AMERICAN CONSTITUTIONALISM

VOLUME I: STRUCTURES OF GOVERNMENT

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Supplementary Material

Chapter 4: The Early National Era – Powers of the National Government/Taxing and Spending Power

*James Monroe****,* “Views of the President of the United States on the Subject of Internal Improvements” (1822)[[1]](#footnote-1)**

President James Monroe continued John Madison’s opposition to internal improvements without a constitutional amendment. After he vetoed legislation that would have expanded the national road, Monroe wrote a long state paper detailing why he regarded internal improvements to be unconstitutional. Like more moderate National Republicans, Monroe believed the national government could fund state government projects when those internal improvements had national significance. He emphatically rejected claims that various enumerated powers sanctioned federal control of the internal transportation system or the federal power to build its own.

Monroe made sure that a copy of his essay was delivered to the justices of the Supreme Court. Justice William Johnson informed the president that the McCulloch opinion had already settled the issue in favor of congressional power. The news apparently had no influence on Monroe.

It may be presumed that the proposition relating to internal improvements by roads and canals, which has been several times before Congress, will be taken into consideration again. . . . It seems to be the prevailing opinion that great advantage would be derived from the exercise of such a power by Congress. Respecting the right [of Congress to do so] there is much diversity of sentiment. It is of the highest importance that this question should be settled. If the right exists, it ought forthwith to be exercised. If it does not exist, surely those who are friends to the power ought to unite in recommending an amendment to the Constitution to obtain it. I propose to examine this question.

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If the United States possesses this power, it must be either because it has been specifically granted or that it is incidental and necessary to carry into effect some specific grant. . . .

The first of these grants is in the following words: “Congress shall have the power to establish post-offices and post-roads.” What is the just import of these words and the extent of the grant? . . . If we were to ask any number of our most enlightened citizens, who had no connection with public affairs and whose minds were unprejudiced, what was the import of the word “establish” and the extent of the grant which it controls, we do not think there would be any difference of opinion among them. . . . The use of the existing road . . . in passing it as others do is all that would be thought of, the jurisdiction and soil remaining to the State, with a right in the State or those authorized by its legislature to change the road at pleasure.

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The next object of inquiry is whether the right to declare war includes the right to adopt and execute this system of improvement. . . .

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. . . [N]o war with any great power can be prosecuted with success without the command of the resources of the Union in all these respects. . . . But these powers have all been granted specifically with many others, in great detail, which experience has shown were necessary for the purposes of war. By specifically granting, then, these powers it is manifest that every power was thus granted which it was intended to grant for military purposes, and that it was also intended that no important power should be included in this grant by way of incident, however useful it might be for some of the purposes of the grant.

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I come next to the right to regulate commerce, the third source from whence the right to make internal improvement is claimed. . . . Commerce between independent powers or communities is universally regulated by duties and imposts. It was so regulated by the states before the adoption of this Constitution equally in respect to each other and to foreign powers. The goods and vessels employed in the trade are the only subjects of regulation. It can act on none other. A power, then, to impose such duties and imposts in regard to foreign nations and to prevent any on the trade between the States was the only power granted.

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The fourth claim is founded on the right of Congress to “pay the debts and provide for the common defense and general welfare” of the United States. . . .

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. . . Have Congress a right to raise and appropriate the money to any and to every purpose according to their will and pleasure? They certainly have not. The Government of the United States is a limited Government, instituted for great national purposes, and for those only. Other interests are committed to the States, whose duty it is to provide for them. Each government should look to the great and essential purposes for which it was instituted, and confine itself to those purposes. A State government will rarely if ever apply money to national purposes without making it a charge to the nation. The people of the state would not permit it. Nor will Congress be apt to apply money in aid of the State administrations for purposes strictly local in which the nation at large has no interest, although the state should desire it. The people of the other states would condemn it. They would declare that Congress has no right to tax them for such a purpose, and would dismiss at the next election such of their representatives as had voted for that measure, especially if it should be severely felt. . . .

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The right of appropriation is nothing more than a right to apply the public money to this or that purpose. It has no incidental power, nor does it draw after it any consequences of that kind. All that Congress could do under it in the case of internal improvements would be to appropriate the money necessary to make them. For every act requiring legislative sanction or support the State authority must be relied on. The condemnation of the land, if the proprietors should refuse to sell it, the establishment of turnpikes and tolls, and the protection of the work when finished must be done by the State. To these purposes the powers of the General Government are believed to be utterly incompetent.

1. Excerpt taken from James Monroe, “Views of the President of the United States on the Subject of Internal Improvements,” in A Compilation of the Messages and Papers of the Presidents, ed. James D. Richardson, vol. 2 (New York: Bureau of National Literature, 1897), 713. [↑](#footnote-ref-1)