

vested in Congress are plenary powers—they are then of necessity exclusive powers. And, if so, they cannot intermingle or be made concurrent, or conjoint with the powers of the State Legislatures—and it follows as a matter of course, that within their proper sphere of action, when confined to their proper and constitutional purposes, the powers of the State governments are equally plenary and exclusive. Both are so in their proper place, neither so out of it. Accordingly then, to the foregoing doctrine, the power to "regulate commerce with foreign nations, among the several States and with the Indian tribes," being like all the other constitutional powers of Congress, a full power over the subject, must be exclusive and cannot be participated. This being true, it utterly precludes the idea of the right of Congress to effect in whole or in part, by any means, a system of Internal Improvement, within the jurisdictional limits of a State—the State government undoubtedly having the right. The only works or edifices in the character of improvements which Congress is authorized to erect or fabricate within any of the States, are provided for, in the latter part of the 8th section of the first article of the Constitution. In order to enable Congress to erect needful buildings for the operations of the legislative and executive departments, and that the Federal Government might have a local habitation as well as a name, it was provided that Congress should have power—

"To exercise exclusive legislation in all cases whatever, over such district, (not exceeding ten miles square,) as may by cession of particular States and the acceptance of Congress become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, dockyards, arsenals and other needful buildings."

The control of those subjects is entirely in Congress—they are the only objects in the character of improvements, or edifices within a State which Congress has the power to make, and not even these without the pre-requisite of acquiring the whole and exclusive government, by purchase and cession over the places where erected; with which places after this, the authorities of the State in which they may be cannot interfere in any way. There is a great mistake in supposing that the improvement of rivers, bays, inlets, and harbors, and making roads and canals in the States, stand on the same footing. They are no where provided for, either directly or indirectly, in the Constitution. Does any one suppose that the States would or could cede to the General Government, the rivers, bays, and all the public highways upon which commerce is carried on? If so, what would be left—what power would the State governments have? They would be utterly useless. The Constitution of North Carolina expressly says:

"The property of the soil in a free government, being one of the essential rights of the collective body of the people, it is necessary in order to avoid future disputes, that the limits of the State should be ascertained with precision."

Then, after describing the boundary line on the south, it says:

"Therefore all the territories, seas, waters, and harbors, with their appurtenances, lying between the above described line, &c. and the southern line of Virginia, are the right and property of the people of this State to be held by them in full sovereignty."

I believe Sir, no part of these things has been parted with or ceded, nor could they be, without a violation of the Federal Constitution, unless for such purposes as have been provided for in the instruments. Congress has power to build forts, dockyards, &c. within a State, only upon the same principle that it could build the Capitol, the Executive Departments, Navy Yard and other needful buildings in the District of Columbia, not because Congress had the right to legislate, but because having first obtained, by the method pointed out in the Constitution by cession and purchase from Maryland and Virginia, full power over the District, it could then, and not till then, place or erect any such improvement as it might think proper. And so of the other subjects mentioned. It will be seen in the laws, first and second volumes, that immediately after the Government went into operation, provision was made for the cession of light houses with the same views as seemed to have been applied to the subjects mentioned, and what then was deem-

ed to be the construction, may be learned from the practice of the Government in regard to light houses, as acted on then and since,—as will appear by the following extracts from Gordon's digest of the laws:

"No light house shall be built on any site previous to the cession of jurisdiction over the same to the United States;"

And under the head of offences against the United States, &c.

"If any person or persons within any fort, dockyard, navy yard, arsenal, armory or magazine, the site whereof is ceded to and under the jurisdiction of the United States, or on the site of any light house or other needful building belonging to the United States, the site whereof is ceded," &c.

It will be thus seen that all these objects were classed together, and the same requisites necessary to enable Congress to erect them: even if admitted, that light houses are needful buildings in aid of commerce or the navy, Congress could not make them within the jurisdictional limits of a State, without first obtaining exclusive government over the places or sites, as in case of forts, dockyards, &c. with which they have been classed.

