

CONGRESSIONAL.

HOUSE OF REPRESENTATIVES.

REMARKS OF MR. HALL, OF N. CAROLINA.

On the Bill authorizing a subscription to the Stock of the Maysville and Lexington Turnpike Road.

Mr. HALL said he hoped he should be excused for delaying the passage of the bill for a few moments only. He had no idea that he should be able to prevent its passage altogether; but as he took no part in the debate yesterday, he wished to make a remark or two, not that he had any peculiar hostility to this particular object...

The developments which I am about to make, said Mr. H., consists of emanations from the Legislatures of two of the most wealthy and powerful States in the Union. New-York and Pennsylvania. It is unnecessary for me to say, that in presenting what I do from these sources, it is not from any want of respect. My object is to shew what New-York and Pennsylvania have done, and the results at which they have arrived in the prosecution of works of internal improvement...

The report of the Canal Board, in answer to a resolution of the Senate of New-York, of the 25th of February, 1830, presents, among other remarks, the following: "The advantages to the people of this State to be derived from the construction of the navigable communications between the great Western and Northern Lakes, and the Atlantic Ocean, were doubtless based upon the anticipated revenue which these works would produce. It was therefore apparent, at the commencement of these works, that the local advantages in the enhancement of the value of the property contiguous to them, would be participated by the landed proprietors and others inhabiting the Canal sections of the State; and that the great State community must look, as an indemnity for its expenditures, to the revenue to be derived from these works."

between them and the Canals, or Canal interests, a view of what they cost, and yielded. And it is further stated—"The interests of the State, in reference to the amount of tolls which ought to be collected on the Canals, will be clearly indicated by exhibiting an account of debit and credit between the Erie and Champlain Canals and the State, from their commencement up to the beginning of the present year."

In the Pennsylvania Senate, on a bill making further appropriations for roads and canals, a member, Mr. Seltzer, said, "That the gentleman from the city had given us an eloquent speech. But had sung the old song—a song which he had sung many times before. There were some notes, however, that were discordant; there were some assertions which were not founded on facts. He had told us that there were sufficient funds to pay the interest on our public debt until February, 1831. Now, sir, I deny it—I, sir, am bold to deny it; it cannot be shewn to be true. We shall fall short of paying the interest this year more than three hundred thousand dollars! Now, sir, this old song is nearly worn out. It has been sung from year to year—"give us more money to extend a little further, and the canal will be profitable."

Mr. Speaker, I have said, that in presenting these emanations from these two great States, it was certainly from no feeling of disrespect, but rather from any other feeling. I have done it, sir, to notify the State which I have the honor in part to represent, as well as others, to take warning by the example and experience of those who have gone before them, in undertakings which, whatever these States may do, it would be difficult for others to accomplish. I have quoted these documents, and particularly the report, to show, what utter delusion prevails upon the subject of internal improvement, not only in the States, but as it is carried on, or pretended to be, by the General Government, and more particularly to show the fallacy of the idea of the nationality or generality of works and objects whose principal attribute is that of locality of place. Sir, we have heard in this debate a great deal about national objects; but what does the documentary evidence presented by the Legislature of New York teach us? That the very work which, by way of excellence, if there is one in the Union, the Erie and Champlain Canal, is entitled pre-eminently to be called, a national work, is yet shown by the report of the Canal Board to be one of local character and interest. Sir, there is not a greater source of error and mischief than the improper or equivocal use of language. It has been said by one of the most able and talented men ever produced by that country so prolific in great men, that—"mankind in general are not sufficiently aware, that words without meaning, or of equivocal meaning, are the everlasting engines of fraud and injustice."

from the National Treasury. Mr. Speaker, I repeat that I have no peculiar hostility to the Maysville road, and have no doubt it is quite as well entitled to an appropriation as many other works called national. But the gentleman from Kentucky, [Mr. Letcher] tells us that this road is a national road, because it is in connexion with the national river Ohio. But how came Ohio, par excellence, to be a national river? How are we to distinguish which is and which is not a national water-course? As we have heard something about length and breadth, &c. how are we to ascertain where, or when, nationality begins. Sir, I should like to know from the great father waters in the West, down to the meaneast rill or mud puddle in N. Carolina, where I used to catch crawfish when I was a child, how we are to tell a national water-course from one that is not. And suppose, according to the gentleman, Ohio being a national river, this road becomes a national road, because in connexion with it; does not the gentleman perceive, (and I say this in the same good natured way in which he made the same remark,) that by the same rule, every other road or path, that is connected with it, must therefore be national, and that even a sturgeon living in it must be a national sturgeon? The same remark was made in regard to the Cumberland Road, that eternal road—eternal as to money.

