1-58-5-57

REPORT

Of the Committee to which was referred the Message of the President of the United States, of the 12th instant, transmitting a Report of the Secretary of the Treasury containing a statement relative to the Cumberland Road.

MARCH 23d, 1816.
Read, and Ordered to lie upon the Table.

The committee to whom was referred the message of the President of the United States of the 12th instant, transmitting a report of the secretary of the treasury, containing a statement of proceedings under the act to regulate the laying out and making a road from Cumberland, in the State of Maryland, to the State of Ohio; with a statement of past appropriations and an estimate of required appropriations,

REPORT.....

That they have attentively considered the subject confided to them, and respectfully submit to the House the following facts and observations: It appears by an act of Congress, passed on the 1st of May, 1802, entitled "An act to enable the people of the eastern division of the Territory northwest of the river Ohio, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes," that on

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condition that the convention of the said State would provide by an ordinance, irrevocable without the consent of the United States, that each tract of land sold by Congress, after the 30th of June next ensuing, shall be and remain exempt from any tax laid by order or under authority of the State, whether for State, county, township, or any other purpose whatever, for the term of five years from and after the day of sale: the United States among other stipulations agreed to apply one twentieth part of the nett proceeds arising from the sales of said lands, from and after the said 30th of June, to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio to the said State, and through the same; such roads laid out under the authority of Congress, with the consent of the several States, through which the same shall pass. It further appears that these conditions were accepted by the State of Ohio, on the 29th of November in the same year, subject, as regards the road fund, to a modification which provides that three per cent. of the nett proceeds arising from the sales aforesaid, should be subject to the control of the legislature of that State, and be applied to the making roads within the same. It also appears by an act passed on the 3d of March, 1803, that this modification received the sanction of Congress. And that in pursuance of this compact a law was passed on the 29th of March, 1806, authorizing the President of the United States to appoint commissioners to lay out a road from Cumberland, or a point in its vicinity, to the river Ohio; and on their report to pursue such measures, as in his opinion were proper, to obtain from the States through which the said road was laid out their consent to its location and completion.

It further appears to the committee that the location crossing portions of the States of Maryland, Pennsylvania, and Virginia, applications were made to their respective legislatures, and permission was given by each, to open and establish the said road.

By the report of the Secretary of the Treasury referred to the committee it appears that of the appropriations heretofore made towards completing this road, and amounting in the whole to the sum of . . . $ 410,000 00

There have been expended, .	$ 285,786 60	
Carried to the surplus fund, .	22,679 75	
		308,486 35
Leaving a balance on the 27th of February, 1816, of .		$ 101,513 65

applicable to that object. And that a further appropriation of $ 300,000 is recommended by that report to complete the road to Brownsville on the Monongahela River; to cover the expenses of a survey from thence by Washington and Alexandria to Wheeling, and to make the road at and from Wheeling to the 113th mile-tree, a distance of about twelve miles.

It also appears by the letter of the superintendent of the road to the Secretary of the Treasury that frequent abuses are committed on the road, such as throwing down the walls, digging away the banks, &c. and he suggests that measures ought to be promptly adopted to prevent, and to punish these outrages.

This investigation suggested to the committee two points of inquiry, to which their attention has been directed. First, The necessity of protect-

ing the work already completed against lawless violence; and, secondly, The propriety of making an ample appropriation for advancing its progress to completion in order that the benefits it promises may soon be realized.

In considering the first point, although it appears that the Secretary of the Treasury, in his letter communicated at the last session, doubts the authority of Congress to pass any laws for punishing the offenders, the committee do not perceive any defect of jurisdiction. Without controverting the opinion that the Constitution does not, in virtue of any grant of power conferred by that instrument, authorize Congress to open roads and canals in any State, it seems to be admitted by all that if a compact be made with a State, for which the nation receives an equivalent, as in this case, whereby it is agreed that a road shall be opened by the government of the *Union*, and the States through which the road passes grant the right to make it, that the performance of such compact is not in controvention of that construction; as it is believed that the exercise of such power has in no instance been doubted, notwithstanding the repeated acts of legislation for a period of thirteen years. The permission of the States having been given, it follows as a necessary consequence that all the powers obviously necessary and proper to carry the grant into complete effect and preserve it inviolable have been conferred also. A different construction would render the consent a nullity, and exempt from punishment, as well the indviduals who resisted the execution of the work, as those that afterwards destroyed it.

If the right to punish these offences belongs to the national government, it may be effected without the passage of any law, by indictment or in-

formation in the courts of the United States; or by enacting statutory provisions fixing the penalties. It being a fundamental right of the judiciary inherent in every government to punish all offences, against the laws passed in pursuance of a delegated power, independently of express legislative sanctions. Although the committee deem it proper to make this explicit assertion of a right which it may become necessary to exercise on some future occasion, in case of a peremptory refusal by a State to pass any law upon the subject: yet as they believe no such disposition exists in relation to the road in question, and that prosecutions under State laws may be most effectual in preventing the practices complained of, because of the distances to the places where the respective federal courts are held, they abstain from recommending, at this time, the passage of any law upon that subject.

