

Sec. 6. *And be it further enacted*, That if any Tax Collector shall refuse or neglect to make his return and pay the taxes within the time prescribed by law which had been received by him, it shall be the duty of the Treasurer within whose Division such default shall be made in addition to the coercive power which they may possess, to charge the said Collector with interest, at the rate of five per cent. per month from the time he ought to have made such return, and paid the taxes, to the time of settlement.

Sec. 7. *And be it enacted*, That it shall be the duty of any Sheriff or Coroner, in whose hands a tax execution shall be placed by a Tax Collector, to collect and pay over the amount for which such execution shall issue, to the Treasurer, within whose division he may reside, within six months from the time he shall receive the same; and in default thereof, it shall be the duty of the Treasurer to issue execution against such Sheriff or Coroner, for the whole amount expressed in such execution, with interest thereon, at the rate of five per cent. per month, from the time he should have paid the same: *Provided*, that Sheriffs and Coroners be allowed credit for nulla bona executions as heretofore.

Sec. 8. *And be it enacted*, That it shall be the duty of every taxable inhabitant of this State, who has, since the first day of October, one thousand eight hundred and twenty-nine, and prior to the first day of October last, sold or transferred the possession of any real or personal property, liable to tax, (except stock in trade,) to give information, at the time of making his next return of such sale or transfer, and the name of the person to whom sold or transferred, to the Tax Collector of the district in which he may reside, to the end that the Tax Collector may be better enabled to collect the public dues.

Sec. 9. *And be it enacted*, That after the passage of this act, no person shall open or keep any office for the sale of lottery tickets, in any other lottery than such as may be authorized by the laws of this State, unless such person shall have first paid to the Tax Collector of the parish or district, a tax of five thousand dollars for such privilege. And if any person shall open or keep any office, for the sale of lottery tickets, or shall sell, or offer for sale, any lottery tickets, without having paid such tax, such person, on conviction thereof by indictment, shall forfeit and pay ten thousand dollars. And it shall be the duty of the Tax Collector of the district or parish, in which such office shall be kept, or in which such lottery tickets may be sold or offered for sale, to prosecute all persons who shall offend against the provisions of this act.

Sec. 10. *And be it enacted*, That the Treasurer of each division be, and he is hereby authorized and required to pay quarterly, at the end of each quarter, all appropriations made for and on account of any officer of this State, or other appropriation within his division, except the officers of each branch of the Legislature, who shall be paid by the Treasurer of the Upper Division, at the end of the Session of the Legislature, (and except the pay bills of the members of the Legislature, which shall be paid on presentment at either of the Treasuries, and except the officers of the South Carolina College, who shall be paid as heretofore, under their contract, with the Board of Trustees, quarterly in advance.) And it shall be the duty of either of the Treasurers, whenever he shall make any payment, to take a duplicate receipt, and forward the same to the Comptroller General, with his monthly report.

Sec. 11. *And be it enacted*, That if any transient person or persons, not resident in this State, shall at any time sell, or expose to sale, on the first day of January, in each year, such person shall make return upon oath, within ten days, after commencing to sell as aforesaid, of the whole amount of the stock in trade he may have possessed at the time, to the Tax Collector of the district or parish in which the said goods, wares or merchandize shall have been, or may be sold, or exposed to sale. And if any person shall neglect or refuse to make such return as aforesaid, within the time prescribed above, he shall, on conviction thereof, by indictment, forfeit and pay the sum of not more than one thousand dollars, unless such person shall have paid for and procured a license according to the provisions of an act, entitled, "An Act to increase the price of license to hawkers and pedlers."

Sec. 12. *And be it enacted*, That it shall be the duty of such Tax Collectors to proceed to collect from such person so selling as aforesaid, the tax required by law to be paid on stock in trade, within five days after receiving such return.

Sec. 13. *And be it enacted*, That if any Tax Collector shall fail or neglect to require a return on oath of any person liable to the payment of taxes for the use of the said State, of his or her taxable property, as provided by law, such Tax Collector shall be subject to a penalty of two hundred dollars, to be recovered by indictment in any Court of Sessions, one half of which shall be paid into the public Treasury for the use of the said State, and the remainder to the person who shall give information of such neglect and prosecute for the same.

Sec. 14. *And be it further enacted*, That from and after the first day of January next, a tax of one per cent. shall be paid upon all dividends arising from stock owned by any citizen of this State, in all banks not chartered by this State.

Sec. 15. *And be it further enacted*, That it shall be the duty of every Tax Collector to give public notice of the day when he intends to close his books.

In the Senate House, the eighteenth day of December, in the year of our Lord one thousand eight hundred and thirty, and in the fifty-fifth year of the Independence of the United States of America.

H. DEAS, *President of the Senate.*
H. L. PINCKNEY, *Speaker of the House of Representatives.*

PRESIDENT'S MESSAGE—No. III.

(3d.) INTERNAL IMPROVEMENTS.

No part of the Message is more important than the one now before us.—None has given rise to a greater variety of comments and opinions, in the minds, of its readers.—For our own parts, we do not hesitate to declare, that there is no portion of it which presents more various considerations, or excites so many different feelings, as the one which relates to this debateable question of Internal Improvements.

