r with all Europe.

avs been concified acts of cruelty. It ved that any attempt has made to retaliate for general as those exhibit-Arouthnot and Ambris-Inciting the Indians to buring the revolutionary wo cases occurred of perfor the purposes of reneither of whom was exehe case of Asgill seized of the murder of Huddy; nor Hamilton of Vincen ecific acts of cruelty also. was confined for a short rigour, and afterwards re-During the late war, markome cases of cold blooded on the part of our enemy, ly the one at the river

such measure as retaliaesorted to. nciple assumed by the comgeneral, that Arbuthnot rister, by uniting in war e United States, while we eace with Great Britain, outlaws and pirates, and suffer death," is not rein any national law. Nobe found in the history of nations, which recognizes inciple except a decree of utive Directory of France. neir short career of folly & which declares that neund on board enemies ships, considered and treated as

The committee forbeit to mill any other remarks on the violities of the usual and accustomed form in the punishment and conviction of Arbuthnot and Ambrider, et cept that even despots claiming exercise absolute power cannot with propriety violate their own rules.

Having detailed a court marin for the purpose of trying the pr soners, the commanding general his own authority set aside the see tence of the court and substitute for that sentence, his own arbitrate will. In trials involving the life an individual, a strict adherence form, is in ordinary cases consider, the best accurity against oppression and injustice.

A departure from these forms calculated to inflict a woung on the national character and tarnish the laurels so justly acquired by the commanding general by his for mer victories. Such are the facts a, they appear to the committee, & such are the views taken by the of the important subject referrely their consideration, and together with their report, they submit vin ous depositions and documents, which, and to the corresponden and documents relating to the Semi nole war, communicated to the S. nate by the President of the United States, at the last and present so sion, they refer.

*See Mr. King's letter to the & cretary of State, Vol. 10, p. -, State Papers.

> From the Lexington Reporter. A COMMON CASE.

Pray thee tell me, Mr. Printer, What's an honest man to do? All my neighbours, all the winter, Wish to hear the news from you.

But among us, (nearly twenty,) I alone your paper take, So that news lay live a plenty Suce to follow in my wake. Tell me neighbour what thenews is?

Every one desires to know; Thinks I if a man retuses He perhaps might make a foe.

So I'm compell'd to loan it, Till it goes the usual round, Then when I, who really own it, Wish to read, it can't be found,

Tell me, Mr. Printer, tell me, I'm compell'd to ask of you. If you've any pity tell me, What's an honest man to do?

CYMON.

AGRICULTURAL.

For the Maryland Gazette.

MR. GREEN,

I have always been of opinion, t every thing which had a tendency to us the agriculturalist in making a crop, or is se ving one from destruction, descried a ought to receive, general publicity hopes of the country, (it is said) are at time, strongly fixed on the success of farmer;" to aid then, in the smallest dealing promoting that success, is to conduct the support that the success, is to conduct the support that the support to exhibit a portion of patients laudable in itself, and worthy the imital of the wisest and best men amongst us of the wisest and best men amongst us do not say this because I have any thin min own to make known which would be this happy effect, but simply because! lieve it to bestrictly correct. Therefore, two brief pieces which I have to commende, will give me no claim to ment. I last piece is copied verment, and their in substance, from a miscellaneous as published in England some years ago, the work has been very little known, and my was regulatished, in this country. was republished, in this country

NO FARMEL

A Receipt to Destroy the Turnip Fig. A distinguished farmer who had a without success, a variety of means to troy this troublesome insect, which commenced its ravages among his turn at last determined to try what effects king them would have; for this purpose collected all sorts of useless weeds, and the state of the them with light dry brush and strathem in heaps on the windward sided field, and then set all the heaps on inthat the smoke might be drifted out whole field at the same time. By the periment, it is stated, he saved a crost whole field at the same time. Bytis periment, it is stated, he saved a crop recovered ten acres," the fly having the shandoned it in the course of the four days after the first smoking, weeds used should not be too dry, berifrather green, they will, by somewhat thering the fire, increase the qualy smoke, and impregnate it the mon their poisonous stench, and thereby hit more powerful in its operation as it more powerful in its operation at fly. [Trash tobacco would, no doubt great assistant to the weeds, &c.]

