

The Survey Act of 1824

by Pamela Lowry

The United States Constitution states that Congress shall have the power “To establish Post Offices and post Roads,” and “To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.”

When the new state of Ohio came into the Union in 1804, travel over the mountains to and from the eastern seaboard was slow and difficult, so, in 1805, the U.S. Senate passed legislation which made the construction of a national road to the Ohio River a Federal project. The money to finance the construction came from 5% of the proceeds from selling the Federal lands in the Northwest Territory to settlers, and the government appointed a three-man commission to map out the route and oversee the construction and maintenance, which was done by local contractors. Construction was delayed by the British attempt to reconquer the United States in the War of 1812, but the National Road finally reached Wheeling (now in West Virginia) in 1818.

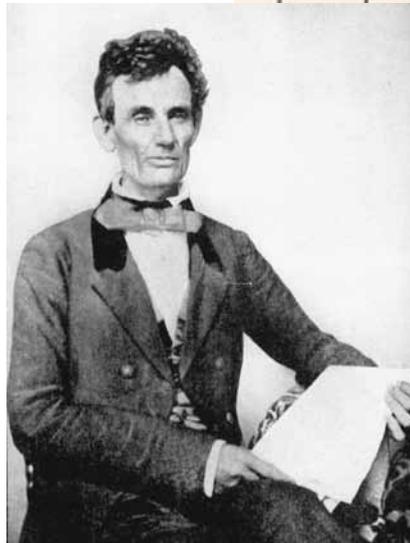
The trip from Baltimore to Wheeling was reduced from eight days to three, towns and villages sprang up near the road, the value of property increased, and local roads were built to provide access to the National Road. Yet despite the obvious benefits of the road, and its popularity with the citizens, the British-allied faction in Congress continued to insist that the Federal government had no right to develop the national territory. Matters came to a head in 1824, when the *Gibbons v. Ogden* case came before the U.S. Supreme Court.

When Thomas Gibbons attempted to operate a steamboat line across the Hudson River between New York and New Jersey, he was sued by Aaron Ogden, who had purchased an interest in the Fulton-Livingston steamboat company, which had been granted a monopoly by New York State. Ogden went to the New York State courts, which decided in his favor, and warned



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Abraham Lincoln, as a Congressman in 1847-48, demolished the arguments of President Polk against internal improvements, such as the Illinois-Michigan Canal (shown here).



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Gibbons to stop running his steamboats. But, because the steamboats traveled from one state to another, Chief Justice John Marshall upheld Gibbons. In a landmark decision, Marshall stated that the New York State monopoly was an unconstitutional interference with the power of Congress over interstate commerce.

He condemned the view that the Federal government and the states are equal sovereignties, and that therefore the states may adopt valid legislation in fields where Congress has the constitutional authority to act. Marshall affirmed that within interstate commerce, which includes river navigation, the United States Government is the supreme sovereign.

Building National Infrastructure

Following the ruling, Congress passed two pieces of legislation that enabled the Federal government to plan and build civil infrastructure. The first was the General Survey Act, which enabled the President to order surveys of the routes for roads and canals. Secondly, Congress appropriated \$75,000 to improve navigation on the Ohio and Mississippi rivers. President James Monroe assigned both tasks to the Army Corps of Engineers. Later, the bill was amended to include other

major rivers such as the Missouri. Martin Van Buren, then a U.S. Senator from New York, faced with a breakout of American intellectual and physical powers, in 1825, proposed a constitutional amendment which would have outlawed federally sponsored public works, under the rationale that development legislation was “unequal and unjust” because money from one state was being used to benefit other states.

Also in 1825, to the horror of the Van Buren circle, John Quincy Adams took the oath of office as U.S. President. Under his administration, new legislation in 1826 authorized the President to order the cleaning and deepening of selected waterways, and to make other river and harbor improvements such as locks and dams. Two major hydraulic surveys of the Great Lakes and the Mississippi Delta were also authorized. The Corps of Engineers took over the construction of the National Road, surveyed the routes for railroads, and Army engineers were loaned to railroads to plan and oversee construction.

A report sent from the Secretary of War, under whose authority the Corps of Engineers operated, to the U.S. House of Representatives in 1828, contained a list of 96 projects which had either been undertaken or projected between 1824 and 1827. They included “a rail road from Baltimore to the Ohio River”; a “Canal from the Mississippi River to Lake Pontchartrain, Louisiana”; the “Examination and survey of the Muscle Shoals in the Tennessee river, with a view to the improvement of its navigation”; and “A road from Chicago, Illinois, to Detroit, Michigan Territory.”

To deal with river navigation, President Adams appointed Henry Shreve, a self-taught steamboat designer, as Superintendent of Western River Improvements. One of the primary concerns in river navigation was safety: Submerged trees caused three-fifths of all steamboat accidents; 58,000 of these snags had been identified in the lower Ohio, the Mississippi, and the Missouri and Arkansas rivers. Shreve invented a snag-eating steamboat which became known as “Uncle Sam’s Tooth-Puller.” A model of efficiency, its claws and cranes lifted tree trunks into a powered sawmill on deck, where the once-deadly obstacles were turned into fuel for the steamboat. Shreve and his hundreds of workers cleared 1,200 miles of the Mississippi, and by 1832, not a single boat was lost to a snag on either the Ohio or the Mississippi.

But when Shreve was sent to clean out the Red River, Andrew Jackson became President, and funds

for the expedition were often cut off. When funding ceased in April of 1838, Shreve rode his horse into Washington, Ark., and persuaded the local bank to give him \$7,147.50 in order to finish the work. By May 4, Shreve and his men had the Red River flowing freely past the bluff where Shreveport, La. stands today.

Lincoln Counters Polk

When Martin Van Buren became President in 1838, he succeeded in having the Survey Act cancelled, and persuaded Congress to pass legislation forbidding the Army to loan its engineers to private companies such as the railroads. Ten years later, his devoted follower, President James K. Polk, famously vetoed an internal improvements bill, by stating that the Federal government had no powers under the Constitution to fund such infrastructure projects as roads, canals, and railroads. The veto was famous not for Polk’s traitorous statement, but for the reply to it by Congressman Abraham Lincoln.

After countering the argument that a system of internal improvements would overwhelm the treasury, Lincoln moved to Polk’s second argument (which echoed those of Van Buren), “that the burthens of improvements would be general, while their benefits would be local and partial, involving an obnoxious inequality.” Lincoln countered that “The next most general object I can think of would be improvements on the Mississippi river and its tributaries. . . . Take, for instance, the Illinois and Michigan canal. Considered apart from its effects, it is perfectly local. Every inch of it is within the state of Illinois. That canal was first opened for business last April. In a very few days we were all gratified to learn, among other things, that sugar had been carried from New-Orleans through this canal to Buffalo in New-York. This sugar took this route, doubtless because it was cheaper than the old route.

“Supposing the benefit of the reduction in the cost of carriage to be shared between seller and buyer, the result is, that the New Orleans merchant sold his sugar a little dearer; and the people of Buffalo sweetened their coffee a little cheaper, than before—a benefit resulting from the canal, not to Illinois where the canal is, but to Louisiana and New-York, where it is not. In other transactions Illinois will, of course, have her share, and perhaps the larger share too, in the benefits of the canal; but the instance of the sugar clearly shows that the benefits of an improvement, are by no means confined to the particular locality of the improvement itself.”