

COLUMBIA TELESCOPE.

By D. W. SIMS, STATE PRINTER.

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PUBLISHED EVERY FRIDAY MORNING.
TERMS—Three Dollars per annum, payable in advance, or Four Dollars payable at the end of the year.
ADVERTISEMENTS inserted at the usual rates.

Look at this.

THE subscriber informs his friends and the public that he has again commenced the tailoring business; he flatters himself from his attention to business and a desire to please that he will receive a share of the public patronage. He will cut and make for the following cash prices:

| | |
|---------------|--------|
| Cloth Coats, | \$7 00 |
| Do Pantalons | 1 50 |
| Do Vests, | 1 00 |
| This Coat, | 4 00 |
| Do Pantalons, | 1 25 |
| Do Vests, | 1 25 |

WILLIAM BEARD, 15 if

April 10, 1829.

Columbia Female Academy.

THE Spring Term of the Columbia Female Academy, commences on Monday the 6th day of April. The following is the course of study adopted in this seminary:

Reading, Writing, Arithmetic, English Grammar with Murray's Exercises, Ancient and Modern Geography with Maps, Linear Drawing, History of the United States, History of England, Blake's Natural Philosophy accompanied with experiments, Wilkins' Astronomy, Rhetoric, Goldsmith's history of Greece and Rome, Zoglie, Moral Philosophy, Tytler's Elements, Botany and Chemistry. The Latin, French, and Italian languages, are also taught.

Great regard will be had for the health and comfort of the pupils as well as for their moral improvement.

Parents and Guardians are invited to visit the school at all times during the hours of study, to observe the discipline and hear the recitations of the scholars.

April 2, 1829. 15 if

Stop the Runaways.

RUNAWAY from me near Sandersville, Washington county, Georgia, on the 22d March, my negro fellow GLASGOW, about 42 or 43 years old, dark complexion, thick lips, with a scar on his upper lip I believe; very likely, and over the ordinary size of person. He is dressed in a blue coat with him a youth by the name of Frederick DIXON, but since they left my house they go by various names. I heard of them on Friday the 28th March, near Cambridge, in South Carolina. The negro fellow was raised near Windsor, in Berlin North Carolina. I expect he will endeavor to get back to where he was raised. I know not what route they will take from Cambridge. Any person who will deliver the said negro to me, or secure him so that I can get him, shall be liberally rewarded.

WILEY W. CULIN, 15 31

March 30, 1829.

Bacon and Lard.

A VERY choice lot of small sized Hams, Middlebacks, Shoulders, cured in the nicest manner, from Virginia Hogs. Those who want them for family use will do well to examine them. Also, a few kegs best Lard. For sale by

E. W. & A. S. JOHNSTON, 15 3

April 10.

Platt Spring Academy.

THIS institution will be continued for the ensuing year under the direction of Mr ISAAC H. SMITH, a graduate of South Carolina College. The course of study will be such as to qualify students for admission into the Junior Class So. C. College.

The Principal will accommodate a limited number of students in his own family at 100 dollars per annum, or 25 dollars per quarter, including washing.

RATES OF TUITION.

For one quarter in the classical department \$9
One do in the English do 6
No student admitted for a less term than 1 q.
Dec 9. 15 11

To Carpenters.

PROPOSALS will be received, until the first of May next, by either of the subscribers, from any carpenter wishing to undertake to build a Church in Longtown, Fairfield district, near A. D. Jones' summer retreat. The dimensions are forty by twenty five feet square, fourteen feet pitch, with a gallery of fourteen feet in one end. The lumber furnished on the spot, all except the heavy lumber—say sills, plates, and sleepers, which the contractor must haul and trees furnished by the committee. The subscribers will attend at A. D. Jones' summer retreat on Friday the first of May next, in concert with the person offering to do the work on the best terms.

A. D. JONES, Y. L. ROBINSON,
JOHN NELSON, KIRKLAND HARRISON,
JOSEPH MICKLE, Building Committee.
April 10, 1829. 15 31

Land for Sale.

THE subscriber offers his Land for Sale, lying in Newberry District, and on the south side of Enoree river, and on both sides of Duncan's Creek, including the fork of said Creek and River, running up said Creek for a mile and a half and lying on both sides of the Charleston River, leading from Cross Keys to Bull's, containing about fourteen hundred acres—one hundred and fifty acres of low grounds on said Creek and River—said Lands are well watered, as any portion of the country, and its soil suitable for the production of any produce raised in any other part of the District whatever. Said lands can be had on very reasonable terms by applying to the subscribers who live on the premises. The above Land can be divided into separate tracts to suit purchasers.