Receipt to prevent the Smut in Or "Take as much dunghill or rottes withich distills from a dunghill, as wifs your quantity of grain swim, put be as much salt, with a pound of salt per in lieu thereof two pounds of copper will cause it to bear an egg; steep your twelve hours; after being carefully the of the light corn, strain it out, and if with slaked lime, or dry tut asho, with slaked lime, or dry turf shed, sow it; but be careful to sow it next the day following; for if wet wester pens, and it be kept 4 or 5 days and ground, the corn peals and will not as the pickle decreases it may be any by adding more water and salt, feet the seed intended to be sored by kled."

MARYLAND GAZETTE AND POLITICAL INTELLIGENCER.

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INK OF THE U. STATES. Supreme Court of the United States.
McCulloh, Writoferrorfeen McCulloh, Writoferrorfrom es. the Court of Ap-late of Maryland.) peals of Maryland

Chief Justice delivered the opinion

Court. a sovereign state, denies the obli-of a law enacted by the legislature of on, and the plaintiff on his part, con le validity of an act which has been by the legislature of that state. The ntion of our country, in its most inte-and vital parts, is to be considered flicting powers of the government of on, and of its members, as marked constitution, are to be discussed; and on given, which may essentially in the great operations of the govern No tribunal can approach such n without a deep sense of its impor-ind of the awful responsibility involv ts decision. But it must be decided ally, or remain a source of hostile te-in, perhaps of hostility of a still more nature; and if it is to be so decided, oribunal alone can the decision be On the Supreme Court of the Unit has the constitution of our coun

olved this important duty.
fir t question made in the cause is ngress power to incorporate a bank? been truly said, that this can scarceonsidered as an open question, en apprejudiced by the former proceed-thenation respecting it. The prinwcontested, was introduced at a ve period of our history, has been reby many successive legislatures s been acted upon by the judicial de int, in cases of peculiar delicacy, as a undoubted obligation: ill not be denied, that a bold and dar reation might be resisted, alter an ac nce still longer and more complete.

But it is conceived that a doubt

n, one on which human reason e, and the human jud ment besus in the decision of which the great of liberty are not concerned, bu e representatives of the people, t ted, if not put at rest by the practice impression from that practice. An on of the constitution, deliberateled by legislative acts, on the fair h an immense property has been ad ought not to be lightly disregarded. wer now contested was exercised est Congress elected under the nre Bank of the United States did not an unsuspecting legislature, and Its principle was com understood, and was opposed with eal and ability After being resisted, the fair and open field of debate, and rds in the executive cabinet, with as erienced, and being supported by ntelligent as this equatry can boast, rrassments to which the refusal to are of its necessity, and induced ordinary share of intrepidity to hat a measure adopted under these stances was a hold and plain usurpa-

hservations belong to the cause; are not made under the impression re the question entirely new, the ald be found irreconcilable with the

which the Constitution gave no

cussing this question, the counsel State of Maryland have deemed it of aportance in the construction of the sating from the people, but as the sovereign and independent states. vers of the general government, it isaid, are delegated by the states, me are truly sovereign, and must be d in subordination to the states, who

sess supreme dom nion ld be difficult to sustain this pro-The convention which framed stitution was indeed elected by the islatures. But the instrument when from their hands, was a mere pro ithout obligation or pretensions to reported to the then existing Conthe United States, with a request hight "be submitted to a convention ites, chosen in each state by the tereof, under the recommendation islature, for their assent and ratifi-This mode of proceeding was aand by the convention, by Con-

nd by the state legislatures, the inat was submitted to the people. They pon it in the only manner in which nact safely, effectively, and wisely a subject, by assembling in convenis true, they assembled in their seembled? No political dreamer was denough to think of breaking down which senarate states, and of comthe American people into one com y the American people intollectors

ss. Of consequence, when they
y act in their states. But the mea
acy adopt do not, on that account,
be the measures of the people theore
or become the measures of the state
ments.

these conventions the constitution its whole authority. The govern-its whole authority. The govern-receeds directly from the people: is ned and established" in the name of ple, and is declared to be ordained

required not the affirmance, and could not be negatived, by the state governments. The convention, when thus adopted, was of com-plete obligation, and bound the state sove-

It has been said, that the people had already surrendered all their powers to the state sovereignties, and had nothing more to give. But surely the question whether they may resume and modify the powers granted to government does not remain to e settled in this country. might the legitimacy of the general govern ment be doubted had it been created by the The powers delegated to the state overeignties were to be exercised by them selves, not by a distinct and independent so-vereignty created by themselves. To the formation of a league such as the confederation, perfect Union," it was deemed necessary to change this alliance into an effective government, possessing great and sovereign power and acting directly on the people, the neces sity of referring it to the people, and of deriving its powers directly from them, was felt and acknowledged by all.

