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AND SWITZERLAND COUNTY DEMOCRAT.

BY ISAAC STEVENS.

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SPEECH OF MR. HOWARD, OF INDIANA,

In the House of Representatives, Feb. 12, 1840.
On the proposition to instruct the Committee of Ways and Means to report a bill appropriating \$150,000 to each of the States of Ohio, Indiana, and Illinois, for the continuation of the Cumberland road.

Mr. HOWARD said:

Mr. Speaker: I regret extremely that this discussion has not been suffered to progress, according to the express wishes of the honorable gentleman from Ohio, [Mr. Mason], who addressed the House on yesterday. He insisted, in the outset of his remarks, that the debate should not have a party cast—that the question under consideration should be taken up, and considered on its merits alone, without connecting it with the party politics that now agitate the country, from one side to the other. I repeat, sir, that I regret that others have departed from this course, and that subjects foreign to the one before the House, have been drawn into the discussion. We have had a discussion, not only on the Cumberland road, but on the general politics of the country. One gentleman, distinguished for his propriety in debate, and his knowledge of the rules of parliamentary procedure, has favored us with a discussion of the merits of the Florida war. What has the Florida war to do with this great national highway? Sir, let us take up the Florida war, and discuss it a proper time, and in its proper place; and let the friends of the brave officers and soldiers who have perished in their country's service welcome their return from the dangers of a pestilential atmosphere and savage foe, without having their feelings outraged by the disgrace that has been attempted to be thrown upon them. We are told that this has been an "unbecoming war," conducted disgracefully to the country; and when I see in the lobby of this hall the officers who have returned from it with shattered constitutions, and embittered feelings, I am reminded of another gallant army, which having conquered treason, and cut off the traitor, "got themselves by stealth into the city," and instead of being allowed to triumph, as was due to a victorious army, retired from the gaze of him whose diadem they had saved. Instead of being welcomed home with honors and rewards, we see the Jesuits, and other distinguished officers who have returned from the arduous campaigns of the war, treated as if they had returned in disgrace.

[Mr. Biddle here explained.]
Mr. H. continued. Mr. Speaker, I was not mistaken as to the language used by the honorable gentleman on that occasion, and he does me no more than justice when he says that I would not intentionally pervert his meaning. But what did he mean when he spoke of the "imbecile management of this war?" What is meant by that gentleman and others when they speak thus? And how do they expect to be understood by that remnant, whose bones are not found bleaching on the fields, or waiving in the marshes of that country. It is true, gentlemen say to the army, "we don't mean you when we make such charges; we know that your squares fell on the ground they occupied, as if you had been brave; we have been told that some of your companions, even laid violent hands on themselves, because they could not overcome the obstacles interposed by the irresistible laws of nature. It is not you we mean; stand aside awhile, and suffer this implied disgrace, that we may charge home upon the administration the disasters of this war; let us hide your victories, your sufferings, your battle fields, from the country for the present, and allow us to call it an "imbecile war." Such, sir, is the language implied by the course of those who call this subject into requisition, for the purpose of converting it into political capital.

"Ought we not to cherish our army? Ought we to heap disgrace on them, because that country in which they have been employed has been a Parthia? If the well appointed legions of Rome were not able to withstand the mode of warfare practiced by a far less active and subtle than the modern savage, and in a country not more suited for concealment and ambush, why should disgrace be heaped upon our army because they found a Parthia in Florida? I have read that when the legions of Rome went to the field where the army of Varro was slaughtered, they raised a loud wail of lamentation when they saw the field covered with the bones and eagles of the slaughtered legions. And shall we, with such examples before us, in our eagerness for party advantage, bring into discredit our national arms? Surely you ought not to advance party purposes by detracting from the credit of those brave men who have perished in their country's service. When I heard the denunciations against them on this floor, I felt that if I had been one of them, I would have come to this capital and cast down my armor, and have done that which I never do before the enemies of the country—I would have turned my back upon the service. I ask on behalf of those brave men, if the Administration is to be charged with imbecility and mismanagement, that gentlemen would do it directly, and not strike at it through them.

[Mr. Biddle here asked Mr. Howard to give way for an explanation.]

Mr. Howard. I remember a colleague of mine, [Mr. Wick], when he asked a similar indulgence, was shown no favor. He was told, "if you are not conscious of having abused the

courtesy of the House, withdraw the motion," [a motion which he had made to lay the subject on the table;] and this expression, too, came from the amiable gentleman from Pennsylvania, [Mr. Biddle.] Though I have not the pleasure of an intimate personal acquaintance with that gentleman, yet I know enough of him to believe he regarded himself with parliamentary usage; but it must also be said that his conduct was parliamentary severity, especially when it is remembered, that my colleague was on the floor for the first time. I shall leave the way open for the gentleman to obtain the floor, or I would yield it now.