But, Mr. Speaker, I am extremely obliged to the Legislature of New-York, for the light which it has caused to be thrown upon this subject of the nationality of locality—which sounds something like a contradiction in terms. But, sir, I say that if there is any one work of internal improvement in the United States, entitled to be called, by way of eminence, a national work, it is that truly great work, the Erie and Champlain Canal. And what does the exposition which has been made, show? That even in the estimate of the Canal Board, this is a matter of local interest. And, sir, if the great State of New-York, an empire within herself, after having prosecuted with so much energy, and with a success that, from the very nature of her physical position and adventitious advantages, no other State can use, if she, under all these favorable circumstances, has yet shown that this stupendous work is not only local, but compared in its cost and profit, is as yet a losing business; I ask, what would be the result with any other single State, or still worse, with the whole United States, cut up into roads and canals, at such rates? Could the People bear the taxation? Ought they to do it? I do hope that the people in every State, whose Legislature has plunged into this system, will cause to be made out an account of debit and credit, showing precisely what they pay for the article, and what it yields. Mr. Speaker, had not the Constitution become obsolete, except with a few old fashioned politicians, I would say something upon the Constitutional question, because some of those who believe with me on this subject, by appearing to waive the question, may subject us unjustly to the imputation of having abandoned the ground. Sir, I have not; I never shall abandon my principles on this subject; and the more I reflect on them, the more firmly must I adhere to them.—But, sir, I hesitate not to say, that according to the practical construction of the Constitution, or rather the practice of the General Government for some years past, if the people really believe that they are living under a government of strictly limited powers, whatever in its formation it was intended to be; I have only to say, that I think them mistaken. That the Government was intended by the people of the States, when they adopted the Constitution, to be one of the limited and specified powers, I think any one may satisfy himself, who will consult the contemporaneous history of the times. And, sir, I wish my constituents could now hear me. I desire that what I say may go out to them. Mr. Speaker, the friends of internal improvement, by the General Government, claim the power principally from four sources: from the war power, the power to establish post roads and post offices, the power to appropriate money, and the powers to regulate commerce. From these sources, they claim the right of the General Government to make roads and canals, improve harbors and rivers, and many other works within the jurisdictional limits of a State. The error into which those who derive the power over internal improvements, from the war power, is their improperly blending the legislative and executive functions of the Government in relation to war. These departments are to be kept separate and distinct, in this as well as in other instances. Each has its appropriate part to perform. The Legislature declares war, the Executive carries it into execution. It is his duty, being by the Constitution the commander-in-chief, the head of the military establishment.—Military roads, ditches, culverts, the throwing up breastworks, the occasional taking or using private property for public purposes, are means necessary to the execution of the war power, they are parts of the war executed by the military. These are things left to the discretion of the military commanders, ex necessitate rei flagrantis belli, and could not be provided for by the legislative department of the Government; it results from the very nature of war. But so soon as the military is withdrawn, the General Government has no control over these things; they belong where they did before. These operations really constitute a part of the war; and to think of carrying into effect the executive functions of the Government in relation to war in time of peace, would involve the contradiction of having war in time of peace. But we all know that this discretion of Military commanders, is to be exercised upon their responsibility to the country; and that they are liable for any improper use or abuse of it.