We belong almost to the "stillest sect" of the Interpreters of the Constitution. We consider the first question ought always to be, not *in what way* any particular power is to be exercised, but whether it exists at all—not whether a certain measure is *expedient* but whether it be consistent with the *Constitution* of the country. In arriving at the solution of that question, again the Republican School of '98—'06 do not content themselves with enquiring, whether such a power ought to have been in the Constitution,

but whether it is *actually* in it.—Nor whether it can be *deduced* by a long chain of construction, from certain *general phrases* in the instrument, but whether it can be found among the *enumerated* powers, or in directly and inseparably connected with them. It is not sufficiently to show that any measure is calculated to "better the condition of the people,"—that it is recommended by the "common defence and general welfare"—that the authors of the Constitution must have been "ineffably stupid" not to have conveyed such power—because either of these tests would be sufficient to change the whole character of the instrument. Stupid men might themselves misunderstand the *public welfare*—designing men would exert all their ingenuity to pervert the true interests of the People. These general phrases were certainly never intended to convey any substantive powers. If any other proof were wanting upon the subject, we might refer to the *limited* articles of the Confederation itself, from which they were copied by the framers of the Constitution. We might likewise refer to the pages of the "Federalist,"* and to the Debates of the Conventions, for proofs that any such construction was disclaimed by its friends. We might, in one word, refer to the whole character of the Charter itself, which would in vain have made certain specifications of power, if it had employed a few general phrases, calculated to destroy all specifications, and to justify all encroachments. The framers of the Constitution could not have been guilty of such "ineffable stupidity."

The *true rule* for interpreting the Constitution, is laid down in Mr. Madison's celebrated Report: "Whenever a question arises concerning the constitutionality of a particular power, the first question is, whether the power be *expressed* in the Constitution. If it be, the question is decided. If it be not expressed, the next enquiry must be, whether it is *properly* an *incident* to an express power, and *necessary* to its execution. If it be, it may be exercised by Congress. If it be not, Congress cannot exercise it." Applying this rule to the question under consideration, we ask, whether the power over Internal Improvement is *expressed* in the Constitution? No such clause is to be found.—No such power is specified. Instead of its being discovered there, it is an historical truth from the Proceedings of the Federal Convention, that it was proposed to introduce the power to dig *canals*, and they declined to confer it. Mr. Hamilton himself, was obliged to admit that this circumstance militated strongly against the existence of such power.

The next question, then, is it a means *properly incidental* and *necessary* to the execution of any specified end? No sooner is this question proposed, than the variety of answers that are given shakes all our confidence in the existence of the power. One politician finds it lurking in the power to "establish *post-roads*."—Another regards it as an essential incident of the *war power*.—A third considers it to be involved in power to "regulate *commerce among the several States*."—Each one is just as certain of the truth of his own interpretation, as he is of the error of his neighbor. And who can be assured that either of them is right? Who can believe, that a power so subtle as to escape detection in some parts of the instrument, and yet so fugitive as to be found in all, was ever designed to be incorporated into the Constitution? It is not our purpose to enter into the question. He who desires to understand the subject must repair to the heads of the Church—not for authority, but for argument. He must consult the veto of Mr. Madison, the writings of Judge Roane, the speeches of our politicians, and the views of Mr. Jefferson. He must go back to the *original* expositions. He must behold rights of the States; the spirit in which its powers were conferred; the vigilance which was displayed in preserving the police and the internal concerns of the States from intrusion; and the special reservations which were made by the writers and orators of those times.—Nothing appears to us more clear and certain, than that such an immense power is neither expressly given nor intended to be given—and that it is not properly incidental nor necessarily connected with any one express power.

No one who entertains such opinions upon the subject, can consider the Veto and the present Messages; the variety of abuses which *had been* hitherto practised; the moral courage which it required to throw himself into the angry flood, and to stem the selfish interests which threatened to sweep almost every thing before them—no one can view these things, without feeling the warmest gratitude towards the President. The Maysville bill appropriating the public funds to a narrow local improvement. Similar schemes to a large extent were pending before Congress. Not only many of his friends from Kentucky, several of the respectable Representatives of that State, but many from the other States were urging him to compliance. The worst consequences to himself were arrayed before his imagination—abandonment, disgrace and ruin.—But the President stood firm. He consulted his duty, instead of his popularity—and the bill was returned to the House of Representatives. Two other bills were then sent to him on the very eve of the adjournment.—They seemed to be designedly concocted of all sorts of materials, to puzzle his understanding and to test his courage. One of them in particular proposed the greatest variety of appropriations; several that were customary and unexceptionable; as light houses, public piers, &c. and others relating to local and trifling improvements, which directly came within the principle of the Maysville Veto. The President was unable to give these bills "the consideration which was due to their character and importance; and he was compelled to retain them for that purpose." He now avails himself of the earliest opportunity to "return them to the Houses in which they originated, with the reasons which, after mature deliberation," would compel him to withhold his approbation. These bills have respectfully given occasion to that part of the Message which is now before us.—And he frankly repeats his determination to arrest that flood of *local* appropriations, which threatened so much injury to the virtue of our Representatives and the institutions of our country.

No man who traces in these appropriations, the violation of our Constitution, can peruse this portion of the Message without the greatest satisfaction. Who can see the acts that were passed, the abuses that have been practised, and the multitude of applications that were

*We have seen a letter from Mr. Madison of the 27th ult. upon the employment of these phrases, "common defence and general welfare." The facts which it states and the reasons it assigns, amounts to a *demonstration* "that these terms were not understood in any sense that could invest Congress with powers not otherwise bestowed by the Constitutional charter." We trust that the public will be favored with a sight of this luminous Exposition.—It is worthy of the Report of '99. What higher praise can be given to it?