I shall say nothing further on the Florida war, only to insist that we ought not incidentally to discuss those measures of the Administration which from their nature and importance, are entitled to a direct consideration.

Before, however, I touch the principal matter now the subject of debate, I owe it to an honorable gentleman from New York [Mr. Hoffman] to pay a just respect to some remarks which fell from him, in reference to the recent elections in Indiana, for which he has kindly undertaken to account.

Mr. Speaker, why does that gentleman call in question the decision of Indiana in regard to her delegation in Congress? Has he the right to interrogate her on that subject?

I remember, sir, sometime since, a band of Conservatives here; who, when the President in his message referred to certain causes as having led to certain political changes in New York were thrown into political paroxysms of indignation, because the President had chosen to speak of these changes of opinion, and their causes. Well; what have we now? A member of Congress questioning a sovereign state on the subject of her choice of Representatives. It may be that the people of Indiana ought to have chosen the friends of the gentleman, instead of those they have sent here. In truth, sir, he seems to be marvelously well acquainted with our domestic affairs. The names of village papers and their contents are as well known to him as if he had travelled through that region—better known to him than to myself, though I am recently from Indiana.

[Here Mr. Proffit said he had given the gentleman from New York his information.]

But the honorable gentleman from New York has kindly informed us that it was the Cumberland road on which the elections of that State turned; and that his friends failed on the ground of their supposed hostility to the measure, or their inefficiency in pressing the subject on the notice of Congress. Whilst I enter a protest, as the lawyers say, against his right to enquire into this subject, I will say to him, that so far as one district of that State is concerned, his information is not well founded. In regard to other gentlemen, I pretend not to speak, having had a competitor that gave me as much as I desired to attend to; without looking into the canvass in other sections of the State. Rarely was the subject of the Cumberland road mentioned by either my competitor or myself. We discussed other topics: the Sub-Treasury; the United Bank; the merits of the late and present Administrations; and especially the charges made against them of fraud, corruption, and extravagance. In seventy-five addresses which I delivered, these were subjects which I discussed. And here I would notice a remark of the honorable gentleman from Pennsylvania, [Mr. Biddle.] He charged the Executive with making an attempt to bring into public odium the Congress of the United States, by avoiding the responsibility of submitting estimates of expenditure, and then charging the extravagance of the Government upon this body. Sir, there is another view of this subject which I will bring to that gentleman's notice. [What has been the charge urged against the Administration in all the opposition presses of the country, and by gentlemen on this floor? It has been that of extravagance and profligacy on the part of the Executive. The course which I took on this subject was not that now ascribed to the party which I belong. I, sir, it is true, showed the estimates when this charge was brought against the Administration, during the canvass—but did I stop here? No, sir; I went into the details; showed the objects of expenditure, and that both parties had voted the appropriations in Congress. In this manner, sir, I defended the party to which the gentleman belongs, as well as the Administration. If I had stopped with showing the estimates, I would have justly been chargeable with being a demagogue, and unworthy of addressing a popular assembly. But, when the honorable gentleman is defending this body against public odium, why is he not also made sensible of another effort which must have fallen within his observation? Has he not heard of the "office holders' party," the "spoils party," and other similar expressions? Why, sir, if an assemblage of citizens, although it may consist of farmers, is held for the purpose of political discussion, or organization, and they happen to be favorable to the Administration, they go away branded in every opposition print as the "spoils party," the "office holders' party," and with such other denunciatory epithets as are ever ready to drop from the lips of the "partisan." Does the gentleman see nothing in all this calumny, to array the people, as being against the constituted authorities, and to bring into disrepute our institutions themselves? I would be gratified to find that these facts should make a suitable impression on the minds of honorable gentlemen here. But, sir, there is one consolatory reflection, and that is, that denunciation from any quarter does not pass with the people for truth. The mass of the people seek this on every great question, and he who goes before them for public favor, unless armed with truth, although he may have a temporary triumph, must ultimately fail. The honorable gentleman from New York seems, in his remarks on this subject, to have resembled a mariner whose bark had been thrown between the counter currents of two contending seas. He would be pleased to favor this road, and yet he is unwilling to vote on this subject until he can hear

"from the palace"—until he can learn the views of the President.