WILLIAM & DANIEL EPPLER,
April 10, 1829. 15 14

Tut for Tut.—Deacon A. is a merchant; does a considerable business; much respected as an honest man because he is a deacon, and looks as serious and dejected as if he did not care a pin for all this world is worth. Farmer G. came into his store the other day—it was a cold one—to trade off a few bushels of wheat, which is very high just at this time. The bargain was concluded, and the farmer was to take his pay in suit. The store floor is as elastic as some men's consciences, the bags of wheat were brought in, and the measuring of their contents commenced. All at once the deacon's feet were insufferably cold. As the grain was emptied into the measure the deacon stamped violently around it; to warm his feet. The poor farmer could not complain that the honest deacon should wish to promote circulation and get his feet warm but his grain settled perceptibly every stamp from the deacon's feet, and the six bushels he brought to market held out but five and a half on a second measurement. Old farmers sometimes "know a thing or two." Mr G. said nothing but proceeded to the measurement of the salt that he was to receive in pay for his wheat. The deacon's feet had got warm by this time; he was as light 'on the fantastic toe' as if he were walking on eggs. Not so with the farmer. As the salt began to run into the half-bushel, his feet were suddenly seized with the cold. Being a heavy rustic he stamped vehemently. Tut, tut, says the deacon, you jumping shakes down the salt too much! 'Not more than yours shook down my wheat, I guess,' said the farmer. When the business was completed, there was about an even trade between deacon A. and farmer G.

Verily, justice is sometimes done in the earth.—Gardner Int.

SPEECH OF MR. MITCHELL, Of South Carolina, on the Cumberland road bill, delivered in the House of Representatives, February 16, 1829.

The amendment of Mr. BUCHANAN, which proposes to cede the Road to the States in which it lies, being under consideration—

Mr. MITCHELL rose and said—
MR. SPEAKER: The great length of this discussion must have exhausted your patience, and renders it necessary that I should apologize for the further tax which I am about to impose. I assure you that I make the attempt with unfeigned reluctance. I do not speak with the hope of making a convert: for, on a subject so frequently discussed and so profoundly examined, who has the sake of exhibition: for, talents infinitely superior to mine, could give neither novelty nor ornament to a theme so threadbare.— But, I speak at the pre-emptory instance of my constituents, who consider the power involved in the amendment, as unconstitutional, and fatal to their liberties; and claim it as their privilege to protest and remonstrate against the exercise of it by you. In a series of resolutions submitted by their Legislature to this House, at the last session, and suggested by them, you are called on, in the stern and impassioned language of freemen, to retrace your steps—to abandon that which you cannot justly hold—and to relieve their minds from those gloomy forebodings to which the assumption of this power naturally gives rise. In obedience to their will I shall, therefore, as briefly as possible, present their views.

What, sir, does this amendment propose? Why, that this Government should cede, under certain conditions, to the States of Virginia, Maryland, and Pennsylvania, any property which it has in the Cumberland Road. And the important question which here suggests itself, whether this Government has any property in the road? for, if it has not, the amendment will of course fall to the ground. If, sir, we have any property in this road, it must be derived from one of two sources: either from the grant of those States made by acts of their Legislatures, or by a power given to us by the Constitution to make roads. Now, sir, if we examine the act of congress under which this Cumberland Road was made, and compare it with the corresponding acts of Maryland, Virginia, and Pennsylvania, we will be convinced that it was neither the intention of Congress to obtain, nor the intention of the States to grant, any interest in the road.—The act of Congress simply requires the President to adopt the most effectual means to obtain the consent of those States, that he should "cause the road to be laid out and completed within their respective territories." No cession of sovereignty over the soil, nor proprietary interest in it, was demanded by the Government—the only boon which it sought was simply an authority to make the road within their jurisdictions.—A road leading from the Atlantic to the waters of the Mississippi was considered an object of great national importance—it would promote the personal convenience of the people—it would give rise to a profitable commerce between the East and the West—and above all, it would perpetuate the union of the States. Congress thought it would be only necessary for them to make the road, as the interests of the States would induce them to keep it in repair. The act of Maryland, in answer to this application, is expressed with the most circumstantial precision. It "simply authorizes" the President to cause the said road "to be laid out, opened, and approved, in such way and manner as by and before recited act of Congress is required and directed." Nothing more is here granted to Congress than a bare naked authority to lay out and make the road. The act of Pennsylvania is, if possible, more conclusive in this effect. The title of that act is, "an act authorising the President to open a road through that part of this State lying between