Mr. Speaker, I have thought proper thus to allude to light houses, because they seem to have been a sort of stumbling block, and a kind of last rallying point of the friends of internal improvements, or as a hook or place to hang a doubt on—and particularly to call the attention of a friend who I see across the way, to the subject as he and myself have frequently in a sort of Committee of the Whole on the state of the Union, had this with other subjects, and particularly the Union itself, under consideration. But I think they have sufficient to distinguish them from the general class of objects, known as internal improvements. But they seem by many to be considered as a sort of mongrel, or thing of doubtful character. If gentlemen please they may consider them as a kind of political zoophytes, corresponding to that doubtful or intermediate class of beings which form the connecting link between the animal and vegetable kingdom; let gentlemen consider them as the intermediate link between the two governmental authorities; make them political zoophytes.

Mr. Speaker, the power to regulate commerce, like that to regulate the mail, so far as relates to our public highways—the ways on which commerce is carried on, and the mail transported, is merely a right to pass over them. The power to regulate commerce, and the mail, is a power over the subject and vehicle, and does not affect the highways. Congress legislates over both these subjects, so as to make and prescribe the legal rules by which they are to be governed; and when the judicial power is required to act upon cases originating under these laws, in connexion with either of the subjects, the Federal Courts take cognizance of these cases. But does it not occur to the most uninformed, that any other cases, originating on those public highways, than such as are concerned with the mail or with navigation and commerce, refer themselves to the jurisdiction of the State tribunals? If Congress has the right to make, alter, amend, or abolish our public highways within the States, none of which have been ceded to it, does not even a blind man see that the consequence must soon be an entire obliteration of all the power of the State authorities, and in that case our system of government is destroyed by consolidation?

It must, I think, be perfectly plain, according to the foregoing reasoning, that the exercise by Congress of the power to make internal improvements, either roads and canals, or those upon water courses, harbors, bays, &c. is entirely unauthorised by the Constitution. If Congress has not this power, then it has not the right to do so in any way or by any means, and of course it cannot do it by the use of money—if it has not the power, then it has not the right to use the means to arrive at the end. What, let me ask, is power, but the use of the means to accomplish any purpose—means in use are power *de facto*—real practical power. Even the consent of a State would not give the power. The consent of a State could no more give Congress a right to do that which it had not the right to do under the Constitution, than I could give another individual a right to do an unlawful act. If Congress, under the power to pass laws for the regulation of commerce—laws or legal rules to settle the *quo modo* of intercourse, and exchange—has the right to make the ways on which

commerce is carried on—still more would it seem reasonable that it should make the vehicles; for, according to the doctrine assumed, that Congress has a right to do whatever will facilitate commerce, and if a power to regulate is a power to make, then Congress has the power to make or cause to be made, every thing having any relation to commerce, not only the ways but vehicles, such as merchant vessels, canal boats, carts, drays, and wheelbarrows, merchants' warehouse wharfs, &c. and under the power to regulate commerce among the States, as a facility, they could make wagons, pedlars' carts and any thing else. Sir, as there is nothing which facilitates commerce more than articles, the exchange of which constitutes commerce in its most confined signification—Congress may appropriate money to make or encourage the making of every thing which is bought and sold, all things which enter into commercial exchange, either foreign or domestic. But if the improvements of the public highways are regulations of commerce, within the meaning of the Constitution, what will gentlemen do with that part of it which says:

"No preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another."

Whenever half a million is given to improve or make ports or harbors in one State, it must, to comply with the instrument, be given to all having any ports or harbors.

This, Mr. Speaker, is surely a most extraordinary power. In addition to the authorities already given, showing the exclusive and plenary nature of the power to regulate commerce, with foreign nations, among the several States, and with the Indian tribes, the following is also given, from the opinion of one of the members of the Supreme Court, in the case of *Gibbons vs. Ogden*. Speaking of this same power, he says:

"And since the power to prescribe the limits to its freedom, necessarily implies the power to determine what shall remain unrestrained, it follows that the power must be exclusive."