The government of the Union, then, whatever may be the influence of this fact on the case, is, emphatically and truly, a government of the people, In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them, and for their benefit

This government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it, would seem too apparent to have required to be enforced by all those arguments which its enlightened friends while it was depending before the people found it necessary to urge. That principle is now universally admitted. But the question respecting the extent of the powers ac tually granted, is perpetually arising, & will probably continue to arise as long as our ystem shall exist

In discussing these questions, the con flicting powers of the general and state goernments must be brought-into view, and the supremacy of their respective laws, when they are in opposition, must be settled.

Lieny one proposition could command the universal assent of mankind, we might expert it would be this-that the government of the Union, though limited in its powers is supreme within its sphere of action. This would seem to result necessarily from its nature. It is the government of all; its powers are delegated by all; it represents all, and acts for all. Though any one may be willing to contr lits operations, no state is willing to allow others to control them. The nation, on those subjects on which it can act, must necessarily bind its component parts But this question is not left to mere reason; the people have, in express terms, decided it, by saying, othis constitution and the laws of the United States, which shall be made in pursuance thereof, shall be the supreme law of the land," and by requiring that the members of the state legislature, and the officers of the executive and judicial departments of the state, shall take the oath of fidelity to it

The government of the United States, then, though limited in its powers, is supreme; and its laws, when made in pursuance of the constitution, form the supreme law of the land, sany thing in the constitution or laws of any state to the contrary not-

withstanding " Among the enumerated powers, we do not find that of establishing a bank or creating a corporation. But there is no phrase in the instrument which, like the articles of confederation, excludes incidental or impli-ed power; and requires that every thing granted shall be expressly and minutely de scribed. Even the 10th amendment, which was framed for the purpose of quieting the excessive jealousies which had been excited, word "expressly," and declares only that the powers and delegated to the United States, nor prohibited to the states, are reserved to the states or to the people;" thus leaving the question, whether the par-ticular power which may become the subjest of contest, has been delegated to the one government, or prohibited to the other, to depend on a fair construction of the whole instrument. The men who drew and adopt. ed this amendment had experienced the embarrassments resulting from the insertion of this word in the articles of confederation, and probably omitted it to avoid those em harrassments. A constitution, to contain an accurate detail of all the subdivisions of which its great powers will adm t, and of all the means by which they may be carried in-to execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind—It would probably never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its imporlant objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves. That this idea was entertained by the framers of the American constitution, is not only to be inferred from the nature of the instrument, but from the lan-guage. Why else were some of the limitations, found in the ninth section of the 1st article, introduced? It is also, in some de gree, warranted by their having omitted to use any restrictive term which might prevent its receiving a fair and just interpreta-tion. In considering this question, then, we must never forget that it is a constitution

Although, among the enumerated powers of government, we do not find the word "bank" or "corporation," we find the great powers to lay and collect taxes, to bor row money, to regulate commerce, to de-clare and conduct a war, and to raise and support armies and navies. The sword and the purse, all the external relations, and no inconsiderable portion of the industry of the nation, are entrusted to its government. It can never be pretended that these vast powers draw after them othersofinferior imporpie, and is declared to be ornamed per to form a more perfect union, estable to form a more perfect union, estable to form a more perfect union, estable an idea can never be advanced. But I The Council of the State of Proventiation, and the proventiation of the State of Prove tance, merely because they are inferior. Such an idea can never be advanced. But

we are expounding.