The Post Office power—the power to establish post roads and post offices is so hackneyed a subject, that but little is required from me now. Without going into any philological disquisitions on the word establish, I will reply on its ordinary meaning, and resort to precedents. But unfortunately, and very strangely, precedents never seem to be of any use, but for operating against some long established rule of action, under which a thousand previous acts are not permitted to have as much force as one act in opposition to that rule. I know not how many precedents in favor of the practical use of the word establish to count. But we know, from the foundation of the Government, until within a few years, establishing a post road, meant the designation by law of some road already made as a mail route. This has in many thousand cases, which ought to have the force of precedent, been the evident meaning of the acts of the Government establishing post roads. And I give a strong illustration in the case of the celebrated Cumberland road, which, if I am rightly informed, was first made, or caused to be made by Congress, and afterwards, by a separate and distinct act, made, or established, that is, designated by law, a post road, and the mail directed to be carried on it as a mail route, and so of any other road. Some seem to have a difficulty, because the same word establish is used in regard to post offices. But this will, upon a moment's reflection, be shown to be only prescribing by law the official duties or character of some individual appointed Postmaster. Con-

gress, by establishing the office, neither makes the man, nor the place, where the duties are performed. In general, it does not require a great deal of room, and most of those who are willing to perform the duties, have some place to perform the duty in, or furnish it. The word establish has been therefore properly interpreted by the acts of the Government from its commencement, and I might inform, I believe it is so used in that country (England), from which we received our idea of post office system. The more modern, and evidently erroneous interpretation, that establish means to make post roads and post offices, must be considered an interpolation.

The appropriating power, the most convenient for all purposes, is not a new one. It is the opinion of Mr. Hamilton revived, I think in 1823 or '4, because it was perhaps thought more to the purpose by some. In his report on manufactures, page 54th, Mr. Hamilton remarks, "It is therefore of necessity left to the discretion of the national legislature to pronounce upon the objects which concern the general welfare, and for which, under that description, an appropriation of money is requisite and proper. And there seems to be no room for a doubt that whatever concerns the general interests of learning, of agriculture, of manufactures and of commerce, are within the sphere of the national councils, as far as regards an application of money."

Mr. Speaker: If Congress can, at its discretion, pronounce upon the objects which concern the general welfare, and apply ad libitum, the money of the public to their accomplishment what is to prevent their exercise of any power whatever which it may please them to say is for the general welfare—is a national object? They may select any end or object, and use any amount of means to arrive at, or accomplish the purpose. The People intended this to be a government of limited powers, but Mr. Speaker, it really, Congress is left to its own discretion as to the objects, with unlimited use of the means the government is as sovereign and imperial as the autocracy of Russia or Turkey. I ask what is the difference between unlimited power, and an unlimited use of the means to accomplish whatever objects the discretion of the government may select or point out? What is power, but the use of the means to accomplish any thing? Means in use are power de facto, real, practical power.