Sir, suppose this argument had come from some friend of the Administration—what would we hear? That its author was a "palace slave."—It would be said that there was an effort to make this House subservient to the President upon the great subject of expenditure. We, Mr. Speaker, are the guardians of the public treasure; and in appropriating it our inquiry should be, not whether the President or Secretary has recommended the appropriation, but whether it is called for by the public service. In doing this, we act on our own responsibility; and I, sir, as one, will be found voting upon every question of appropriation, upon my own convictions of the necessity of the expenditure called for, without being governed by estimates.

In the progress of this discussion, my attention was attracted by some remarks which fell from an honorable gentleman from Maine, [Mr. Harris.] I am pleased to find that he has had the good taste not to include in his published speech all the remarks which were delivered by him on this floor.

[Here Mr. Harris explained. He said he did not write out his remarks, and had no wish to be answerable for his speech in any other form than that in which it was delivered.]

I regret it, sir, [said Mr. H.] for I had hoped that some of the offensive remarks made by that gentleman on yesterday, had been left out of the printed report by his direction. Did he know, when he was assailing the Western people, he was assailing his own countrymen? What were we told? "That those who come here to ask for this appropriation were squatters and pillagers of the public lands." If these expressions could be confined to these walls, I should not regard it necessary to answer them; but when I remember that epithets habitually applied to individuals or nations give character, I feel bound at once to meet the injurious imputations implied in the language of that gentleman. What is the idea of the foreigner when he hears the settlers of the West characterized as squatters and pillagers of the public domain? If I were to suppose what it would be, from the expressions of gentlemen here, I should conclude that an Eastern gentleman desirous of emigrating Westward, would esteem it necessary to provide himself with traps, snares, and the like, and when he should get there to use what, in the western part of North Carolina, they call a *deadfall*, in order to catch and clear the country of squatters, and render it habitable for civilized man.

For the information of that gentleman, I will tell him that the squatters of the West walk erect, are possessed of the ordinary principles of humanity, governed and influenced by the like motives, principles and feelings, as ourselves, fearing but little else than the God that made them. They have not, nor do they pretend to have, all the polish of the older communities of the East; but there is a sterling integrity and manly energy about them; indicative of the excellence, and strength, and relative weight they are destined to possess as a part of this great empire.

Does the gentleman want to read their history? Let him go to the "Rock of Plymouth." Why is it that New England performs her centennial pilgrimages to that spot, rendered sacred by the landing of the pilgrim fathers? They had no title to the ground on which they pitched their tents. It was the soil of the red man—the stranger. They came actuated by the noblest feelings; they came in pursuit of liberty and equality; like the Western pioneer, they came to better their condition, and find that in the Great West, which the Old World denied them.

Sir, it sounds strangely to hear a descendant of the pilgrim fathers speak disparagingly of the settlers of the West, who, like them, have gone to a new land to encounter its hardships, and its dangers, and open up the way to the onward progress of civilization, carrying along with them all our institutions. We are all pioneers, and the descendants of pioneers, and are governed by the same spirit. We want room, and we step westward; the hunterman to find game, and the cultivator of the earth to find whereon to raise the pious means of subsistence. In doing this, the settler has ever been the outpost; the guard of the interior settlements, and saved them from the tomahawk and scalping knife of the savage. The same principle which prompts the same necessity which urges, the laboring man to find a home in the wilderness of the West, governs us all; men of all conditions and professions.

Mr. Speaker, I must be allowed to apply this principle to my own profession. A young man whose father has given him a good education, and good morals, sets out for the far West, having spent some time in acquiring a profession. He arrives at one of our county towns, with purse exhausted, and coat threadbare. He goes to a Western inn, and soon strikes a bargain with the landlord, the substance of which is, that he is to sleep under the tavern keeper's roof, eat at his table, and pay him for these benefits, when he shall be able to make the money by his profession. He commences the practice of the law, and in a short time gains a strong hold on the affections of the people, and a still stronger on the good will of the daughter of some substantial farmer. He marries, becomes a useful citizen, and not unfrequently a squatter in this hall as a member of Congress. Sir, I see such men all around me.

But this occupation of the public lands is not only sanctioned by the conduct of our fathers, and our whole people: it has also the sanction of law. What has the Government done? I answer, it has done that which should commend the approbation of all good men. For the last forty years, it has told the pioneers of the West to "Go on—occupy the lands—we will provide for you, and protect you in the enjoyment of the fruits of your labor." I have some acquaintance with the character of those who, under the assurances of the government, now occupy the public lands. I have travelled amongst them, partaken of their hospitality, and witnessed

with emotion the comfort, the intelligence, and the virtue, to be found in every dwelling. We find these citizens from all quarters—Virginia, North Carolina, New York, Pennsylvania, New England; all have their representatives, besides individuals from most of the other States. One of the finest libraries that I saw during my canvass for a seat here, was in a neighborhood of settlers. It is there that I have seen the father becoming the priest of his household, his dwelling his only place of worship; and with the Bible in the hands of his children, teaching them the evidence of its precepts—offering up in the spirit of devotion his thanksgivings to the God of his fathers, and imploring in christian humility, the continuance of His blessings.