their interest, and cannot be presumed to have been their intention, to clog and inbarrars its execution by withholding the most appropriate means. Throughout this wast republic, from the St. Croix to the Gulph of Mexico, from the Atlantic to the Pacific, revenue is to be collected and exnended, armies are to be marched and suprequire that the treasure raised in the morth should be transported to the south, thatraised in the east conveyed to the west, or that this order should be reversed Is that con struction of the constitution to be prefirred which would render the operations difficult, hazardous, and expensive? Can we adopt that construction, unless the words imperi-ously require it, which would impute to the framers of that instrument, when granting these powers for the public good. the inten tion of impeding their exercise by withhold ing a choice of means? If indeed, such be ly to obey; but that instrument does not profess to enumerate the means by which the powers it confers may be executed, nor does it prohibit the creation of a corporati on, if the existence of such a being be essential to the beneficial exercise of those powers It is then the subject of fair enqui

It is not denied, that the powers given to the government imply the ordinary means of execution. That for example, of raising revenue and applying it to national purposes, is admitted to imply the power of con veying money from place to place, as the exisencies of the nation may require, and of employing the usual means of conveyance But it is denied that the government has its choice of means, or that it may employ the most convenient means, if, to employ them.

it be necessary to erect a corporation.

On what foundation does this argument rest? On this alone: The power of creating a corporation is one appertaining to sove eignty, and is not expressly conferred on Congless. This is true. But all legislative powers oppertain to sovereignty. The original-power of giving the law on any sub ject whatever, is a sovereign power; and if the government of the Union is restrained from creating a corporation as a mean for performing its functions, on the single rea son, that the creation of a corporation is an act of sovereignty; if the sufficiency of this reason be acknowledged, there would be some difficulty in surfaining the authority of Congress to pass other laws for the accomplishment of the same objects.

The government which has a right to do an act, & has imposed on it the duty of performing that act, must, according to the dictates of reason, be allowed to select the means; and those who contend that it may not select any appropriate means, that one particular mode of effecting the object is excepted, take upon themselves the burden of establishing that exception.

The creation of a corporation, it is said, appertains to sovereignty. This is admit-ted —But to what portion of sovereignty does it appertain? Does it belong to one more than to another? In America, the powers of sovereignty are divided between the government of the Union and those of the states. They are each sovereign, with respect to the objects committed to it. and neither sovereign with respect to the objects committed to the other We cannot com committed to the other We cannot comprehend that train of reasoning which would maintain that the extent of power granted by the people is to be ascertained, not by the nature and terms of the grant but by its date. Some state constitutions United States. We cannot believe that their relation to each other is in any degree dependent upon this circumstance respective powers must, we think, he pre-cisely the same as if they had been formed at the same time. Had they been formed at the same time, and had the people con ferred on the general government the pow er contained in the constitution, and on the states the whole residuum of power, would it have been asserted that the govern-ment of the Union was not severeign with respect to those objects which were entrusted to it, in relation to which its laws were declared to be supreme? If this could not have been asserted, we cannot well comprehend the process of reasoning, which main-tains, that a power appertaining to sovereignty, cannot be connected with that vast portion of it which is granted to the general government so far as it is calculated to sub serve the legitimate objects of that govern-ment. The power of creating a corporation, though appertaining to sovereignty, is not, like the power of making war, of le-vying taxes, or of regulating commerce, a vying taxes, or of regulating commerce, a great substantive and independent power, which cannot be implied or incidental to other powers, or used as a means of executing them. It is never the end for which other powers are exercised, but a means by which other objects are accom-plished. No contributions are made to charity for the sake of an incorporation, but a rporation is created to administer the charity; no seminary of learning is instituted in order to be incorporated, but the corporate character is conferred to subserve the poses of education. No city was ever limit with the sole object of being incorporated, but is incorporated as affording the best means of being well governed. The power of creating a corporation is never used for its own take, but for the purpose of effecting something clse. No sufficient reason is, therefore, perceived why it may not pass as incidental to those powers which are expressly given, if it be a direct mode of executing them. executing them.

But the constitution of the United States has not left the right of Congress to employ the necessary means for the execution of the powers conferred on the government to general reasoning. To its commeration of powers is added that of making stall his which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department thereof."

that this clause was inserted for the purpose of conferring on Congress the power of making laws. That, without it, doubts might be entertained, whether Congress could exercise its powers in the form of legislation.