Cumberland, in the State of Maryland, and the Ohio river." The first section authorizes the "President to cause so much of the said road as will be within the State to be opened, so far as it may be necessary to the said road should pass through this State."—And to prove that Pennsylvania did not consider the grant of this authority as involving any interest in the land, a second section is subjoined, giving a right of entry on the land to the Commissioners appointed by the President to lay out the road.—Why grant a right of entry to the Commissioners, if she had ceded to the United States either a sovereign jurisdiction over the soil, or an interest of any description in it. The most precarious and limited estate in lands—a mere tenancy-at-will—carries with it a right of entry. We cannot attribute so much ignorance—so much folly, to an assembly so distinguished for its wisdom as the Legislature of Pennsylvania, to suppose for a moment, that in one section she should have ceded an interest in the lands, and in the next she should have granted a right of entry.

In further support of this construction of these acts, I offer the political opinions of Mr. Jefferson, who sanctioned the act of Congress. No man was more delicate with regard to the soil, nor more devoted to the sovereignty of the States, than this immortal patriot. Had he obtained an interest in the soil from those States, it would have been in opposition to the principles by which he had been elevated to the Chief Magistracy, and for the preservation of which he had sacrificed his seat in the Cabinet of President Washington. To go as far as he did—to appropriate money to make the road—was a fundamental error, which can be explained only by supposing that his imagination misled his judgment—that, convinced of the necessity of such a communication between the East and the West, and dazzled by its brilliant advantages, he did not examine with sufficient coolness the exact tendency of the measure with regard to the Constitution.

But we all have to deplore this error. It has given rise to a new theory, under which in a subsequent Administration, (that of Mr. Monroe) millions have been lavished for no other purpose than to purchase aspiring men or conciliate adverse sections. Mr. Monroe afraid to abandon the doctrine that we have no constitutional power to make roads, lest he should disaffect the party by which he had been supported, and, at the same time, anxious to meet the views and promote the interests of his adversaries took advantage of this error of Mr. Jefferson, to establish a new construction on this subject, which is power. Professing the greatest respect for the sovereignty of the States, and the sacredness of their soil, the United States says, he has no power under the Constitution to make internal improvements: I will sanction no act of that kind—but they can appropriate money in any amount to such undertakings, provided they be of a national character. Now this is in every respect exceptionable. If we appropriate money to the construction of a road, we certainly should have a control over it; we should have the power to establish toll gates, to keep it in repair, and of inflicting penalties for injuries done to it. Under this construction, those immense surveys of routes of roads and canals have been made, and works of this kind projected, which, if they were undertaken, will cost the People thousands of millions of dollars—and if not undertaken, will be millions thrown away in employing our engineers in idle peregrinations from one part of the Union to another. It has been used as an engine of vile and corrupt electioneering. To conciliate a section, the Administration has no more to do than to lay off a road or canal in it, and a powerful party is immediately formed in its support. The whole community is benefited by it, those who undertake contracts for executing the work; those who are employed on it as laborers; shopkeepers and farmers who supply them; in fact, it is showering on them so much unexpected gold, which all scramble for, and all get a part of.

Finally, Mr. Speaker, if the construction which I have put on these acts of Maryland, Virginia, and Pennsylvania be not correct, all language is unintelligible, and laws are no guides to direct, but false lights to deceive and confuse us.

But admitting that the acts of these States do convey an interest in the lands to the United States, they are invalid, whether you consider them as independent sovereigns and subject to those laws, which are common to all sovereigns, or as members of this Confederacy, whose powers and rights are created, distributed, and defined by the Constitution. Vattel lays it down as a maxim, that no sovereign can transfer any portion of public property, or of the possessions of a community under its right of eminent domain, but from necessity, or for the public safety. This is, in fact, almost denying the right to part with the eminent domain under any circumstances. For it can hardly be said that we have right to do an act, because it may be extended from us, which we are compelled to do, from the irresistible operation of necessity or the public safety. In this instance, if the States had conveyed their land to the United States, it would have been merely on a principle of pecuniary advantage, to be relieved from the expense of making a road, from which incalculable benefits were expected to result: and this would not amount to either of the exigencies which, according to Vattel, will justify the transfer.