Sir, the pioneer has not performed his office. Do gentlemen desire to know when the settler will cease to press forward? I will tell them. When the labors of a Cushing, a Linn, and a Floyd of Virginia shall be crowned with success, by filling up the great valley of the Oregon with settlers—squatters if you please, of Anglo-Saxon blood—then, and not till then, will the tide of Western emigration cease to overspread the public domain. I could not, however, Mr. Speaker, but be reminded, when I heard the remarks of the gentleman from Maine in reference to the people of the West, of the expression of Cæsar, when he saw the dagger of his dearest friend raised against him. Coming, as that gentleman does, from a young growing State, he cannot be ignorant of the claims of the pioneer to our regard.

I have made these observations for the benefit of those who do not understand the Western people. If gentlemen would travel on this Western road, stop at Wheeling, now a city but lately grown into importance, cross the State of Ohio, and see, on the side of this great thoroughfare, the cities, towns, and villages, the farms, schools, and all the variety of improvements that distinguish the age, they would cease to apply offensive epithets to us, and be proud to become one of us. It has not been my fortune to travel much in the East, having, for thirty-six years, drank the waters of the West; but I have seen very little in the East that will compare with the State I have the honor in part to represent. In no country have I seen so much equality. We have no population rendered miserable by poverty, nor have we many who have overgrown estates. It may be said of us that there is universal competence, and its never failing concomitant, independence. I have thus, Mr. Speaker, felt myself called on to notice several topics, which have been introduced into this discussion, though not involved in the question before the House. I now proceed briefly to discuss that question: Gentlemen are greatly in error on this subject, when they state that Ohio has received, in the construction of this road, the sum of 6,500,000 dollars.

[Mr. Harris here explained that he had referred to three States of Ohio, Indiana, and Illinois; and that he reported incorrectly as referring to Indiana alone.]

Mr. H. resumed. Mr. Speaker, I accept the honorable gentleman's explanation, but it makes the case go better for him. He is still in error. I may, perhaps, speak too positively, but if so, the gentleman can correct me by documentary proof. He can have that opportunity, and may furnish me, while I am addressing this House, with the documents; and I will add, that if he will do so, I will almost promise to vote against the proposition myself. Allowing the gentleman time to furnish the proof sustaining his position, I will not even stop now to state what has been expended, but will reply to that part of the argument of the honorable gentleman which interposes the Constitution as an insurmountable obstacle to the continuance of the Cumberland road. On this subject, however, it surely could not be expected of me to open up and discuss this great question. It is not for me to attempt to do over again what has been performed by the ablest of our statesmen. This constitutional objection, sir, is a convenient resort, and is always found to be infallible. The doctrine of strict construction has come, at times, from every part of the Union. In 1807, it was a fashionable doctrine in the East, about the time of the embargo. Yes, sir; it was then thought that Congress had power to regulate commerce, which implied its continued existence, and that it was unconstitutional to destroy commerce, as it was said the embargo did. So we have had from other quarters, at various periods, usually attended with circumstances which rendered the extreme of strict construction expedient, in promoting the interests, for the time being, of the particular section from whence it has been urged. So of the doctrine of consolidation; and of *latitudinous construction*. That, too, is a convenient doctrine at times; not for any one particular section, but for every section of the country, whose interests may render it necessary to resort to it. Is not our history replete with proof on this subject?

I, sir, in my humble career, have always endeavored to avoid running into extremes. The golden medium of truth is the ground on which I delight to tread. Well, sir, where is this to be found? On the one hand we find consolidation; on the other, literal constructionists. I turn from these, and consult another able expositor, who has been long engaged in expounding the Constitution. What expositor is that? I answer, it is the practice of the Government from its commencement to this time. Gentlemen may talk to me about constructions of the Constitution, and tell me that if we depart from a limited construction, we endanger the rights of the States, or if we do not give it a liberal construction, we impair the powers of the Government for usefulness; but I leave these contending theories to the enjoyment of their theories, and content myself with the Constitution as practically expounded by the current and concurrent action of the several co-ordinate branches of the Government. Now, I would ask, can the Government be administered, or certainty and stability given to its measures, if mere abstract questions of power are never to

be regarded as settled? Is nothing due to time and experience, and the concurring opinions of those who have gone before us? Sir, the Government cannot be administered upon any other principle. To say that nothing is to be regarded as settled, so far as the mere abstract question of power is concerned, would be to make the action of the Government, as variable as the shade, and uncertain as the winds.