But could this be the object for which it was inserted? A government is created by the people, having legislative, executive, and judicial powers. Its legislative powers are vested in a Congress, which is to consist of a Senate and House of Representasist of a Senate and House of Representa-tives. Each House may different the rules of its proceedings; and it is declared that every bill which shall have passed both Houses, shall, before it became a law, be presented to the President of the United States. The 7th seetion describes the course of proceedings, by which a bill shall become a law; and, then, the 8th section it be necessary to say, that a legislature should exercise legislative powers, in the should exercise legislative powers, in the shape of legislation? After allowing each house to prescribe its own course of pro-ceeding, after describing the manner in which a bill should become a law, would it have entered into the mind of a single member make laws was necessary to enable the legislature to make them? That a legislature, endowed with legislative nowers. gislate, is a proposition too self evident to have been questioned.

But the argument on which most reliance

is placed, is drawn from the peculiar lan-guage of this clause. Congress is not emguage of this clause. Congress is not empowered by it to make all laws which may have relation to the powers conferred on the government, but such only as may be necessary and proper for carying them into execution. The word "necessary" is considered as controling the whole sentence, and as limiting the right to pass laws for the ex-ecution of the granted powers, to such as are indispensable, and without which the power would be nugatory. That it excludes the choice of means, and leaves to Congress, in each case, that only which is most direct and simple.

Is it true, that this is the sense in which

the word incressary" is always used? Does it always import an absolute physical necessity, so strong, that one thing, to which another may be termed necessary, cannot exist without that other? We think it does not. If reference be had to its use, in the common affairs of the world, or in approved authors, we find that it frequently imports no more than that one thing is convenient, or useful, or essential to another. To employ the means necessary to an end, is gene rally understood as employing any means calculated to produce the end, and not as being confined to those single means, without which the end would be entirely unat-tainable. Such is the chareter of human language, that no word conveys to the mind, in all situations, one single definite idea; and nothing is more common than to use words in a figurative sense. Almost al compositions contain words, which, taken in their rigorous sense, would convey meaning different from that which is obviously intended. It is essential to just construction that many words which import something excessive, should be understood in a more mitigated sense, in that sense which common usage justifies. The word necessary is of this description. It has not a fixed character peculiar to itself. It admits of all degrees of comparison, and is often connected with other words which in crease or diminish the impre sion the mind receives of the urgency it imports. A thing may be necessary, very necessary, absolute ly or indispensably necessary. To no mind would the same idea be conveyed by these several phrazes. This comment on the word is well illustrated by the passage cited the constitution. It is we think impossible to compare the sentence which prohibits a state from laying composts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws," with that which authorises Congress -to make all laws which shall be necessary and proper for carrying into exe ment, without feeling a conviction that the convention understood itself to change materially the meaning of the word necessary by prefixing the word absolutely.' This word, then like others, is used in various senses, and in its construction, the subject, the context, the intention of the person using them, are all to be taken into view.

sideration. The subject is the execution of those great nowers, on which the wel-fare of a nation essentially depends. It must have been the intention of those who gave these powers, to ensure, as far as hu-man prudence would ensure their beneficial execution. This could not be done by con fining the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be ap propriated, and which were conducive to the end. This provision is made in a con-stitution intended to endure for ages to come, and, consequently, to be adapted to the verious crises of human affairs have prescribed the means by which go vernment should, in all future time exe cute its powers, would have been to change entirely, the character of the instrument and give it the properties of a legal code. It fould have been an unwise attempt to pro vide, by immutable rules, for exigencies which, if foreseen at all, must have been seen dimly, and which can be lest provided for as they occur. To have declined that the best means shall not be used, but those alone without which the power given would be no story, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances If we apply this principle of con-struction to my of the powers of the go-vernment, we shall find it to pernicious in its operation that we shall be compelled to discardit. The powers vested in Congress may certainty be carried into execution, without pre-cribing an oath of office. The power to exact this security for the faithful performance of daty, is not giren, nor is it

Let this be done in the case under con

and secure the hierings of liberty to them; a government entrusted with such ample that this clause though in terms a grant of selecting many to their powers, on the due execution of which the power, is not so in effect; but is, really, resolution in their to the proper of the states in their to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at perfect liberty to acted to the people were at people were at people and to the as much plausibility as other incidental powers have been assailed, that the convention was not unmindful of this subject. The oath which might be exacted that of fidelity to the constitution, is prescribed, and no other can be required. Yet, he would be charged with insan ty who should contend, that the legislature might not su-peradd, to the oath directed by the constitution, such other oath of office as its wiedom might suggest.