The power to regulate commerce is one of the main sources from which the power to make internal improvements within the jurisdictional limits of the States, by making roads and canals, improving, or, I suppose, making harbors, breakwaters, improving rivers, &c. is claimed. This subject, sir, comes more nearly home to me, and to the people I represent; and, sir, I am about to resort to high authority—the very highest, in the estimation of some—even the sovereign power, in their estimation; but, sir, not quite so high, in my opinion as that. No, sir, not quite the sovereign power, but yet very high and respectable authority.—I mean the Supreme Court. In the case of Gibbons v. Ogden, the Chief Justice, in delivering the opinion of the Court, after some preliminary observations, says, "We are now arrived at the inquiry—What is this power? It is the power to regulate, that is, to prescribe the rule by which commerce is to be governed. This power, like all others vested in Congress, is complete in itself, may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution." He continues, "If, as has always been understood, the sovereignty of Congress, though limited to specified objects, is plenary as to those objects, the power over commerce with foreign nations, and among the several States, is vested in Congress as absolutely as it would be in a single government, having in its constitution, the same restrictions on the exercise of the power as are found in the Constitution of the United States." The word sovereignty, applied here to Congress, if understood as it frequently is, I do not approve of. Congress is not the sovereign power of the country, but a mere agency, with powers plenary quoad locum over particular subjects, and in this sense the word should be understood here. Mr. Speaker, I perfectly agree with the opinion of the Court in the doctrine here laid down of the plenary nature, and completeness of all the legitimate constitutional powers of this government. And sir, I, for one, would not diminish one iota, nor in the smallest degree take from, or diminish the powers either of the General or State authorities; but, keeping each within its proper sphere, I would adopt the old adage of *unum cuiusque tribuere*. But, Mr. Speaker, does not every one perceive that this doctrine, being sound and truly drawn, as I say it is, from one of the plainest parts of the Constitution, that it is at once destructive of the claim of this government to make internal improvements within the States? The Chief Justice proceeds, after some other remark—"The appellant, conceding these postulates, except the last, contents that full power to regulate a particular subject implies the whole power, & leaves no residuum; that a grant of the whole is incompatible with the existence of a right in another to any part of it." On the margin we have the following condemnation of the context to which it is connected—"The power to regulate commerce, so far as it extends, is exclusively vested in Congress, and no part of it can be exercised by a State." Now sir, what is the commerce, the regulation of which has been given to Congress? It is commerce "with foreign nations, among the several States, and with the Indian tribes." This is the commerce to be regulated, constituting one subject whole and entire, *totus, totus atque rotundus*. The power of Congress over it is commensurate with the subject; it is full and complete, and consequently exclusive, as I say all the appropriate powers of Congress are. Sir it follows from the very nature of things, that if the power is plenary, it is necessarily exclusive, and cannot of necessity be concurrent, or participatory, or conjointly with another. Sir, I have once before advanced the doctrine here, & I think truly, that properly speaking, there are no concurrent powers between the General and State Legislatures or Governments. Even the power of taxation, which seems to be so considered by some, I find no difficulty with. Mr. Speaker: there are powers to be exercised by both very similar, but this may be remarked in regard to other Governments.—Take, for instance, the subject of taxation: it is not only similar in its mode of application, and exercise in this country and Great-Britain, but it is a known fact, that some of the very identical articles which yield a tax in England, afterwards also yield a tax here; but would any one undertake to say, therefore, that the two governments are joint agencies? The two governments exercise similar powers, each within its own sphere, but not as copartners, or concurrent agencies. "Congress is authorized to lay and collect taxes &c. to pay the debts and provide for the common defence and general welfare of the United States." But the Court says, "This does not interfere with the power of the States to tax for the support of their own governments; nor is the exercise of that power by the States, an exercise of any portion of the power that is granted to the United States. In imposing taxes for State purposes, they are not doing what Congress is empowered to do. Congress is not empowered to tax for those purposes which are within the exclusive province of the States. When, then, each government exercises the power of taxation, neither is exercising the power of the other."—No, Sir, but exercising distinct and separate, though similar powers; and so of the power to regulate commerce; that is, the power, as properly defined by the Court, to make legal rules and regulations by which commerce with foreign nations, among the several States, and with the

Indian tribes, is to be governed. Mr. Speaker, I see before me many talented lawyers. I would ask them whether the idea of two agencies, one with powers plenary quoad locum, over the other, subject, is not a legal and political absurdity? And, sir, is there a man here who will have the hardihood to say that the States have not the right to make internal improvements within their jurisdictional limits? And if so, does it not follow, from the very nature of the powers of this Government, that Congress cannot do the thing is self-evident. The truth is, that both governments are agencies, with powers plenary in relation to each other, over the subjects committed by the sovereign power of the country to the People. Neither government is itself the sovereign power; they are both subordinate to the actual sovereignty, which is in the People. Mr. Speaker, if the power to regulate, means the power to make commerce, or any of its parts or adjuncts, we shall ultimately arrive at very strange results. And if, under this power we are to make roads, canals, harbors, &c. we must go on and by the same rule, make wharves, piers, drays, wheelbarrows and merchant's warehouses, as well as boats and large vessels to facilitate commerce. Commerce, in its narrowed significance, means exchange of equivalents; but there are many things and circumstances so closely and inseparably connected with it, that they become, in effect, parts of it, or at least, adjuncts, without which it could not get on, and they also become subjects for regulation, but regulation has been shown not to mean fabrication or construction. The Chief Justice says, speaking of the inspection laws, "They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government; all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, &c. are component parts of this mass." I believe, sir, this road, we are upon now, is to be a turnpike road.