But considering the States as they ought to be considered, members of the confederacy, the transfer of the land was also invalid. The States are restrained from conveying to the United States, any portion of their territory, but for two purposes—either as a seat

of national legislation, or as sites for forts, arsenals, dockyards, &c. In the first they are limited by the clause in the quantity to be transferred. They can convey no more than ten miles square. In the second, they are limited by the nature of the objects, as forts and other works of defence can occupy but a very small surface. Had the States retained the power to convey their lands to the United States for roads, it surely would not have been necessary to insert this clause, as the transfers of lands provided for by it, are for purposes of much higher importance, nay, of absolute necessity. They who had an inherent right to convey lands to the United States for commercial roads, would surely have the right, without the authority of the Constitution, to convey it for purposes infinitely more important—for national legislation or the common defence. If the Legislature of a State can convey to the United States one foot of land for other purposes than those prescribed in the Constitution, it can convey the whole of its territory. But is it not monstrous to suppose, that the existence of a State should have been left dependent on the will of so small a body as a Legislature? Does this agree with that jealousy of power which the people of this country evinced in the formation and adoption of the Constitution? Does it agree with that distrust which they continually manifest towards their rulers? Or does it agree with that good sense and foresight for which they have ever been distinguished. No principle in politics or morals can be safely adopted, which leads directly to an absurdity. It is clear, therefore, that we can find nothing in these to warrant the conclusion that any valid interest in the Cumberland road has been ceded to Congress, by the States of Maryland, Virginia, and Pennsylvania.

If, then, we have any transferable interest in the soil, if we have any property in this road which we can cede to the States, it must arise out of a general power delegated to us by the constitution to make roads. I shall very briefly state the leading arguments in favor of this grant of power, and as briefly state my objections to them.

The present secretary of state, (Mr. Clay) is the only man of eminent abilities who considers this right to make roads as expressly delegated to Congress by the constitution. He affirms that it is authorized "to establish post offices and post roads." He says "the whole question on this part of the subject turns upon the true meaning of this clause, and that again upon the genuine signification of the word establish. According to my understanding of it, its meaning is to fix—to make firm—to build." Admitting this to be true, neither of these words conveys the idea of make, which I wish to say that the framers of the constitution, in a road from one of the States to another, for a road to be too soft and miry, you may make it firm, but there you suppose the road already made; so you may fix a gate or build a house on a road—these, also, suppose the road to be in existence. If therefore, the word establish be synonymous with each of these words, it would not advance the secretary a peg in his argument for neither of them conveys the idea of make. But establish is not synonymous with either of these words, for if you substitute it for either the sentence will be nonsense. "He established a house in the city of Washington last summer"—would you suppose me to say "that he had built a house there?" He filled up that quarry with stones and established it, would you understand me to say that he had made it firm? Or that picture is established to, or on the wall, could I mean that the picture was fixed to the wall?

For the above definition of the word establish, Mr. Clay quotes the dictionaries. But they are surely not the highest authorities for the signification of words. Classical and scientific writers, and ordinary conversation, are the only sources from which we can learn their true meaning and application. To them the writers of dictionaries have to resort for the definitions which they give. But supposing in strictness, these words mean the same, they are not so used in the common intercourse of life; such an application of them would not be understood by nine tenths of mankind. Make is the word which the most established authorities have adopted in such cases. It cannot be supposed that the framers of our constitution, who were masters of the language, would use any word in an obsolete, quaint, or fanciful sense, in an instrument which was intended to be read and understood by men of all classes, capacities, and degrees of information. Nor can it be supposed that they would have delegated a great power to congress, but in language which could not be misunderstood. Critics have said that our constitution contains more pure English, than any other composition of the same extent, in the whole sweep of America and English literature. I am persuaded that the secretary would not have hazarded such an application of the word establish, as the above, either in his diplomatic correspondences, or in those splendid addresses, with which he dazzled the house of representatives.

Now, sir, give the word establish its true meaning, which is to designate, to adopt, and the difficulty vanishes. Entrusted with the post office department, congress has the right to use the roads of the States, and to select those which will best suit its purpose. This was all the power or control over roads which was intended to be granted by this clause to that body. Would the convention, that assembly of sages and patriots, have delegated a power which could never be exercised, which from its very nature must have been wholly useless? Why, sir, if the Cumberland Road, 130 miles long, has cost \$2,000,000, what amount of money would it require to make 114,666 miles of road, over which the mail is now carried? I cannot enumerate the result. These details were of course unknown to them; but they knew the boundless extent of our country, its rapidly increasing population, the importance of diffusing information by mail, that this mail must pervade every part of the Union, extend as it might be; and that to be extensively useful, postage must be so low as to do no more than pay the expense of transportation? Such a grant of power could never have entered into the minds of men who were barely sane, much less of men so distinguished for their wisdom.