I might doubt the expediency of a measure, and be disposed to change the action or policy of the Government; but that is a very different question. The present is a question of power—of constitutional power—and, upon that question, the practical construction of the Constitution, by the constituted authorities, is enough for me.

How stands the question before the House? Has there been any concurrent action of the different departments of the Government with regard to it? I find that its action has been uniform for thirty-four years. It has been gradually progressing from 1806, down to the present time. More than this we have had the sanction of Jefferson, the distinguished expositor of the Constitution, to whose opinions many of us are prone to bow, with the most unqualified deference. We have had the sanction of Madison, Monroe, the distinguished individual that succeeded him, now a member of this House, of Jackson, and our present Chief Magistrate. And here, sir, I would remark, in reference to the opinions of the President on this subject, without knowing any thing more than may be known to any other gentleman on this floor, that should a bill be passed, granting an appropriation to the Cumberland road, I have no doubt it would receive his sanction. Why do I say so? Because I look at his acts. He has already sanctioned two bills, and I infer from his past action what we may expect for the future.

But, sir, we have had resort to authorities on this subject, and as it may gratify gentlemen, I will pay some attention to these authorities.

The *second* message of President Monroe is rather brought to our notice "than read." In the view the gentleman from Maine has taken of the opinion expressed in that message, I think he has misapprehended the meaning. It was not a simple appropriation of money to be applied to the construction of the Cumberland road that was voted by Mr. Monroe. It was a bill establishing toll gates on the road, with certain other provisions that would have given to the United States jurisdiction within the states through which it passed, incompatible with their sovereignty. In returning the bill, Mr. Monroe says: "It is with deep regret, approving as I do of the policy, that I am compelled to object to its passage." &c. He adds: "A power to establish turnpikes with gates and tolls, and to enforce the collection of tolls by penalties, implies a power to adopt and execute a complete system of internal improvement. A right to impose duties to be paid by all persons passing a certain road, and on horses and carriages, as is done by this bill, involves the right to take the land from the proprietor, on a valuation, and to pass laws for the protection of the road from injuries; and if it exists as to one road, it exists as to any other, and so as many roads as Congress may think proper to establish. A right to legislate for one of these purposes, is a right to legislate for the other. It is a complete right of jurisdiction and sovereignty for all the purposes of internal improvement and not merely the right of applying money, under the power vested in Congress to make appropriations, under which power, with the consent of the States, through which the road passes, the work was originally commenced and has been so far executed." Again he says: "For although they (the States) may assert the appropriation of the money within their limits," &c. Now, sir, what will the honorable gentleman say? Will he let Mr. Monroe settle this controversy between us?

[Mr. Harris here remarked he would go with Mr. Monroe when he was right.]

The gentleman tells us he relies on these authorities when they are right, not when they are wrong. If he possesses that admirable quality, which at all times gives absolute certainty as to the right and the wrong of embarrassing questions, why trouble us? Why take up the time of the House in reading the opinions of the great statesmen who have left the stage of action? I, sir, shall take care to cite no authority, which, if admitted, will not prove my position.

Mr. Speaker, the distinguished citizen who has retired to the Hermitage, has been mentioned in the course of this debate, and his opinions have been cited. It is not for me to speak in censure or praise of that extraordinary man. His actions are now in the hands of the historian; and I only refer to him for the benefit of his authority upon this question. In his veto on the Mayville road bill, he cites, evidently with approbation, the opinion of Mr. Monroe, "that Congress have unlimited power to raise money, and that, in its appropriation, they have a discretionary power, restricted by the duty to appropriate to purposes of common defence and of general, not local, national, nor State benefit."

It is thus we see the opinions of our Presidents, to which many more might be added, and the constant action of the Government corresponding to those opinions—the action of the Executive of Congress, for more than the third of a century; all in our favor, and yet we are now met with the argument that Congress has no power to continue this great national work. Sir, if this is to be regarded as an open question, to what period shall we look for that regular and systematic action, under the Constitution, which shall fix it deeply in the minds and affections of the people? Sir, to substitute theory for practice, is to be guilty of the folly in the affairs of Government, which would characterize the physician who should throw aside the medicine that had cured his thousands, because it was opposed to some pre-conceived theory. I say, then, to the ultra on either extreme, that my ground is that whereon the Government itself must rest—its current, practical exposition of the Constitution by its legislative, executive, and judicial action.