

be. He exhibits the enormity of this interference by a view of the extensive field over which it would operate. The United States are exposed to invasion through the whole extent of their Atlantic coast (to which may now be added seventeen degrees of the Pacific coast) by any European power with whom we might be engaged in war: on the northern and north-western frontier, on the side of Canada, by Great Britain, and on the southern by Spain, or any power in alliance with her. If internal improvements are to be carried on to the full extent to which they may be useful for military purposes, the power, as it exists, must apply to all the roads of the Union, there being no limitation to it. Wherever such improvements may facilitate the march of troops, the transportation of cannon, or otherwise aid the operations, or mitigate the calamities of war along the coast, or in the interior, they would be useful for military purposes, and might therefore be made. They must be coextensive with the Union. The power following as an incident to another power can be measured, as to its extent, by reference only to the obvious extent of the power to which it is incidental. It has been shown, after the most liberal construction of all the enumerated powers of the general government, that the territory within the limits of the respective States belonged to them; that the United States had no right, under the powers granted to them (with the exceptions specified), to any the smallest portion of territory within a State, all those powers operating on a different principle, and having their full effect without impairing, in the slightest degree, this territorial right in the States. By specifically granting the right, as to such small portions of territory as might be necessary for these purposes (forts, arsenals, magazines, dock-yards and other needful buildings), and, on certain conditions, minutely and well defined, it is manifest that it was not intended to grant it, as to any other portion, for any purpose, or in any manner whatever. The right of the general government must be complete, if a right at all. It must extend to every thing necessary to the enjoyment and protection of the right. It must extend to the seizure and condemnation of the property, if necessary; to the punishment of the offenders for injuries to the roads and canals; to the establishment and enforcement of tolls; to the unobstructed construction, protec-

tion, and preservation of the roads. It must be a complete right, to the extent above stated, or it will be of no avail. That right does not exist.

3. The commercial power. Mr. Monroe argues that the sense in which the power to regulate commerce was understood and exercised by the States, was doubtless that in which it was transferred to the United States; and then shows that their regulation of commerce was by the imposition of duties and imposts; and that it was so regulated by them (before the adoption of the constitution), equally in respect to each other, and to foreign powers. The goods, and the vessels employed in the trade, are the only subject of regulation. It can act on none other. He then shows the evil out of which that grant of power grew, and which evil was, in fact, the predominating cause in the call for the convention which framed the federal constitution. Each State had the right to lay duties and imposts, and exercised the right on narrow, jealous, and selfish principles. Instead of acting as a nation in regard to foreign powers, the States, individually, had commenced a system of restraint upon each other, whereby the interests of foreign powers were promoted at their expense. This contracted policy in some of the States was counteracted by others. Restraints were immediately laid on such commerce by the suffering States; and hence grew up a system of restrictions and retaliations, which destroyed the harmony of the States, and threatened the confederacy with dissolution. From this evil the new constitution relieved us; and the federal government, as successors to the States in the power to regulate commerce, immediately exercised it as they had done, by laying duties and imposts, to act upon goods and vessels: and that was the end of the power.

4. To pay the debts and provide for the common defence and general welfare of the Union. Mr. Monroe considers this "common defence" and "general welfare" clause as being no grant of power, but, in themselves, only an object and end to be attained by the exercise of the enumerated powers. They are found in that sense in the preamble to the constitution, in company with others, as inducing causes to the formation of the instrument, and as benefits to be obtained by the powers granted in it. They stand thus in the preamble: "In order to form a more perfect union, establish justice, insure domestic tran-

quillity, provide for the the general welfare, an liberty to ourselves and establish this cons objects to be accomplis Congress to do what them (in which case t need for investing it wi be accomplished by th granted in the body of sidered as a distinct power to provide for and the "general well would give to Congre whole force, and of Union—absorbing in th all other powers, and and restrictions nugato: these words forming an limited power, supersed (must be) abandoned. United States is a limite for great national purp Other interests are left whose duty it is to pr and canals fall into this General Government b to the exercise of the struction, and protecti quire. Mr. Monroe ex roads made in territor dian countries, and the tory below the 31st d (with the consent of Sp Athens in Georgia to 1 acquired the Floridas; a no objection to these ten of them, to the States, e ines the case of the (within the States, and which the United Stat founded on any princi right." He says of it on an article of comp States and the State of State came into the Uni pense attending it was t plication of a certain poi ing from the sales of the State. And, in this inst have exercised no act of j ty within either of the S