Others who have contended for our right to make roads, have considered it not as expressly

delegated, but as implied—some deriving it from our power to regulate commerce among the several States, others from our power to declare war and a few—happily for the country—a very few from our power to lay and collect taxes to provide for the common defence and general welfare. I shall very briefly touch on these several implications, as I know that your patience is exhausted.

Now, it is said that our power to regulate commerce among the several States carries with it the power to make commercial roads. To regulate commerce can signify nothing more than to make rules for its government. The phrase cannot be extended to the supply of the means by which it may be facilitated or increased. We might as well say that, under this power, we were authorized to furnish ships in the foreign, and wagons in the home trade, for the carriage of merchandise. Good roads cheapen the article to the consumer, and if government furnished wagons, the merchant could not charge his customer with the expense of transportation. They would produce the same effect on the price of the commodity. And if the facilities and advantages which good roads give to our internal commerce authorized us to make them, similar facilities and advantages would authorize us to furnish the means of transportation. Unless, therefore, it can be shown that the word regulate is synonymous with facilitate or increase, this position cannot be maintained.

This however will appear more evident, when we ascertain the meaning of the term "implied power," as used in the constitution. We have in that instrument two explanations of these terms, both arriving at the same result, one in the last clause of this section, (1st art. 8th sec.) authorizing us to make "all laws which shall be necessary and proper for carrying into execution the foregoing powers" whereby an implied power must be necessary to the execution of the expressed power—and one to be derived from the relation which exists between the express powers, whereby it is manifest that a power which has merely an affinity to an expressed power cannot be implied, but must be expressly granted, and it will be shown that the power to make roads has no more than an affinity to the power of regulating commerce.

Now, Mr. Speaker, when may one power be said to be necessary to another, according to the clause of the constitution cited above? When there is an inseparable connection between them? When the one cannot be executed without the other? I will endeavor to illustrate this. The power to lay and collect taxes carries with it the power of appointing tax gatherers: for without them or agents of the kind, the power of laying taxes would be completely ineffectual: so the power of appointing tax gatherers would be nugatory without the power of laying taxes—these are mutually dependent and inseparable from each other. Again: the power to establish post offices and post roads, carries with it the power of appointing Postmasters. There is the same relation here as in the former case. Now is there this inseparable connection between the power to make roads and the practice of our country ever since the establishment of this constitution? Has not the federal government regulated commerce, while the States have made roads for its transportation? Again: what is the natural order of things? Roads must be made from one community to another, before commerce can exist between them; and commerce must always precede the exercise of the power to regulate it. Finally, is not the doubt which exists in this House of its being an implied power proof positive that it is not? For, if there was a necessary connection between them, it would strike the mind with the force of an axiom. Who ever doubted that our power "to provide and maintain a navy" implied the power to create admirals? Who ever doubted that our power to regulate commerce with foreign nations implied the power to establish custom houses, create collectors, and build and equip revenue cutters? Whenever one power is necessary to another, the association between them is so close in mind, that each suggests the other; it requires no train of reasoning to prove the connexion.

That there is an affinity between these two powers, cannot be denied, but an affinity as close, if not closer, exists between all the expressly delegated powers. The power to provide and maintain a Navy—to declare war—to establish post offices and post roads—to establish uniform laws on the subject of Bankruptcy—to constitute tribunals inferior to the Supreme Court—to coin money; each and every one of these has as close an affinity to the regulation of commerce, as the power to make roads. Why, then, was not the power to make roads expressly granted? If these powers having a closer affinity to each other have been expressly granted, and the power to make roads is not, the inference is irresistible, that it was not the intention of the framers of the Constitution to grant it. Why should an express power be necessary to provide and maintain a Navy, when it is all important to the protection of commerce; while the power to make roads, by no means so essential, may be exercised by bare inference or implication? Is not the power to make roads a right of sovereignty? Is not the exercise of many other sovereign powers necessary to the execution of it? Can you make roads without laying taxes; without compelling the citizens to part with their soil against their will? Does it not involve the power to establish tolls and toll gates, and the power to prescribe and enforce penalties for injuries committed? What exercise of sovereignty is more plenary than this? Whether, therefore, we consider the importance of this power to make roads, or its relation to that of regulating commerce, we must conclude that it cannot be considered an implied power; and as it was not expressly granted, it cannot be exercised.

Again: It is said that power to declare war, implies the power to make military roads. The power to make roads having no more than a bare affinity to the war power, all the above reasoning applies to it with equal force. But there are other reasons applying to this particular power which go still further to confirm and strengthen my conclusion. If the convention had formed