Mr. Speaker, I think this power has been understood. The exercise of the power of the Government in regard to internal improvements has been evidently to me, pushed beyond its proper bounds and authority. Sir, I am an extreme, *modus, est in rebus*. I do not think Congress has the right to go into States to exercise those municipal rights which the People reserved to themselves or their local legislatures. I will only trouble the House with one other evidence, which is directly to the point. This, sir, is from the declaration of rights of North Carolina, which is a part of the Constitution of that State. "That all political power is vested in & derived from the People only. That the People of this State ought to have the sole and exclusive right of regulating the internal government and police thereof." Sir, I will trouble the House no longer.

MANAGERS' OFFICE, RICHMOND, VA.

Union Canal, No. 9,

To be drawn in Philadelphia, on Saturday, the 5th June.

Table with 2 columns: Prize amount and quantity. 1 Prize of \$20,000 is \$20,000. 1 10,000 10,000. 1 2,500 2,500. 1 1,500 1,500. 5 5,000 1,000.

Tickets \$5, Halves 2 50, Quarters 1 25

Dismal Swamp Canal, No. 7,

To be drawn on Friday, the 11th June.

Table with 2 columns: Prize amount and quantity. 1 Prize of \$25,000 is \$25,000. 1 5,000 5,000. 1 2,500 2,500. 1 1,500 1,500. 5 1,000 5,000.

Besides \$500, 400, 300, 200, 100, &c.

Tickets \$5, Halves 2 50, Quarters 1 25

Orders for Tickets promptly attended to—Address

YATES & M'INTYRE, Richmond, Va.

Where the following Splendid Prizes have been sold and paid within a short time:

Table with 2 columns: Prize amount and quantity. 1 12 27, \$30,000. 2 43 53, 10,000. 24 32 42, 10,000. 29 44 54, 4,000.

Besides many others. YATES & M'INTYRE

MANAGERS' OFFICE.

Drawing of Dismal Swamp Lottery, No. 5: 48 10 35 51 45 38 28 59 27 19.

Drawing of the Union Canal Lottery, No. 8: 12 18 2 53 21 36 25 7 56. 2 12 18, the Capital of \$20,000, 21 36 53, do. 10,000.

The \$10,000 owned in Richmond, and sold at the Managers' Office

YATES & M'INTYRE, Managers

Gold Mines, Lands, Negroes, &c.

THE Subscriber wishing to remove from the neighborhood, offers for sale his valuable Plantation, four miles west of Charlotte. The tract contains 282 acres of land, a large part of which is as good as any in Mecklenburg county about 100 acres ar first, second and third ground, of the best quality. The plantation nearly adjoins the celebrated Capps' Gold Mine, and the opinion seems to be well founded that Gold abounds in two hills particularly on the plantation; a branch runs through it for 1/2 of a mile, which, it is thought by men of judgment is as rich in the precious metal as any of the Burke Mines. There is also on the plantation good Water Power, and an excellent Mill-seat for mining operations, also a Dwelling-house, two Barns, Stables & other necessary out-buildings. Also, 20 or 25 likely young Negroes for sale, or a part of them, such as may not wish to follow me.

Any person desirous of purchasing, can call and view the premises: or enquire of Mr. Robt. J. Dinkins or Dr. J. D. Boyd, of Charlotte, for a description, &c.

WILL BOSTWICK, Charlotte, N. C. March 29, 1830.

NOTICE.

THE Sale of Absalom Yancey's Tar Plantation, in Granville county, containing 12 or 1300 acres of Land, will positively take place on the first Monday of next month (June) in the town of Oxford. Also, his interest in the Father's Estate. Terms made known on the day. H. M. MILLER, Trustee. May 11, 1830; 763t

State Bank of N. Carolina, Raleigh, May 25, 1830.

RESOLVED, That a Dividend of two per cent. on the Capital Stock of this Bank, be and the same is hereby declared for the past year, payable at the Principal Bank on Monday the 7th of June, and at the several Branches fifteen days thereafter. CHARLES DEWEY, Cashier.