In regard to the second branch of the inquiry, viz: The amount of appropriation proper to be made at the present session, it appears to the committee, that although the fund chargeable with the reimbursement of expenditures has been anticipated, it is growing more productive every year and will be eventually adequate to defray the expenses of completing the road.

If Congress persevere with becoming spirit in this great public work, we shall soon see one of the best roads in the world over the chains of mountains which separate the western from the Atlantic waters, and which, but a few years since, were supposed to present insurmountable obstacles to a safe and easy intercourse. The committee learn, with much satisfaction, that the State of Maryland is engaged in extending the turnpike road that reaches from Baltimore to Boonesbo-

rough, on to Fort Cumberland; and in all probability it will be completed before the national road from that point to the Ohio is finished.

It is not intended to expatiate at large upon the moral, political, and physical advantages of this road to the nation. They doubtless entered fully into the contemplation of the Congress by whom the original law was passed; time and experience have given the fulness of their sanctions to the wisdom of their decision; and it is alike a source of surprise and regret to the committee, that the work has been suffered, with the ample means possessed by the government, to linger for a period of more than nine years. A vigorous prosecution of it now, can alone, in any degree, repair the past neglect; and, in the estimation of the committee, no subject is more deserving the favour of Congress. They are aware of the opinion entertained by some that the western country already holds out sufficient lures to the inhabitants of the Atlantic States to migrate thither, and that it is impolitic to contribute to their increase, which will be the effect, as it is supposed, of giving facilities to such removal. The error of this reasoning is proved by the infallible test of experience, applied to the past and present population of the States and Territories west of the mountains. The emigrant removes with intention to reside for life in his new habitation: and when he determines upon such removal, he bestows but little attention upon the inquiry whether the road on which he has to travel is a very good one, or in the condition of the principal State roads now used. This policy, therefore, although it cannot prevent him from going to the west, may, and, if persisted in, soon will materially affect his future connexions with the eastern country, in all the rami-

fications of a mutually profitable trade and intercourse. The natural advantages of a water over a land communication for the purposes of transporting all articles of merchandise will not be denied by any; and trade will always seek that channel which affords it the fairest prospects of realizing its legitimate profits. Whenever, therefore, land and water communication are found to possess a fair competition with each other in any country, the improvements on both must be equal, to prevent the monopoly of either.

The navigation of the Mississippi and Ohio rivers, by steam boats, is now in its infancy; its success is no longer doubtful, and it is increasing with a rapidity corresponding to that success. During the last years, the sugar and cotton of Louisiana were brought up by water to Pittsburg, and in consequence of the extraordinary demand, were transported from thence in waggons to the Atlantic cities, and sold at prices affording a profit to the owner. With the great advantages of steam navigation, unless the roads across the mountains are much improved, the merchants of the western country will cease to purchase goods from the importers at New-York, Philadelphia, Baltimore, &c. and New Orleans will soon become the sole emporium of their trade.

This result never can be produced, if a due attention be paid to the improvement of the means of internal communication. The rivers that take their rise in the mountains may be made navigable. In various sections of the country, the portage between them can be diminished to an inconsiderable distance; and roads passing over the entire route will present an option to the merchants as to the mode of transportation. Their

connexions have been formed for a considerable period. These have begotten confidence, and a mutuality of interests which bind the parties to a future intercourse, and which will not be changed unless for a positive and unequivocal benefit.

But the advantages of an intimate commercial connexion, though addressed to the interest of the parties, are not the most important. Good roads have an influence over physical impossibilities. By diminishing the natural impediments, they bring places and their inhabitants nigher to each other. They increase the value of lands and the fruits of the earth in remote situations, and by enlarging the sphere of supply prevent those sudden fluctuations of prices, alike prejudicial to the grower and consumer. They promote a free intercourse among the citizens of remote places, by which unfounded prejudices and animosities are dissipated, local and sectional feelings are destroyed, and a nationality of character, so desirable to be encouraged, is universally inculcated.

The road which is the subject of the particular inquiry of the committee, has additional recommendations. It leads as far as Washington in a direct line from the seat of government to the important frontier of the United States on the Upper Lakes; and if, as the committee suppose, it be the true policy of the nation to have a direct military communication for the entire distance, a road can be extended from Washington, and passing, as it will, through a large extent of public lands, inducements will be held out to the western settlers to purchase them, and by a rapid increase of the population, the necessity of keeping up a considerable military force in that quarter, will be diminished, if not entirely superseded.

These constitute a part of the reasons which have induced the committee to recommend an appropriation of 300,000 dollars at this time; and therefore they submit the following resolution:

Resolved, That the bill entitled "an act making appropriations for the support of government for the year 1816," be amended in the line, by inserting the following paragraph:

For making the road from Cumberland, in the State of Maryland, to the State of Ohio, to be repaid out of the five per cent. fund reserved for that purpose, 300,000 dollars.