So, with respect to the whole penal code of the United States, whence arises the power to punish in cases not prescribed by the constitution? All admit, that the government may, legitimately, punish any violation of its laws; & yet this is not among the enumerated powers of Congress. The the enumerated powers of Congress. The right to enforce the observance of law, by punishing its infraction, might be denied with the more plausibility, because it is expressly given in some cases.

Congress is empowered, uto provide for the unishment of counterfailing the

the punishment of counterfeiting the se-curities and current coin of the United States," and "to define and punish piracies and selonies committed on the high seas, and offences against the laws of nations." The several powers of Congress may exist, in a very imperient state to be sure, but they may exist and be carried into execution, alinay exist and be carried into execution, although no punishment should be infliced in cases where the right to punish is not expressly given. Take, for example, the power sto establish post offices and post roads." This power is executed y the single act of making the establishment, But, rom this has been inferred the power and dity of carrying the mail, along the post road, from one post office to early be post road, from one post office to another. And, from this implied power, has again been interred the right to punish those who steal letters from the post, fice, or rob the mail. It may be said, with some plantibility, that the right to carry the mail, and to punish those who rob it, is not indis-pensally necessary to the establishment of a post other and post road. This right is in deed essential to the beneficial exercise of the power, but not indispensably necessary to its existence. So, in the puni-hment of the crimes of stealing or falsifying a record or process of a court of the United States. or of perjuty in such court. To punish these offences is certaily conductive to the due administration of justice. But courts may exist, and may decide the causes brought before them, though such crimes

escape punishn ent

The baneful influence of this narrow construction on all t e operations of the government, & the absolute impractical litry of maintaining it without rendering the government incompetent to its great objects, might be illustrated by numerous examples drawn from the constitution and from our laws. The good sense of the public has without hesitation, that the power of punishment appertains to sovereignty, and may be exercised whenever the sovereign has a right to act, as incidental to his constitutional powers. It is a means for carrying into execution all so-vereign powers, and may be used, although not indispensably necessary. It is a right incidental to the powers, and conductive to its beneficial exercise.

If this limitted construction of the word "necessary" must be abandoned in order to punish, whence is derived the rule which would reinstate it, when the government would carry its powers into execution by means not vindicative of their nature? If the word "necessary" means "needful," "requisite," "essential," "conducive to," in order to let in the power of punishment or the infraction of law, why is it not equally comprehensive when required to authorise the use of means which facilitate the execution of the powers of government without the infliction of punishment?

In ascertaining the sense in which the word "necessary" is used in this clause of the constitution, we may derive some aid from that with which it is associated Congress shall have power uto make all laws which shall be necessary and proper to carry into execution? the powers of govern-ment. If the word necessary? was used in that strict and igorous sense for which tho counsel for the state of Maryland contend. would be an extraordinary departure from the usual course of the human mind. as exhibited in composition, to add a word, the only possible effect of which is to qualify that strict and rigorous meaning; to present to the mind the idea of some choice of means of legislation not straightened and compressed within the narrow limits for which gentlemen contend.

But the argument which most conclusively demonstrates the error of the con-struction contended for by the counsel of Maryland, is founded on the intention of the convention, as manifested in the whole clause. To waste time and argument in proving that, without it, Congress might carry their powers into execution, would be not much less idle than to hold a lighted taper to the sun. As little can it be required to prove that, in the absence of this clause, Congress would have some choice of means. That it might employ those which, in its judgment, would most advantageously effect the object to be accomplished. That any means adapted to the end, any means which tended directly to the execution of the constitutional powers of the government, were in themselves constitutional. This clause, as construed by the state of Maryland, would abridge and almost annihiliate this pseful and necessary right of the legislature to select its means. That this could not be intended is, we should think, had it not been already controverted, too apparent for controversy. We think so for the following

1. The clause is placed among the nowers of Congress, not among the limitations of those powers.

2nd. Its terms purpoit to enlarge, not to diminish the powers vested in the government. It purports to be an additional power, not a restriction on those already granted. No reason has been or can be assigned for thus concealing an intention to narrow the discretion of the national legislature under words which purport to enlarge it. (CONTINUED ON LAST PAGE.)