The same idea is expressed by Justice Baldwin in the case of the *Indian, Tassels*, as may be seen in *Peters' Reports*. The Chief Justice in *Gibbons vs. Ogden*, speaking of inspection laws, says:

"They form a portion of that immense mass of legislation, which embraces every thing within the territory of a State not surrendered to the General Government; all which can be most advantageously executed by the States themselves. Inspection laws, quarantine laws, as well as laws for regulating the internal commerce of a State."

Now let me ask, are not all the rivers, bays, harbors, roads, canals, &c. within a State, included within the territorial, and jurisdictional limits of the State? And is not the legislation over them a part of that immense mass of legislation which the Chief Justice says embraces every thing within the State not surrendered to the General Government? Have all our public highways; have any of them been surrendered to the General Government? Have even Nagshead and the Swash, places already alluded to in this discussion? And if not, let me ask by what authority does Congress interfere with the rights of the States—with the rights and property of the people of North Carolina, without any sort of justification—against the Constitution of the United States, and against the express claim of the people of North Carolina, in their declaration of rights, which is a part of the Constitution of the State, reserving this very right and power to themselves? The words of this declaration are:

"That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof."

From the doctrine of plenary and exclusive powers which I have advocated, and which I think correct, Congress either has the whole power of internal improvement, or no part of it. This all pervading power, the regulation of commerce, is a broad mantle which hideth a multitude of our political sins. Sir, it leads to things of a most strange and fantastic character. I have said that commerce, in its most confined sense, is an exchange of equivalents—in this I am again borne out by the high authority upon which I have so frequently drawn for aid. From one of the opinions delivered, in the case of *Gibbons vs. Ogden*, we have the following:

"Commerce, in its simplest signification, means an exchange of goods; but in the advancement of society, labor, transportation, intelligence, care, and various

mediums of exchange become commodities, and enter into commerce; the subject, the vehicle, the agent, and their various operations, become the objects of commercial regulation."

Mr. Speaker, I have been astonished at the extent, amplitude, and variety of action assumed under this power. Sir, the following sentence will disclose, what I venture to pronounce, neither yourself nor any member of this body, would ever have dreamed of. Sir, it is a claim for Congress, of a most singular faculty. Nothing more or less, Sir, than under the power to regulate commerce, Congress may do—what, Mr. Speaker? You could not guess in a fortnight, Sir. Nothing more or less than propagate seamen—the things among others spoken of, as subjects of commercial regulation, are ship-building, the carrying trade, and propagation of seamen, &c. Now, Sir, for a little philology: I believe it will be found, upon examining our dictionaries, that the word propagate, means, to continue by successive generation. Now, Sir, I believe it has been settled long since, by the metaphysico-physiological philosophers, that there is no such thing as equivocal generation. It must, therefore, be unequivocal; and thus, under the power to regulate commerce, Congress has the power, unequivocally, to generate seamen. This is the consequence of the doctrine that Congress can do, or make, or cause to be made, any thing giving facility to commerce; but, Sir, I did not know that Congress had the right to regulate any but commerce between the United States and foreign nations, among the several States, and with the Indian tribes.

Mr. Speaker, the Tariff has long been, and justly, a subject of complaint. It has deserved quite as much as has been said of it. Yet, I must be permitted to tell the friends of State Rights, of the rights of the people; and to tell the people themselves, that a system of Internal Improvement, carried on by the General Government, within the States, strikes more directly at the vitals of the sovereignty of the States—the sovereignty of the people—for they are the States—than even that canker of our peace and harmony, the Tariff itself. The term Internal Improvement, is most comprehensive. It is not necessarily confined to the making or improving public highways; but, by the facility of construction, may be made to apply to every possible relation of man to man, and thus place all the private as well as public concerns of the people under the management of this Government—acting as one great consolidated power upon the community. To the union of these two agents, the Tariff and Internal Improvement, the one the plunderer, the other the receiver, of the money of the people, we must owe, if no interposition can be had, to redeem us from this most unholy alliance, what, Sir, it makes my heart sick even to think of! Mr. Speaker, must it be so? Are we, like all other Empires, to have our rise, progress, and fall? To run our brief race, that too, in less than fifty years!

