period of four years. The extent to which this pleasing anticipation is dependent upon the policy, which may be pursued in relation to measures of the character of the one, now under consideration, must be obvious to all, and equally so, that events of the present session are well calculated to awaken public solicitude upon the subject. By the statement from the Treasury Department, and those from the Clerks of the Senate and House of Representatives herewith submitted, it appears that the bills which have passed into laws, and those which, in all probability will pass before the adjournment of Congress, anticipate appropriations which, with the ordinary expenditures for the support of Government, will exceed considerably the amount in the Treasury for the year 1830. Thus, whilst we are diminishing the revenue by a reduction of the duties on tea, coffee and cocoa, the appropriations for internal improvement are increasing beyond the available means of the Treasury; and if to this calculation be added the amount contained in bills which are pending before the two Houses, it may be safely affirmed, that ten millions of dollars would not make up the excess over the Treasury receipts, unless the payment of the national debt be postponed, and the means now pledged to that object applied to those enumerated in those bills. Without a well-regulated system of internal improvement, this exhausting mode of appropriation is not likely to be avoided, and the plain consequence must be, either a continuance of the national debt, or a resort to additional taxes.

Although many of the States with a laudable zeal, and under the influence of an enlightened policy, are successfully applying their separate efforts to works of this character, the desire to enlist the aid of the General Government in the construction of such as from their nature ought to devolve upon it, and to which the means of the individual States are inadequate, is both rational and patriotic; and, if that desire is not gratified now, it does not follow that it never will be. The general intel-