"There is the moral of all human tales; 'Tis but the same rehearsal of the past: First freedom, and then glory: when that fails, Wealth, vice, corruption—barbarism at last!"

Mr. Speaker, we, the representatives of the people of this country, and the people themselves, are under a most awful responsibility! Are we not looked to as the guardians, not only of our own political and civil rights, but as the guardians of the rights and liberties of the human race? Shall we, faithless to ourselves, and to mankind, in our disgraceful scrambling for money and place, forget the trust reposed in us? "If this is to be the case; if the idea of self-government is a dream; if man is ever to be the dupe of his fellow man; to be robbed, and cheated, and trampled on! why, all I have to say, is...

Then, let this world be, and continue still, One wide den of thieves, or what you will!

**Our Legislature.**—Several of those members who have heretofore occupied a prominent stand in the Legislature of this State, have signified their determination to withdraw from serving the public in this capacity. In addition to the names already mentioned in this paper, we observe by the last Salisbury Journal, that David F. Caldwell, Esq. for several years Speaker of the Senate, also declines a re-election.—*Rat. Reg.*



## TARBOROUGH.

TUESDAY, JUNE 12, 1832.

Phil Fair Play in our next.

We understand the following are the candidates to represent Martin county in our next General Assembly: Jesse Cooper and David Latham, *Senate*. Joseph Robertson, John Cloman, James L. G. Baker and Morris Gardner, *Commons*.

Public meetings have recently been held at Fayetteville and Hillsborough, and in the counties of Granville, Hertford, Perquimons, Hyde, &c. at which delegates were appointed to attend the State Convention to be held in Raleigh on Monday next. [We shall publish the proceedings of the meeting in Hyde, as requested, in our next paper.]

**Tarborough Academy.**—The Examination of the Tarboro' Female Academy took place on Tuesday and Wednesday last, and the proficiency and excellent performance of the students were highly gratifying to the numerous and respectable company who attended. We think our community very fortunate in having so able and accomplished a teacher as Miss RAGSDALE, to preside over the Female Academy; and we cheerfully record the proceedings of this Examination, as furnishing continued and renewed evidence of her superior claims to public patronage...and a satisfactory proof to parents, that the responsible and highly honorable duty of educating the rising generation is entrusted to faithful and competent managers. On the second evening there was a Concert, when the young ladies who were studying music in the Academy, delighted with their performance an admiring auditory.

The examination of the Senior Class, composed of Miss Elizabeth Ragsdale, and Miss Caroline C. Parker, closed the scene. They were carefully reviewed on all the studies of the institution, and evinced a very thorough acquaintance with them, and acquitted themselves throughout in a manner complimentary to themselves and their instructress. On Thursday, a large and fashionable assemblage of ladies and gentlemen assembled at the Academy to attend the interesting ceremony of conferring on them the highest honors of the institution. After the President of the Board of Trustees had read the Report of the Examination, and expressed their approbation in an appropriate address, Miss Mary Sumner Clark, in behalf of her Preceptress, presented to the graduates a ring designed for the occasion, and delivered to them a chaste and eloquent valedictory address, expressive of this eventful and interesting era of their lives, and the many kind regrets which followed their separation from the endeared scenes and companions of their youth...to which address Miss Caroline C. Parker, on behalf of the graduates, made a beautiful and feeling reply. The company were very sensibly affected by this imposing spectacle, and participated deeply in that sympathetic glow of feeling which pervaded every one present.

We give below the brief address from the Trustees, testifying their entire satisfaction with the Examination...and we would be pleased to present to our readers the other addresses, if we can procure them for our next number. The Examination having closed...

The President of the Board rose and expressed the high gratification the Trustees had derived from witnessing the promptness and accuracy which marked the recitations of all the classes—as well as their unqualified approbation of the general results of the Examination.

The Trustees are proud of their connexion with an institution, the able and faithful administration of which reflects such lustre on its managers, and such signal benefits on the community—and they are gratified to say, the present Examination